Program Evaluation Report

Part II - Appendices

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Office of the State Treasurer

Program Evaluation Report

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Article V. -- Part Third.
Treasurer.

Section 1. Election. The Treasurer shall be chosen biennially, at the first session of the Legislature, by joint ballot of the Senators, and Representatives in convention.

Section 1-A. Succession to the office of Treasurer. If a vacancy occurs in the office of Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State until a Treasurer of State is elected by the Legislature during the current session if in session, or at the next regular or special session.

Section 2. Bond. The Treasurer shall, before entering on the duties of that office, give bond to the State with sureties, to the satisfaction of the Legislature, for the faithful discharge of that trust.

Section 3. Not to engage in trade. The Treasurer shall not, during the treasurer's continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

Section 4. No money drawn except upon appropriation or allocation. No money shall be drawn from the treasury, except in consequence of appropriations or allocations authorized by law.

Section 5. Bonding regulations; prohibiting use of proceeds from sale of bonds to fund current expenditures. The Legislature shall enact general law prohibiting the use of proceeds from the sale of bonds to fund current expenditures and shall provide by appropriation for the payment of interest upon and installments of principal of all bonded debt created on behalf of the State as the same shall become due and payable. If at any time the Legislature shall fail to make any such appropriation, the Treasurer of State shall set apart from the first General Fund revenues thereafter received a sum sufficient to pay such interest or installments of principal and shall so apply the moneys thus set apart. The Treasurer of State may be required to set apart and apply such revenues at the suit of any holder of such bonds. The prohibition on use of proceeds from the sale of bonds to fund current expenditures shall only apply to those bonds authorized on or after July 1, 1977.

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Title 3, §162-B, Salaries of constitutional officers

§162-B. Salaries of constitutional officers

Notwithstanding any other provisions of law, the salaries of the following state officials shall be at the salary ranges indicated in this section. At the time of initial appointment, the salary of the Secretary of State and the Treasurer of State shall be set at the Step C of the official's respective range. At the time of initial appointment, the salaries of the Attorney General and the State Auditor shall be set at Step E of their salary ranges. The Legislative Council may adjust the salary of each official by one step for each year of continuous service after the initial appointment to office. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

The salary ranges shall be as provided by law for confidential employees who take the salary increase option instead of state payment of retirement contribution. No other state salary may be paid. These officials are not eligible for state payment of employee retirement contributions. [1983, c. 862, §§5, 6 (new).]

1. Range 88. The salary of the following state officials and employees shall be within salary range 88, but shall not be less than Step C in that range:

A. Secretary of State; and [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

B. Treasurer of State. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

[1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

2. Range 89. The salary of the State Auditor shall be within salary range 89, but shall not be less than Step E in that range. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

3. Range 91. The salary of the Attorney General shall be within salary range 91, but shall not be less than Step E in that range. [1989, c. 501, Pt. O, §§7,22 (amd); c. 596, Pt. C, §8 (amd); c. 600, Pt. B, §§9, 10 (amd); c. 878, Pt. D, §§14, 15 (amd).]

PL 1983, Ch. 862, §5,6 (NEW).
PL 1989, Ch. 501, §O7,22 (AMD).
PL 1989, Ch. 596, §C8 (AMD).
PL 1991, Ch. 824, §B13,14 (AFF).

§959. Scheduling guideline for review of agencies or independent agencies

1. Scheduling guidelines. Except as provided in subsection 2, reviews of agencies or independent agencies must be scheduled in accordance with the following. Subsequent reviews must be scheduled on an ongoing basis every 8 years after the dates specified in this subsection.

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews:

(1) Baxter State Park Authority in 2009;

(2) Department of Conservation in 2011;

(3) Blueberry Advisory Committee in 2011;

(4) Board of Pesticides Control in 2011;

(5) Wild Blueberry Commission of Maine in 2011;

(6) Seed Potato Board in 2011;

(7) Maine Dairy and Nutrition Council in 2007;

(8) Maine Dairy Promotions Board in 2007;

(9) Maine Milk Commission in 2007;

(10) State Harness Racing Commission in 2007;

(11) Maine Agricultural Bargaining Board in 2009;

(12) Department of Agriculture, Food and Rural Resources in 2009; and

(14) Land for Maine's Future Board in 2007.

[2005, c. 550, §1 (amd).]

B. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters shall use the following list as a guideline for scheduling reviews:

(1) State Employee Health Commission in 2009; and

(2) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over business and economic development matters, in 2007.

[2003, c. 600, §1 (amd).]

C. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters shall use the following list as a guideline for scheduling reviews:

(1) Maine Development Foundation in 2005;

(5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in 2007;

(19) Department of Economic and Community Development in 2005;

(23) Maine State Housing Authority in 2007;

(32) Finance Authority of Maine in 2009;

(36) Board of Dental Examiners in 2011;

(37) Board of Osteopathic Licensure in 2011;

(38) Board of Licensure in Medicine in 2011;

(41) State Board of Nursing in 2011;

(42) State Board of Optometry in 2011;

(45) State Board of Registration for Professional Engineers in 2011; and

(50) Maine Science and Technology Foundation in 2007.

[2005, c. 155, §1 (amd); c. 294, §1 (amd).]

D. The joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Public Safety, except for the division designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine and the Emergency Services Communication Bureau, in 2001;

(2) Department of Corrections in 2011; and

(3) The Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management in 2008.

[2005, c. 634, §1 (amd).]

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs shall use the following list as a guideline for scheduling reviews:

(2) Department of Education in 2005;

(2-A) State Board of Education in 2005;

(3) Maine Arts Commission in 2007;

(5) Maine Historic Preservation Commission in 2007;

(5-A) Notwithstanding section 952, Maine Historical Society in 2007;

(6) Maine Library Commission in 2007;

(6-A) Maine State Cultural Affairs Council in 2007;

(6-B) Maine State Library in 2007;

(6-C) Maine State Museum in 2007;

(7) Maine State Museum Commission in 2007;

(8) Office of State Historian in 2007;

(9) Board of Trustees of the Maine Maritime Academy in 2009;

(10) Board of Trustees of the University of Maine System in 2009;

(12) Maine Community College System in 2009;

(13) Maine Health and Higher Educational Facilities Authority in 2011; and

(14) Maine Educational Loan Authority in 2011.

[2005, c. 605, §1 (amd).]

F. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall use the following list as a guideline for scheduling reviews:

(2) Office of Substance Abuse in 2005;

(3) Maine Advisory Committee on Mental Retardation in 2007;

(6) Department of Health and Human Services in 2009;

(7) Board of the Maine Children's Trust Incorporated in 2011;

(9) Maine Developmental Disabilities Council in 2011.

[2005, c. 397, Pt. C, §3 (amd).]

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Inland Fisheries and Wildlife in 2007;

(2) Advisory Board for the Licensing of Taxidermists in 2007; and

(3) Atlantic Salmon Commission in 2011.

[2005, c. 477, §1 (amd).]

H. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall use the following list as a guideline for scheduling reviews:

(2) Maine Human Rights Commission in 2009;

(3) Maine Indian Tribal-State Commission in 2011; and

(4) Department of the Attorney General in 2011.

[2003, c. 600, §1 (amd).]

I. The joint standing committee of the Legislature having jurisdiction over labor matters shall use the following list as a guideline for scheduling reviews:

(1) Maine State Retirement System in 2005;

(2) Department of Labor in 2007;

(3) Maine Labor Relations Board in 2009; and

(4) Workers' Compensation Board in 2009.

[2003, c. 600, §1 (amd).]

J. The joint standing committee of the Legislature having jurisdiction over legal and veterans affairs shall use the following schedule as a guideline for scheduling reviews:

(2) State Liquor and Lottery Commission in 2007;

(3) The division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and the collection of taxes on malt liquor and wine in 2007; and

(4) Department of Defense, Veterans and Emergency Management in 2011, except for the Maine Emergency Management Agency within the department.

[2005, c. 634, §2 (amd).]

K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

(1) Atlantic States Marine Fisheries Commission in 2005;

(2) Department of Marine Resources in 2005;

(4) Lobster Advisory Council in 2007; and

(5) Maine Sardine Council in 2007.

[2003, c. 600, §1 (amd).]

L. The joint standing committee of the Legislature having jurisdiction over natural resource matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Environmental Protection in 2007;

(2) Board of Environmental Protection in 2007;

(3) Advisory Commission on Radioactive Waste and Decommissioning in 2005;

(4) Saco River Corridor Commission in 2005; and

(5) Board of Underground Oil Tank Installers in 2011.

[2003, c. 600, §1 (amd).]

M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

(1) Capitol Planning Commission in 2011;

(1-A) Maine Governmental Facilities Authority in 2005;

(2) State Civil Service Appeals Board in 2005;

(3) State Claims Commission in 2005;

(4) Maine Municipal Bond Bank in 2007;

(5) Office of Treasurer of State in 2007;

(6) Department of Administrative and Financial Services, except for the Bureau of Revenue Services, in 2011;

(7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2011; and

(9) State Planning Office, except for the Land for Maine's Future Board, in 2007.

[2003, c. 600, §1 (amd).]

N. The joint standing committee of the Legislature having jurisdiction over taxation matters shall use the following schedule as a guideline for scheduling reviews:

(1) State Board of Property Tax Review in 2011; and

(2) Department of Administrative and Financial Services, Bureau of Revenue Services in 2011.

[2003, c. 600, §1 (amd).]

O. The joint standing committee of the Legislature having jurisdiction over transportation matters shall use the following schedule as a guideline for scheduling reviews:

(1) Maine Turnpike Authority in 2005;

(2) The Bureau of Motor Vehicles within the Department of the Secretary of State in 2007;

(3) The Department of Transportation in 2007; and

(4) Maine State Pilotage Commission in 2009.

[2003, c. 600, §1 (amd).]

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

(1) Public Advocate in 2005;

(2) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency in 2007;

(3) Public Utilities Commission in 2007;

(4) The Emergency Services Communication Bureau within the Public Utilities Commission in 2009; and

(5) Telecommunications Relay Services Advisory Council in 2013.

[2005, c. 605, §2 (amd).]

[2005, c. 477, §1 (amd); c. 550, §1 (amd); c. 605, §§1, 2 (amd); c. 634, §§1, 2 (amd).]

2. Waiver. Notwithstanding this list of agencies arranged by year, an agency or independent agency may be reviewed at any time by the committee pursuant to section 954.

[1995, c. 488, §2 (new).]

PL 1995, Ch. 488, §2 (NEW).
PL 1995, Ch. 560, §K82 (AMD).
PL 1995, Ch. 560, §K83 (AFF).
PL 1995, Ch. 671, §1-3 (AMD).
PL 1997, Ch. 245, §19 (AMD).
PL 1997, Ch. 455, §31 (AMD).
PL 1997, Ch. 526, §14 (AMD).
PL 1997, Ch. 683, §D1 (AMD).
PL 1997, Ch. 727, §A1,2 (AMD).
PL 1999, Ch. 127, §C1-15 (AMD).
PL 1999, Ch. 415, §1 (AMD).
PL 1999, Ch. 585, §1 (AMD).
PL 1999, Ch. 603, §1,2 (AMD).
PL 1999, Ch. 687, §A1 (AMD).
PL 1999, Ch. 706, §1 (AMD).
PL 1999, Ch. 790, §D14 (AFF).
PL 1999, Ch. 790, §D2,3 (AMD).
PL 2001, Ch. 354, §3 (AMD).
PL 2001, Ch. 439, §EEEE1,2 (AMD).
PL 2001, Ch. 471, §D4,5 (AMD).
PL 2001, Ch. 519, §1 (AMD).
PL 2001, Ch. 548, §1 (AMD).
PL 2001, Ch. 597, §1 (AMD).
PL 2001, Ch. 697, §A1 (AMD).
PL 2003, Ch. 20, §OO2 (AMD).
PL 2003, Ch. 20, §OO4 (AFF).
PL 2003, Ch. 451, §T1,2 (AMD).
PL 2003, Ch. 578, §1 (AMD).
PL 2003, Ch. 600, §1 (AMD).
PL 2005, Ch. 155, §1 (AMD).
PL 2005, Ch. 294, §1 (AMD).
PL 2005, Ch. 397, §C3 (AMD).
PL 2005, Ch. 477, §1 (AMD).
PL 2005, Ch. 550, §1 (AMD).
PL 2005, Ch. 605, §1,2 (AMD).
PL 2005, Ch. 634, §1,2 (AMD).

Public Law

123rd Legislature

First Regular Session

Chapter 377

H.P. 1327 - L.D. 1895

An Act To Implement the Recommendations of the Corrections Alternatives Advisory Committee

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

Sec. 1. 4 MRSA §116, first ¶, as repealed and replaced by PL 2003, c. 20, Pt. R, §1 and affected by §10, is amended to read:

All revenue received by the Supreme Judicial or Superior Court, whether directly or pursuant to an agreement entered into with the Department of Administrative and Financial Services, Bureau of Revenue Services, from fines, forfeitures, penalties, fees and costs accrues to the State, except as otherwise provided under section 1057; Title 7, section 3910-A; Title 12, sections 3055 and 4508; Title 17, section 1015; Title 23, section 1653; Title 29-A, section 2602; ~~and~~former Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6.

Sec. 2. 4 MRSA §163, sub-§1, as repealed and replaced by PL 2003, c. 20, Pt. R, §2 and affected by §10, is amended to read:

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with section 1057; Title 5, chapter 316-A; Title 7, section 3910-A; Title 17, section 1015; Title 29-A, section 2411, subsection 7; ~~and~~former Title 34-A, section 1210-A, subsection 9; and Title 34-A, section 1210-B, subsection 6. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost-effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines, surcharges and assessments imposed and to whom each is payable.

Sec. 3. 5 MRSA §12004-I, sub-§74-E is enacted to read:

74-E.

Sentencing		
	Expenses Only	34-A MRSA §1209-A
State Sentencing and Corrections Practices Coordinating Council		

Sec. 4. 15 MRSA §1026, sub-§2, as amended by PL 2001, c. 252, §1, is further amended to read:

2. Release on personal recognizance or unsecured appearance bond. The judicial officer shall order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the judicial officer, unless, after consideration of the factors listed in subsection 4, the judicial officer determines that the release will compromise the safety of the community, will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process.

Sec. 5. 15 MRSA §1026, sub-§3, as amended by PL 2005, c. 449, §1, is further amended to read:

3. Release on conditions. Conditions that will reasonably ensure the safety of the community, the appearance of the defendant and ~~ensure~~ the integrity of the judicial process must be imposed as provided in this subsection.

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2 will not reasonably ensure the safety of the community or the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the safety of the community and the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process. These conditions may include that the defendant:

(1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure both the appearance of the defendant as required and the integrity of the judicial process. When feasible, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;

(2) Maintain employment or, if unemployed, actively seek employment;

(3) Maintain or commence an educational program;

(4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;

(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from use or excessive use of alcohol and from any use of drugs;

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;

(11) Execute an agreement to forfeit, upon failing to appear as required, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process;

(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;

(14) Report on a regular basis to the defendant's attorney;

(15) Notify the court of any changes of address or employment;

(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;

(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summoned for new criminal conduct; and

(18) Satisfy any other condition that is reasonably necessary to ensure the safety of the community and the appearance of the defendant as required and to otherwise reasonably ensure the integrity of the judicial process.

B. The judicial officer may not impose a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure the safety of the community and the appearance of the defendant as required or to otherwise ensure the integrity of the judicial process.

C. Upon motion by the attorney for the State or the defendant and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the court may amend the bail order to relieve the defendant of any condition of release, modify the conditions imposed or impose further conditions authorized by this subsection as the court determines will reasonably ensure the safety of the community and the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process.

Sec. 6. 30-A MRSA §1658, 2nd ¶, as amended by PL 1999, c. 127, Pt. A, §44, is further amended to read:

The county commissioners may purchase, lease, contract or enter into agreements for the use of facilities to house minimum security prisoners who have been sentenced to the county jail. These prisoners must be involved in restitution, work or educational release, or rehabilitative programs. The funds to purchase, lease or contract for these facilities and to provide any programs in these facilities may be taken from the funds received by the counties pursuant to former Title 34-A, section 1210-A and Title 34-A, section 1210-B. Any facilities used to house prisoners pursuant to the authority granted by this section are subject to standards established by the Department of Corrections pursuant to Title 34-A, section 1208-A.

Sec. 7. 30-A MRSA c. 13, sub-c. 5 is enacted to read:

SUBCHAPTER 5

criminal justice planning committees

§ 1671. Criminal justice planning committees

1. Establishment. Each county, or each county working jointly with another county or other counties or with the Department of Corrections, may establish a local criminal justice planning committee, referred to in this subchapter as "the committee." Only a county that establishes or participates as a member of a criminal justice planning committee may apply for funds from the Community Corrections Incentive Fund distributed pursuant to Title 34-A, section 1210-C.

2. Membership. Each committee is composed of representatives of various criminal justice stakeholder groups, including, but not limited to:

A. County commissioners;

B. Judges;

C. Prosecutors;

D. Sheriffs;

E. Jail administrators;

F. Adult probation officers;

G. State and municipal law enforcement officers;

H. Defense attorneys;

I. The courts;

J. Victim advocates; and

K. Members of the public.

3. Duties. Each committee shall collaborate with each other and coordinate efforts to educate, update and increase the use of evidence-based community corrections practices at the local level. The duties of each committee include:

A. Developing and adopting a mission statement consistent with the purposes of the State Sentencing and Corrections Practices Coordinating Council established in Title 34-A, section 1209-A;

B. Regularly assessing county correctional needs and determining what community correctional programs best meet those needs;

C. Establishing policy and directing the planning, funding, development, implementation and evaluation of recommended community corrections programs determined to meet the intent of the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A, and the principles of evidence-based correctional practices;

D. Receiving, reviewing and submitting to the county commissioners any applications for a grant for a community corrections initiative from the Community Corrections Incentive Fund, established in Title 34-A, section 1210-C, that meets standards and community needs as determined by the committee. Upon receipt of the committee's recommendations, the county commissioners shall forward the grant application to the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A; and

E. Monitoring and overseeing community corrections investments and programming, tracking outcomes and making necessary recommendations for change to ensure efficient and effective evidence-based community corrections programming.

4. Reports . Each county shall establish a dedicated county community corrections program account to account for the use of all funds received from the State pursuant to this section. Each county shall report to its committee on the use of community corrections funds and each committee in turn shall report on the use of community corrections funds to the State Sentencing and Corrections Practices Coordinating Council, established in Title 34-A, section 1209-A.

5. Collaboration. Regardless of how a criminal justice planning committee is established pursuant to subsection 1, a county may collaborate with another county or counties with which it has not formed a committee to work together to seek grants or establish community corrections programs or initiatives.

Sec. 8. 34-A MRSA §1209-A is enacted to read:

§ 1209-A. State Sentencing and Corrections Practices Coordinating Council

1. Council established. The State Sentencing and Corrections Practices Coordinating Council, established in Title 5, section 12004-I, subsection 74-E and referred to in this section as "the council," is created for the purpose of conducting continuous study and coordination of corrections and sentencing practices. The council shall promote the use of the most effective criminal interventions necessary to protect public safety, administer punishment and rehabilitate offenders; enhance and increase support of state and county partnerships in the management of offenders; and promote and support the use of evidence-based correctional practices for managing the risks and needs of offenders and pretrial defendants.

2. Membership. The council is composed of the following members:

A. The commissioner and 2 state corrections officials designated by the commissioner;

B. The Commissioner of Public Safety or the commissioner's designee;

C. A representative of a statewide association of county commissioners nominated by the association and appointed by the Governor;

D. A representative of a statewide association of county sheriffs nominated by the association and appointed by the Governor;

E. A representative of a statewide association of county jails nominated by the association and appointed by the Governor;

F. A representative of a statewide association of prosecutors nominated by the association and appointed by the Governor;

G. A representative of a statewide association of criminal defense attorneys nominated by the association and appointed by the Governor;

H. A representative of a statewide municipal association nominated by the association and appointed by the Governor; and

I. A representative of a statewide organization for victims of crime appointed by the Governor.

The Governor also shall ask the Chief Justice of the Supreme Judicial Court to serve as or to name a designee to serve as a member of the council and to appoint one trial judge or another designee to serve as a member of the council.

3. Chair; terms; vacancies. The Governor shall appoint a member to serve as chair. Members of the council serve for terms of 2 years and may be reappointed. If a member cannot serve for any reason, the vacancy for the member's unexpired term must be filled by the appointing authority.

4. Meetings. The council shall meet at least 4 times a year and keep minutes and records of the meetings. By January 15th of each year, the council shall submit a report of its activities for the preceding year to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

5. Duties. The council shall coordinate criminal justice information and collaborate with persons who work in the criminal justice fields. Specifically, the council shall:

A. Establish strategic goals and outcomes to guide the investment in and expenditures on corrections programs and facilities;

B. Monitor sentencing practices and review ongoing data collection on recidivism and programming, in consultation with research organizations and universities, to make informed decisions regarding sentencing practices, corrections funding and programming;

C. Develop recommended correctional and sentencing standards based on evidence-based correctional practices and promote and support the use of evidence-based correctional practices for managing the risks and needs of offenders and pretrial defendants;

D. Provide information and assistance to county and state corrections officials regarding current evidence-based correctional practices and provide a forum for sharing information on evidence-based correctional practices that are used throughout the State;

E. Monitor the status of the state and local correctional systems, project future facility needs and develop recommendations for new or expanded facilities and programs;

F. Monitor and evaluate county use of state jail subsidies and recommend changes to the correctional system if necessary;

G. Monitor and evaluate the use of community corrections funds by the counties and make recommendations for the use and allocation of these funds as necessary;

H. Regarding the Community Corrections Incentive Fund established in section 1210-C, provide standards and guidance to fund applicants, receive and review applications for grants from the fund, approve applications that meet the standards and administer the grants;

I. Monitor and evaluate the use of awards from the Community Corrections Incentive Fund, established in section 1210-C, and recommend changes or modifications to the use of these funds as necessary;

J. Review laws and policies and monitor proposed legislation and policies that affect the state and county criminal justice and correctional systems and make recommendations to the legislative, executive and judicial branches regarding these proposals; and

K. Identify current and proposed policies that unnecessarily burden the criminal justice and correctional systems and develop recommendations to appropriately remedy these burdens.

6. Report. At the beginning of the first regular session of each Legislature and no later than January 15th, the council shall submit a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to the Governor. The report must include recommendations and any necessary implementing legislation with respect to matters related to the council's duties and accomplishments, including recommendations on state compliance.

7. Departmental duties and powers. The duties and powers of the department with regard to this section are as follows.

A. The department shall serve as the fiscal agent of the council.

B. The department may contract for and employ staff members, subject to approval of the council, to assist in the research, administration and delivery of services required in connection with the duties of the council.

C. The department may accept funds from the Federal Government, from any political subdivision of the State or from any individual, foundation or corporation and may expend those funds for purposes consistent with this section.

D. The department shall provide technical assistance to counties and criminal justice planning committees, as established in Title 30-A, section 1671, to aid them in the planning and development of community corrections.

8. Funds not to lapse. Funds appropriated to carry out the purposes of this section do not lapse but must be carried forward from year to year.

9. Reimbursement of expenses. The members of the council must be compensated according to the provisions of Title 5, chapter 379.

Sec. 9. 34-A MRSA §1210-A, sub-§1, ¶A, as enacted by PL 1997, c. 753, §2, is amended to read:

A. "Community corrections" means the delivery of correctional services for ~~juveniles or~~ adults in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crimes ~~or adjudicated delinquents~~.

Sec. 10. 34-A MRSA §1210-A, sub-§5, as repealed and replaced by PL 2003, c. 711, Pt. A, §20 and affected by Pt. D, §2, is amended to read:

5. Community corrections program account. Each county treasurer shall place 20% of the funds received from the department pursuant to this section into a separate community corrections program account. A county may use funds placed in this account only for adult ~~or juvenile~~ community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the department shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

Sec. 11. 34-A MRSA §1210-A, sub-§11 is enacted to read:

11. Repeal. This section is repealed July 1, 2008.

Sec. 12. 34-A MRSA §1210-B is enacted to read:

§ 1210-B. Community Corrections Fund and County Jail Prisoner Support Fund

1. Establishment of Community Corrections Fund. The Community Corrections Fund is established for the purpose of providing state funding for establishing and maintaining community corrections. For purposes of this subsection, "community corrections" means the delivery of correctional services for adults in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crimes. Twenty percent of the funds collected from surcharges under Title 4, section 1057 that are appropriated pursuant to subsection 3 must be dedicated to the purpose of community corrections and deposited in the Community Corrections Fund.

2. Establishment of County Jail Prisoner Support Fund. The County Jail Prisoner Support Fund is established for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained or sentenced to county jails. Eighty percent of the funds collected from surcharges under Title 4, section 1057 that are appropriated pursuant to subsection 3 must be dedicated to the purpose of subsidizing the counties' costs of the support of prisoners detained or sentenced to county jails and deposited in the County Jail Prisoner Support Fund.

3. Distribution. Beginning July 1, 2008 and annually thereafter, the department shall distribute to the counties amounts to be dedicated to the Community Corrections Fund under subsection 1 and to the County Jail Prisoner Support Fund under subsection 2. The department shall distribute amounts to each county based on each county's percentage of statewide jail inmate days, which must be calculated for the last fiscal year for which data is available. If a county's percentage results in a lower subsidy than it received pursuant to former section 1210-A, that county may not receive a reduction. If the county's percentage results in a subsidy higher than it received pursuant to former section 1210-A, that county must receive an increase in funding in proportion to available funding to move the entire county jail system toward greater equity.

4. Cost-of-living adjustment for equitable distribution. In addition to funds received pursuant to subsection 3, a 3% cost-of-living adjustment on the annual appropriation for the community corrections county jail prisoner support funds must be dedicated to the County Jail Prisoner Support Fund until each county has achieved the appropriate subsidy in this fund based on its percentage of statewide jail inmate days. Once equity has been achieved, the cost-of-living adjustment must be distributed between the Community Corrections Fund and County Jail Prisoner Support Fund pursuant to subsections 1 and 2.

5. County community corrections fund. Each county treasurer shall place the funds received from the department pursuant to subsection 1 into a separate community fund. A county may use funds placed in this account only for adult community corrections as defined in subsection 1.

Before distributing to a county that county's entire distribution from the collection of surcharges pursuant to Title 4, section 1057, the department shall require that county to submit appropriate documentation to the State Sentencing and Corrections Practices Coordinating Council established in section 1209-A verifying that the county expended 20% of its prior distribution for the purpose of community corrections as defined in subsection 1. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the department shall distribute to that county only 80% of its distribution. The department shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The department shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

6. Surcharge imposed. In addition to the 14% surcharge collected pursuant to Title 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is considered a part of the fine, forfeiture or penalty. All funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the County Jail Prisoner Support Fund under subsection 2 and the Community Corrections Fund under subsection 1.

Sec. 13. 34-A MRSA §1210-C is enacted to read:

§ 1210-C. Community Corrections Incentive Fund

There is established the nonlapsing Community Corrections Incentive Fund. Pursuant to section 1209-A, the State Sentencing and Corrections Practices Coordinating Council shall approve applications and award and administer to counties competitive grants from the fund. Grants must be used for initiatives to expand community corrections, regional programs and other efforts to improve the efficiency and effectiveness of the correctional system. Awards must be made in correctional areas that include but are not limited to pretrial diversion, pretrial release, transition, specialty jails, regional cooperation and deferred disposition programs. Grants must also be awarded based on considerations of improved efficiency, offender and court docket reduction, consolidation of resources, reduced recidivism and improved methods for the delivery of services. When applicable, grant applications and awards must be based on established evidence-based correctional practices. Only a county that establishes or participates as a member of a criminal justice planning committee under Title 30-A, section 1671 may apply for grants distributed pursuant to this section.

Sec. 14. 34-A MRSA §1214, sub-§1, as enacted by PL 2001, c. 439, Pt. G, §1, is amended to read:

1. Establishment. The Office of Victim Services, referred to in this section as the "office," is established within the department to advocate for compliance by the department, any correctional facility, any detention facility, community corrections as defined in former section 1210-A or in section 1210-B or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims.

A. The Victim Services Coordinator shall report only to the commissioner or an associate commissioner.

B. The Victim Services Coordinator shall, with the approval of the commissioner or an associate commissioner, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator.

Sec. 15. 34-A MRSA §1214, sub-§3, ¶B, as enacted by PL 2001, c. 439, Pt. G, §1, is amended to read:

B. Intercede on behalf of victims with officials of the department, any correctional facility, any detention facility, community corrections as defined in former section 1210-A or in section 1210-B or any contract agency or assist these persons in the resolution of victim-related issues;

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Community Corrections Incentive Fund N028

Initiative: Provides a base allocation to establish the nonlapsing Community Corrections Incentive Fund to be administered by the Department of Corrections.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	$500	$500
OTHER SPECIAL REVENUE FUNDS TOTAL	$500	$500

Sec. 17. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 34-A, section 1210-B takes effect July 1, 2008. Those sections of this Act that amend Title 4, section 116; Title 4, section 163, subsection 1; Title 30-A, section 1658; and Title 34, section 1214, subsection 1 and subsection 3, paragraph B take effect July 1, 2008.

See title page for effective date, unless otherwise indicated.

§18. Disqualification of executive employees from participation in certain matters

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Constitutional officers" means the Attorney General, Secretary of State and Treasurer of State. [1979, c. 734, §2 (new).]

B. "Executive employee" means the constitutional officers, the State Auditor, members of the state boards and commissions as defined in chapter 379 and compensated members of the classified or unclassified service employed by the Executive Branch, but it shall not include:

(1) The Governor;

(2) Employees of and members serving with the National Guard;

(3) Employees of the University of Maine System, the Maine Maritime Academy and state community colleges;

(4) Employees who are employees solely by their appointment to an advisory body;

(5) Members of boards listed in chapter 379, who are required by law to represent a specific interest, except as otherwise provided by law; and

(6) Members of advisory boards as listed in chapter 379.

[1989, c. 443, §5 (rpr); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

C. "Participate in his official capacity" means to take part in reaching a decision or recommendation in a proceeding that is within the authority of the position he holds. [1979, c. 734, §2 (new).]

D. "Proceeding" means a proceeding, application, request, ruling, determination, award, contract, claim, controversy, charge, accusation, arrest or other matter relating to governmental action or inaction. [1979, c. 734, §2 (new).]

E. "Participates in the legislative process" means to provide any information concerning pending legislation to a legislative committee, subcommittee or study or working group, whether orally or in writing. [1999, c. 242, §1 (new).]
[1999, c. 242, §1 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

2. Executive employee. An executive employee commits a civil violation if he personally and substantially participates in his official capacity in any proceeding in which, to his knowledge, any of the following have a direct and substantial financial interest:

A. Himself, his spouse or his dependent children; [1979, c. 734, §2 (new).]

B. His partners; [1979, c. 734, §2 (new).]

C. A person or organization with whom he is negotiating or has agreed to an arrangement concerning prospective employment; [1979, c. 734, §2 (new).]

D. An organization in which he has a direct and substantial financial interest; or [1979, c. 734, §2 (new).]

E. Any person with whom the executive employee has been associated as a partner or a fellow shareholder in a professional service corporation pursuant to Title 13, chapter 22-A, during the preceding year. [RR 2001, c. 2, Pt. C, §1 (cor); §7 (aff).]

[RR 2001, c. 2, Pt. C, §1 (cor); §7 (aff).]

2-A. Participation in legislative process. An executive employee commits a civil violation if the employee participates in the legislative process in the employee's official capacity concerning any legislation in which any person described in subsection 2, paragraphs A to E has any direct and substantial financial interest unless the employee discloses that interest at the time of the employee's participation.

[1999, c. 242, §2 (new).]

3. Former executive employee. Former executive employees shall be subject to the provisions in this subsection with respect to proceedings in which the State is a party or has a direct and substantial interest.

A. No former executive employee may knowingly act as an agent or attorney for, or appear personally before, a state or quasi-state agency for anyone other than the State for a one-year period following termination of the employee's employment with the agency or quasi-state agency in connection with a proceeding in which the specific issue was pending before the executive employee's agency and was directly within the responsibilities of the employee during a period terminating at least 12 months prior to the termination of that employee's employment. [1987, c. 784, §2 (rpr).]

B. No former executive employee may knowingly act as an agent or attorney for, or appear personally before, a state or quasi-state agency for anyone other than the State at any time following termination of the employee's employment with the agency or quasi-state agency in connection with a proceeding in which the specific issue was pending before the executive employee's agency and was directly within the responsibilities of the executive employee during the 12-month period immediately preceding the termination of the employee's employment. [1987, c. 784, §2 (rpr).]

[1987, c. 784, §2 (rpr).]

4. Construction of section. This section may not be construed to prohibit former state employees from doing personal business with the State. This section shall not limit the application of any provisions of Title 17-A, chapter 25.

[1979, c. 734, §2 (new).]

5. Penalty. A violation of this section is a civil violation for which a forfeiture of not more than $1,000 may be adjudged.

[1979, c. 734, §2 (new).]

6. Application of more stringent statutory provisions. If other statutory conflict of interest provisions pertaining to any state agency, quasi-state agency or state board are more stringent than the provisions in this section, the more stringent provisions shall apply.

[1987, c. 784, §3 (new).]

7. Avoidance of appearance of conflict of interest. Every executive employee shall endeavor to avoid the appearance of a conflict of interest by disclosure or by abstention. For the purposes of this subsection and subsection 8, "conflict of interest" includes receiving remuneration, other than reimbursement for reasonable travel expenses, for performing functions that a reasonable person would expect to perform as part of that person's official responsibility as an executive employee.

[2001, c. 203, §1 (amd).]

8. Disclosure of conflict of interest. An executive employee shall disclose immediately to that employee's direct supervisor any conflict of interest within the meaning of this section.

[1999, c. 242, §3 (new).]

PL 1979, Ch. 734, §2 (NEW).
PL 1985, Ch. 779, §7 (AMD).
PL 1987, Ch. 735, §4 (AMD).
PL 1987, Ch. 784, §1-3 (AMD).
PL 1989, Ch. 443, §5 (AMD).
PL 1999, Ch. 242, §1-3 (AMD).
PL 2001, Ch. 203, §1 (AMD).
RR 2001, Ch. 2, §C1 (COR).
RR 2001, Ch. 2, §C7 (AFF).

Title 5, §18, Disqualification of executive employees from participation in certain matters

PL 2003, Ch. 20, §002 (AMD).
PL 2003, Ch. 20, §004 (AFF).

Title 5, §19, Financial disclosure by executive employees

§19. Financial disclosure by executive employees

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature, or who serves in a major policy-influencing position, except assistant attorneys general, as set forth in chapter 71. [1987, c. 784, Â§4 (amd).]

B. "Constitutional officers" means the Governor, Attorney General, Secretary of State and Treasurer of State. [1979, c. 734, Â§2 (new).]

C. "Elected executive employee" means the constitutional officers and the State Auditor. [1979, c. 734, Â§2 (new).]

D. "Executive employee" means an appointed executive employee or an elected executive employee. [1979, c. 734, Â§2 (new).]

E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

(1) Gifts received from a single source during the reporting period with an aggregate value of $300 or less;

(2) A bequest or other form of inheritance; and

(3)A gift received from a relative.

[1989, c. 561, Â§13 (rpr).]

F. "Honorarium" means a payment of money or anything with a monetary resale value to a person for an appearance or a speech by the person. "Honorarium" does not include reimbursement for actual and necessary travel expenses for an appearance or speech. "Honorarium" does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties. [1989, c. 561, Â§14 (new).]

G. "Immediate family" means a person's spouse or dependent children. [1989, c. 561, Â§14 (new).]

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income from an interest in an estate or trust; prizes; and grants, but does not include gifts. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. Income does not include alimony and separate maintenance payments. [1989, c. 561, Â§14 (new).]

I. "Relative" means an individual who is related to the executive employee or the executive employee's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather,

stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiance or fiancee of the executive employee. [1989, c. 561, Â§14 (new).]

I-1. "Reportable liabilities" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of $3,000 or more received from a person not a relative. Reportable liabilities do not include:

(1) A credit card liability;

(2) An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

(3) A loan made from a state or federally regulated financial institution for business purposes.

[1991, c. 331, Â§2 (new).]

J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13.
[1991, c. 885, Pt. E, Â§6 (amd); Â§47 (aff).]
[1991, c. 885, Pt. E, Â§6 (amd); Â§47 (aff).]

2. Statement of sources of income. Each executive employee shall annually file with the Secretary of State a sworn and notarized statement of finances for the preceding calendar year. The statement shall indicate:

A. If the executive employee is an employee of another person, firm, corporation, association or organization, the name and address of the employer and each other source of income of $1,000 or more; [1989, c. 561, Â§15 (rpr); c. 608, Â§3 (amd)]

B. If the executive employee is self-employed, the name and address of the executive employee's business and the name of each source of income derived from self-employment that represents more than 10% of the employee's gross income or $1,000, whichever is greater, provided that, if this form of disclosure is prohibited by statute, rule, or an established code of professional ethics, the employee shall specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed executive employee shall name each source of income of $1,000 or more. The employee shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association, or similar business entity, the major areas of economic activity of that entity; [1989, c. 561, Â§15 (rpr); c. 608, Â§3 (amd)]

C. The specific source of each gift received; [1989, c. 561, Â§15 (new).]

D. The type of economic activity representing each source of income of $1,000 or more that any member of the immediate family of the executive employee received; [1989, c. 561, Â§15 (new); c. 608, Â§3 (amd)]

E. The name of each source of honoraria that the executive employee accepted; [1989, c. 561, Â§15 (new).]

F. Each executive branch agency before which the executive employee or any immediate family member has represented or assisted others for compensation; and [1989, c. 561, Â§15 (new).]

G. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of $1,000. [1989, c. 561, Â§15 (new); c. 608, Â§3 (amd)]

In identifying the source of income, it shall be sufficient to identify the name and address and principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the individual.

With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm.
[1989, c. 561, Â§15 (rpr); c. 608, Â§3 (amd)]

3. Time for filing.

A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature. [1979, c. 734, Â§2 (new).]

B. Each executive employee shall file the annual report prior to the close of the 2nd week in April, unless that employee has filed an initial or updating report during the preceding 30 days; except that, if an elected or appointed executive employee has already

filed a report for the preceding calendar year pursuant to paragraph A, a report does not need to be filed. [2001, c. 75, Â§3 (amd).]

C. Each executive employee whose income substantially changes shall file a report of that change within 30 days of it. [1979, c. 734, Â§2 (new).]
[2001, c. 75, Â§3 (amd).]

4. Penalties. Failing to file the statement, within 15 days of having been notified by the Secretary of State of failing to meet the requirements of subsection 2, is a civil violation for which a forfeiture of not more than $100 may be adjudged.
[1979, c. 734, Â§2 (new).]

5. Rules. The Secretary of State may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section.
[1979, c. 734, Â§2 (new).]

6. Public record. Statements filed under this section are public records.
[1979, c. 734, Â§2 (new).]

7. Disclosure of reportable liabilities. Each executive employee shall include on the statement of income under subsection 2 all reportable liabilities incurred while employed as an executive employee. The executive employee shall file a supplementary statement with the Secretary of State of any reportable liability within 30 days after it is incurred. The report must identify the creditor in the manner of subsection 2.
[1991, c. 331, Â§3 (amd).]

PL 1979, Ch. 734, §2 (NEW).
PL 1987, Ch. 784, §4 (AMD).
PL 1989, Ch. 561, §13-16 (AMD).
PL 1989, Ch. 608, §3 (AMD).
PL 1991, Ch. 331, §2,3 (AMD).
PL 1991, Ch. 885, §E47 (AFF).
PL 1991, Ch. 885, §E6 (AMD).
PL 2001, Ch. 75, §3 (AMD).

Public Law

123rd Legislature

First Regular Session

Chapter 13

H.P. 188 - L.D. 217

An Act Regarding Penalties for Payments Made to the State That Are Rejected by a Financial Institution

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

Sec. 1. 5 MRSA §130, 3rd ¶, as amended by PL 1991, c. 622, Pt. C, is further amended to read:

Any person who makes payment of an amount due to any state department, agency, board, commission, authority or other state entity ~~by means of a check~~ is liable, if the ~~check is returned unpaid by a bank on which it is drawn because~~payment fails as a result of insufficient funds, a closed account, no account or a similar reason, for a penalty of $20, which must be reported and paid to the Treasurer of State as undedicated revenue to the General Fund. The penalty provided by this section is in addition to any other penalties provided by law.

Effective September 20, 2007

Title 5, Chapter 7, TREASURER OF STATE

Chapter 7: TREASURER OF STATE

§121. Office; bond; salary; deputy; fees

The Treasurer of State shall keep the office at the seat of government and give the bond required by the Constitution to the State of Maine, with 2 or more surety companies authorized to transact business in the State, as sureties, in the penal sum of not less than $500,000. Each surety company shall give bond for only a fractional part of the total penal sum and shall be held responsible for its proportional share of any loss. [2005, c. 683, Pt. C, §1 (amd).]

The Treasurer of State may not receive any other fee, emolument or perquisite in addition to the salary. [2005, c. 683, Pt. C, §1 (amd).]

The chief clerk in the office of the Treasurer of State is designated as "deputy treasurer of state." In the event of a vacancy in the office of Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State until a Treasurer of State is elected by the Legislature, and the deputy treasurer shall give bond to the State, with sureties, to the satisfaction of the Governor for the faithful discharge of the trust. In the event of the absence or disability of the Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State to perform the duties of the office, including the exercise of all the Treasurer of State's rights and obligations as a member or ex officio member of any governing board of directors. [2005, c. 683, Pt. C, §1 (amd).]

PL 1965, Ch. 412, §6-A (AMD).
PL 1967, Ch. 476, §8 (AMD).
PL 1969, Ch. 132, §3 (AMD).
PL 1969, Ch. 504, §5 (AMD).
PL 1975, Ch. 771, §34 (AMD).
PL 2005, Ch. 683, §C1 (AMD).

§121-A. Transition period

In order to provide for an orderly transition following the biennial election of the Treasurer of State, the Treasurer of State-elect shall not take the oath of his office or otherwise qualify for the office for a period of no less than 30 days following that election. [1983, c. 65, §2 (new).]

PL 1983, Ch. 65, §2 (NEW).

§122. Conditions of bond; filing

The condition of the Treasurer of State's bond shall be for the faithful discharge of all the duties of his office, and that during his continuance in office he will not engage in trade or commerce, or act as broker, agent or factor for any merchant or trader; and that he, or his executors, administrators or sureties, or their executors or administrators, shall render a just and true account of all his agents' and servants' doings and transactions in the office to the Legislature, or to such committee as it appoints, on the first day of each regular session of the Legislature, previous to the choice of a new treasurer, and at any other time when required by the Legislature or the Governor; and that he will settle and adjust said account and faithfully deliver to his successor in office or to such person as the Legislature appoints, all moneys, books, property and appurtenances of said office, in his, or any of his agents' possession, and pay over all balances found due on such adjustment. Such bond, when approved as the Constitution prescribes, shall be lodged in the office of the State Auditor. [1975, c. 771, § 35 (amd).]

PL 1975, Ch. 771, §35 (AMD).

§123. Bond premiums to be paid by State

The premiums necessarily incurred and due and payable on account of any bond given by the Treasurer of State, his deputy or by any employee in the Treasury Department of the State shall be paid out of the State Treasury.

§124. Governor may require new bond

When it appears to the Governor that the Treasurer of State's bond is not sufficient for the full security of the State, they shall make written demand upon him for a new bond. If he neglects for 10 days thereafter to file such bond to their satisfaction, they shall remove him and declare the office vacant. [1975, c. 771, § 36 (amd).]

PL 1975, Ch. 771, §36 (AMD).

§125. Personal use or receipt of money from treasury or credit prohibited

The Treasurer of State shall not in any way receive for his own use any interest, premium, gratuity or benefit by reason of any money belonging to the State, or of any loan obtained for the State or for keeping on hand or circulating the bills of any bank; but whatever is so received shall be accounted for to the State. He shall not loan or use in his own business, or for his own benefit, any such money, or permit any other person to do so, unless authorized by law, on pain of forfeiting a sum equal to the amount so used or loaned, to be recovered by indictment.

§126. -- Attorney General to prosecute violations

When the Attorney General receives satisfactory information that the Treasurer of State has violated any provision of section 125, he shall cause him to be indicted therefor and shall prosecute such indictment to final judgment.

§127. Governor may hear complaints; removal from office

Upon written complaint of any person that the Treasurer of State is mentally ill or insolvent, or has absconded or concealed himself to avoid his creditors, or is absent from the State and neglecting his duties to the hazard of the trust reposed in him, or has violated any provision of section 125, or has failed faithfully to perform the duties of his office, the Governor shall forthwith examine into the charges and if any of them is found true, he shall remove him and declare the office vacant. [1975, c. 771, § 37 (amd).]

PL 1975, Ch. 771, §37 (AMD).

§128. Appointment of commissioner to fill vacancy (REPEALED)

PL 1969, Ch. 504, §5-A (RP).

§129. Inventory

When the deputy treasurer of state assumes the office of Treasurer of State under section 121, the State Auditor shall, as soon as practicable, after notice to the sureties of the late Treasurer of State or of the Treasurer of State to be superseded, take a true account and inventory of all moneys, notes, books of account and other property belonging to the State which were in the hands of such Treasurer of State or of any of his agents, and deliver it to the new Treasurer of State, he giving a receipt therefor, which shall be lodged in the office of the State Auditor. [1969, c. 504, § 5-B (amd).]

PL 1969, Ch. 504, §5-B (AMD).

§130. Payment of receipts into State Treasury

Any public officer or any person, firm, association or corporation paying money into the State Treasury may make such payment by delivering to the Treasurer of State a check, draft, certificate of deposit or money order drawn, indorsed and payable to the Treasurer of State or his order, or may make such payment by delivering to the Treasurer of State the proper amount of lawful currency. The Treasurer of State shall keep a record of all drafts, checks, certificates of deposit, money orders and all cash received by him and upon receipt thereof shall forthwith cause the same to be placed to the credit of the State of Maine in some state depository. If any check, draft or certificate of deposit shall not be paid on presentation, the Treasurer of State shall proceed to collect the amount thereof, with costs, from the person drawing same. The Treasurer of State shall daily transmit to the State Controller a statement of all receipts into the State Treasury, giving such details thereof as the State Controller may require. [1979, c. 541, Pt. A, §20 (amd).]

The State Government shall not be liable for any loss resulting from lack of diligence on the part of any depository in forwarding or failing to collect any draft, check or certificate of deposit, or for the loss of any such draft, check or certificate of deposit in the mails or otherwise.

Any person who makes payment of an amount due to any state department, agency, board, commission, authority or other state entity by means of a check is liable, if the check is returned unpaid by a bank on which it is drawn because of insufficient funds, for a penalty of $20, which must be reported and paid to the Treasurer of State as undedicated revenue to the General Fund. The penalty provided by this section is in addition to any other penalties provided by law. [1991, c. 622, Pt. C (amd).]

PL 1979, Ch. 541, §A20 (AMD).
PL 1991, Ch. 622, §C (AMD).

§131. Departmental collections

Every department and agency of the State, whether located at the Capitol or not, collecting or receiving public money, or money from any source whatsoever, belonging to or for the use of the State, or for the use of any state department or agency, shall pay the same immediately into the State Treasury, without any deductions on account of salaries, fees, costs, charges, expenses, refunds, claims or demands of any description whatsoever. The Bureau of Parks and Lands shall be allowed to refund daily use and camping fees based on the Bureau of Parks and Lands standard refund policies. Any department or agency may deposit such money to the credit of the State upon communicating with the Treasurer of State and receiving from the Treasurer of State instructions as to what state depository may be used for that purpose and in every such case, the depositor shall send to the Treasurer of State a statement of the deposits certified by the bank receiving it. This section shall not apply to county or town officers. [1989, c. 501, Pt. P, §7 (amd); 1995, c. 502, Pt. E, §30 (amd).]

PL 1989, Ch. 501, §P7 (AMD).
PL 1995, Ch. 502, §E30 (AMD).

§131-A. Payment priority

Payments made on behalf of the Department of Health and Human Services for Temporary Assistance for Needy Families and for foster care have priority over other payments and must be made without delay whether or not they are pursuant to a state plan or contract under 45 Code of Federal Regulations, Part 23. The Treasurer of State shall cooperate with other state agencies to accomplish priority payments. [1991, c. 747, §1 (new); 1997, c. 530, Pt. A, §34 (amd); 2003, c. 689, Pt. B, §6 (rev).]

PL 1991, Ch. 747, §1 (NEW).
PL 1997, Ch. 530, §A34 (AMD).
PL 2003, Ch. 689, §B6 (REV).

§131-B. Interfund transfers

In order that state obligations may be paid as they come due, the State Treasurer may request the State Controller to transfer funds on deposit among the various funds in the cash pool of State Government by journal entry in such manner as to best manage the available funds to meet current obligations of the various funds and accounts. [2005, c. 386, Pt. CC, §1 (new).]

PL 2005, Ch. 386, §CC1 (NEW).

§132. Records; collections (REPEALED)

PL 1967, Ch. 21, § (AMD).
PL 1973, Ch. 701, §1 (RP).

§133. Payments to be withheld and applied on accounts

If any town or county unreasonably neglects or refuses to pay an account for money due from it to or for the use of the State or for the use of any department or agency, the Treasurer of State may withhold from any funds due such town or county under any laws of the State an amount sufficient to pay such account in whole or in part and to apply the amount thus withheld to such payment. Such application shall constitute payment by the State in the amount thus withheld and applied under any laws of the State directing payment to such town or county of the funds so withheld and applied. It is expressly provided that funds due to any town or county from the General

Highway Fund shall only be so withheld and applied in payment of accounts due from such town or county to the State for improvement, construction and maintenance of highways and bridges, and for snow guards, snow removal and sanding as provided by statute. The method of collection provided by this section shall be in addition to and not exclusive of all other remedies afforded by law for proper enforcement of payment. [1973, c. 701, § 2 (amd).]

PL 1973, Ch. 701, §2 (AMD).

§134. Money in depositories

All state money in any depository of the State Government shall stand on the books of said depository to the credit of the State but the Treasurer of State shall not withdraw any of said money except upon the authority of the State Controller.

§135. Deposit of state funds; limitations

The Treasurer of State may deposit the money, including trust funds of the State, in any national bank or in any banking institution, trust company, state or federal savings and loan association or mutual savings bank organized under the laws of this State or having a location in the State except as provided in chapter 161. Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901. The Treasurer of State may transfer funds into and out of the respective funds in the cash pool as circumstances may require to meet current obligations and shall request the State Controller to effect such transfers by journal entry as set forth in section 131-B. When there is excess money in the State Treasury that is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Administrative and Financial Services and with the consent of the Governor, those amounts in bonds, notes, certificates of indebtedness or other obligations of the United States and its agencies and instrumentalities that mature not more than 36 months from the date of investment or in repurchase agreements that mature within the succeeding 12 months that are secured by obligations of the United States and its agencies and instrumentalities, prime commercial paper, tax-exempt obligations and corporate bonds rated "AAA" that mature not more than 36 months from the date of investment, banker's acceptances or so-called "no-load" shares of any investment company registered under the federal Investment Company Act of 1940, as amended, that complies with Rule 2a-7 guidelines and maintains a constant share price. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, only if loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on those investments of money must be credited to the respective funds, except that interest earned on investments of special revenue funds must be credited to the General Fund of the State. Effective July 1, 1995, interest earned on investments of the Highway Fund must be credited to the Highway Fund. Interest earned on funds of the Department of Inland Fisheries and Wildlife must be credited to the General Fund. Interest earned on funds of the Baxter State Park Authority must be credited to the Baxter State Park Fund. This section does not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of state funds required by the terms of custodial contracts or agreements negotiated in accordance with the laws of this State. All custodial contracts and agreements are subject to the approval of the Governor. [2005, c. 386, Pt. CC, §2 (amd).]

The Treasurer of State may accept component unit and nonstate funds into custody and invest those funds along with excess state funds as prescribed in this section. [2003, c. 20, Pt. T, §3 (new).]

For the purpose of this section only, tax-exempt obligations and securities are limited exclusively to tax-exempt commercial paper and tax-exempt bonds maturing in less than 2 years. [1985, c. 757 (new).]

No sum exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan associations may be on deposit therein at any one time. The restriction does not apply to deposits subject to immediate withdrawal available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the State. The restriction does not apply to deposits that are secured by the pledge of certain securities as collateral, nor to deposits fully covered by insurance. Such collateral must be in an amount equal to such deposit. The Treasurer of State may require, in the discretion of the Treasurer of State, collateralization or insurance for the full amount of any deposit of public funds, whether held by an institution permitted under this section or by a vendor contracted to collect or disburse public funds. The value of the securities so pledged must be determined by the Treasurer of State on the basis of market value. The Treasurer of State shall review the value of securities pledged on January 2nd and July 2nd of each year. The collateral must consist of securities or obligations issued or fully insured or guaranteed by the United States, an agency or instrumentality thereof or a United States government sponsored corporation. The securities must be held in a depository institution approved by the Treasurer of State and pledged to indemnify the State of Maine against any loss. Notice of such hypothecation at the time of deposit must be given to the Treasurer of State by the depository institution and a copy of said notice mailed to the State Department of Audit. [2003, c. 20, Pt. T, §3 (amd).]

It is the intent of the Legislature that the Treasurer of State shall seek competitive bids whenever possible prior to the selection of investments under this section. [1977, c. 197, §2 (new).]

The Treasurer of State may deposit an amount not to exceed $4,000,000 in each calendar year with responsible financial institutions authorized to do business in the State at a rate of return not more than 2% per year below the rate of return otherwise obtainable had the funds been invested with such financial institutions for a similar term, as determined by the treasurer, for periods not to exceed one year, provided that each such financial institution covenants with the treasurer as a condition of the deposit to loan an amount at least equal to the amount so deposited with the financial institution by the treasurer under this paragraph to agricultural enterprises located within the State for agricultural purposes. All the loans must be at interest rates that are below the interest rates the loans would have borne under existing market conditions and loan standards of the financial institution but for the deposit by the treasurer under this paragraph, and the interest rates must fully reflect the savings to the financial institution due to the reduced interest rate paid on the deposit. Notwithstanding any provisions of this section to the contrary, the treasurer is not obligated to seek competitive bids for investments or deposits pursuant to this paragraph. The Finance Authority of Maine shall provide assistance to the treasurer in implementing this paragraph. For purposes of this section, "agricultural enterprises" means a business involving cultivating soil, producing crops and raising livestock or their by-products. In adopting rules to implement this paragraph, the treasurer shall consider criteria targeting loans under the program to geographic areas of financial need and borrowers who are new entrants to agriculture, and may establish limits on deposits to any one financial institution and limits on deposits supporting loans to any one borrower. [2003, c. 20, Pt. T, §3 (amd).]

The Treasurer of State may deposit an amount not to exceed $4,000,000 in each calendar year with responsible financial institutions authorized to do business in the State at a rate of return not more than 2% per year below the rate of return otherwise obtainable had the funds been invested with such financial institutions for a similar term, as determined by the treasurer, for periods not to exceed one year, provided that each such financial institution covenants with the treasurer as a condition of the deposit to loan an amount at least equal to the amount so deposited with the financial institution by the treasurer under this paragraph to commercial enterprises approved by the treasurer pursuant to this paragraph. All the loans must be at interest rates that are below the interest rates the loans would have borne under existing market conditions and loan standards of the financial institution but for the deposit by the treasurer under this paragraph, and the interest rates must fully reflect the savings to the financial institution due to the reduced interest rate paid on the deposit. Notwithstanding any provisions of this section to the contrary, the treasurer is not obligated to seek competitive bids for investments or deposits pursuant to this paragraph. The Finance Authority of Maine shall provide assistance to the treasurer in implementing this paragraph. For purposes of this paragraph, eligible commercial enterprises are for-profit businesses with 20 or fewer employees or annual sales of less than $2,500,000, whose sales of services or products are primarily out of state or that are manufacturers, that are primarily owned and operated by Maine residents or by corporations that are primarily owned and operated by Maine residents, when the treasurer determines that not less than one job will be created or retained per $20,000 of deposited funds. The maximum loan to any borrower for which a deposit may be applied under this paragraph is $200,000, and businesses are eligible to receive subsidies pursuant to this paragraph for a maximum of an aggregate of 24 months. In adopting rules to implement this paragraph, the treasurer shall consider criteria targeting loans under the program to geographic areas of financial need, and may establish limits on deposits to any one financial institution, further limits on deposits supporting loans to any one borrower, and further restrictions on eligibility. [2003, c. 20, Pt. T, §3 (amd).]

PL 1969, Ch. 63, § (AMD).
PL 1969, Ch. 583, § (AMD).
PL 1973, Ch. 406, §1-3 (AMD).
PL 1973, Ch. 426, § (AMD).
PL 1973, Ch. 639, §1 (AMD).
PL 1975, Ch. 497, §3 (AMD).
PL 1975, Ch. 771, §38,39 (AMD).
PL 1977, Ch. 197, §1,2 (AMD).
PL 1979, Ch. 127, §19 (AMD).
PL 1979, Ch. 398, §1,2 (AMD).
PL 1983, Ch. 588, §1 (AMD).
PL 1985, Ch. 501, §B14 (AMD).
PL 1985, Ch. 757, § (AMD).
PL 1985, Ch. 785, §A6 (AMD).
PL 1985, Ch. 816, §1 (AMD).
PL 1987, Ch. 247, §1 (AMD).
PL 1987, Ch. 402, §A10 (AMD).
PL 1987, Ch. 769, §A8 (AMD).

PL 1987, Ch. 806, §1,2 (AMD).
PL 1989, Ch. 672, § (AMD).
PL 1991, Ch. 622, §K1 (AMD).
PL 1991, Ch. 622, §K2 (AFF).
PL 1991, Ch. 780, §Y9 (AMD).
PL 1993, Ch. 437, §1 (AMD).
PL 1993, Ch. 651, §1 (AMD).
PL 1995, Ch. 368, §ZZ1 (AMD).
PL 1999, Ch. 401, §HHH1 (AMD).
PL 2003, Ch. 20, §T3 (AMD).
PL 2003, Ch. 451, §DD1 (AMD).
PL 2005, Ch. 386, §CC2 (AMD).

§135-A. Establishment of other special revenue accounts

Except in cases when a state department or agency receives funds that the department or agency is legally required to distribute to or hold on behalf of specifically named persons, and except for the Baxter State Park Authority, all departments or agencies of State Government, in working with the Treasurer of State, are prohibited from establishing trust funds, escrow accounts or other accounts that would not be specifically allocated by the Legislature unless there is a compelling, documented legal reason, as determined by the Treasurer of State, to do otherwise. [1991, c. 532, §1 (new); §2 (aff).]

PL 1991, Ch. 532, §1 (NEW).
PL 1991, Ch. 532, §2 (AFF).

§136. Monthly exhibits

At the expiration of each month, the Treasurer of State shall prepare an exhibit showing the banks and places in which moneys of the State have been kept or deposited during the preceding month, and the amount at the time of the exhibit. This exhibit shall be open to public inspection. [1981, c. 456, Pt. A, § 19 (amd).]

PL 1981, Ch. 456, §A19 (AMD).

§137. Purchase of unmatured bonds of State

Whenever, from time to time in the judgment of the Treasurer of State, it may be done to the financial advantage of the State, he may, with the advice and consent of the Governor, purchase with any funds in the State Treasury not otherwise appropriated and, when so purchased, may cancel any outstanding, unmatured bonds of the State. [1975, c. 771, § 40 (amd).]

PL 1975, Ch. 771, §40 (AMD).

§138. Custody and servicing of securities; investment of trust funds; exceptions; prorations

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, shall invest all permanent funds held in trust by the State in such securities as are legal investments for savings banks under Title 9-B, except as provided in chapter 161. For purposes of this section, those investments include, without limitation, shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section does not apply to the fund of the Employees' Retirement System or the fund arising from the lands reserved for public uses. [1993, c. 651, §2 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

The investments need not be segregated to the separate trust funds and the earnings of the investments must be prorated according to the principal amounts of the several trusts. The identity of each separate trust fund must be maintained. [1991, c. 780, Pt. Y, §10 (amd).]

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, has the power to enter into contracts or agreements approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing

of the securities belonging to the permanent trust funds of this State. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section 473. [1997, c. 398, Pt. L, §1 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper safeguards that are usual to such contracts and shall furnish insurance protection satisfactory to both parties. [1991, c. 780, Pt. Y, §10 (amd).]

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Attorney General and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §10 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

PL 1971, Ch. 181, §1-3 (AMD).
PL 1973, Ch. 585, §11,14 (AMD).
PL 1973, Ch. 733, §1,2 (AMD).
PL 1973, Ch. 788, §12 (AMD).
PL 1975, Ch. 771, §41 (AMD).
PL 1977, Ch. 78, §7 (AMD).
PL 1979, Ch. 127, §20 (AMD).
PL 1985, Ch. 785, §A7-9 (AMD).
PL 1987, Ch. 247, §2 (AMD).
PL 1991, Ch. 780, §Y10 (AMD).
PL 1993, Ch. 651, §2 (AMD).
PL 1997, Ch. 398, §L1 (AMD).
PL 2001, Ch. 44, §11 (AMD).
PL 2001, Ch. 44, §14 (AFF).

§139. Disposal of money and securities

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Commissioner of Education, shall invest and reinvest the principal of all funds derived or that may be derived from the sale and lease of lands reserved for public uses in accordance with the laws of the State governing the investment of funds of savings banks, as enumerated in Title 9-B, except as provided in chapter 161. [1991, c. 780, Pt. Y, §11 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Commissioner of Education, has the power to enter into a contract or agreement approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section 473. [1997, c. 398, Pt. L, §2 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper safeguards that are usual to such contracts and shall furnish insurance protection satisfactory to both parties. [1991, c. 780, Pt. Y, §11 (amd).]

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either

or both the Commissioner of Education and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §11 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

PL 1971, Ch. 181, §4-6 (AMD).
PL 1973, Ch. 571, §1 (AMD).
PL 1973, Ch. 585, §11,14 (AMD).
PL 1973, Ch. 733, §3,4 (AMD).
PL 1975, Ch. 771, §42 (AMD).
PL 1977, Ch. 78, §8,72 (AMD).
PL 1979, Ch. 127, §21 (AMD).
PL 1985, Ch. 785, §A10-12 (AMD).
PL 1987, Ch. 247, §3 (AMD).
PL 1989, Ch. 700, §A11-13 (AMD).
PL 1991, Ch. 780, §Y11 (AMD).
PL 1997, Ch. 398, §L2 (AMD).
PL 2001, Ch. 44, §11 (AMD).
PL 2001, Ch. 44, §14 (AFF).

§139-A. --guaranty funds

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, has the power to enter into contracts or agreements approved by the Governor, with any national bank, trust company or safe deposit company located in New England or New York City, for custodial care and servicing of any securities deposited with the treasurer as a guaranty fund required by statutes. [1991, c. 780, Pt. Y, Â§12 (amd); 2001, c. 44, Â§11 (amd); Â§14 (aff).]

Such services shall consist of the safekeeping of such securities in the vaults of the bank or safe deposit company and any fiscal service which is normally covered in a custodial contract or agreement. [1971, c. 555 (new).]

The Treasurer of State shall obtain the written approval of the Superintendent of Insurance prior to releasing any securities received by the Treasurer of State and deposited in custodial accounts pursuant to the deposit requirements of the Maine Insurance Code. [1993, c. 313, Â§1 (new).]

PL 1971, Ch. 555, § (NEW).
PL 1973, Ch. 585, §11,14 (AMD).
PL 1975, Ch. 771, §43 (AMD).
PL 1985, Ch. 785, §A13 (AMD).
PL 1991, Ch. 780, §Y12 (AMD).
PL 1993, Ch. 313, §1 (AMD).
PL 2001, Ch. 44, §11 (AMD).
PL 2001, Ch. 44, §14 (AFF).

§140. -- Restoration of permanent trust funds (REPEALED)

PL 1971, Ch. 181, §7 (RP).

§141. -- "Reserve against future losses" account (REPEALED)

PL 1971, Ch. 181, §7 (RP).

§142. -- investment of sinking funds

The Treasurer of State, with the approval of the Governor and the Superintendent of Financial Institutions, shall from time to time as funds appropriated for any sinking fund established by law are received into the treasury, invest the same, with the income thereof as

it accrues, in any bonds of Maine, of any other New England state or in the bonds of the United States. When the bonds fall due and are paid, the proceeds from the bonds must be reinvested in like manner. [2001, c. 667, Pt. A, §2 (amd).]

The Treasurer of State, with the approval of the Governor and the Superintendent of Financial Institutions, has the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and the servicing of the negotiable securities belonging to any sinking fund of the State. The services consist of the safekeeping of the negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of the coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by the funds, and any other fiscal service that is normally covered in a custodial contract or agreement. [2001, c. 667, Pt. A, §2 (amd).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such sinking funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper internal safeguards which are usual to such contracts, and shall furnish insurance protection satisfactory to both parties.

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Governor and the Commissioner of Administrative and Financial Services. [1991, c. 780, Pt. Y, §13 (amd); 2001, c. 44, §11 (amd); §14 (aff).]

All contracts and agreements entered into between the Treasurer of State and custodian banks and safe deposit companies selected for the safekeeping or custodial care of the negotiable securities referred to in this section shall have the approval of the Governor. [1975, c. 771, §44 (amd).]

PL 1973, Ch. 585, §11,14 (AMD).
PL 1975, Ch. 771, §44 (AMD).
PL 1985, Ch. 785, §A14 (AMD).
PL 1991, Ch. 780, §Y13 (AMD).
PL 2001, Ch. 667, §A2 (AMD).

§143. Register of investments and Treasurer of State's report

The Treasurer of State shall keep a register of all investments made under section 142, showing the date, amount and number of each bond, by whom issued and the time when it will mature, and in his annual report to the Governor, he shall include an exhibit of the condition of said sinking funds. [1975, c. 771, § 45 (amd).]

PL 1975, Ch. 771, §45 (AMD).

§144. Form of unregistered bonds

Unregistered bonds issued under the laws of the State must bear the signature, or the facsimile of the signature, of the Governor, and must be signed by the Treasurer of State or the Treasurer of State's deputy and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. The seal of the State may be a facsimile. [1991, c. 780, Pt. Y, §14 (amd).]

PL 1969, Ch. 202, §1 (AMD).
PL 1973, Ch. 625, §17 (AMD).
PL 1985, Ch. 785, §A15 (AMD).
PL 1991, Ch. 780, §Y14 (AMD).

§145. Registered bonds

The Treasurer of State may issue registered bonds, transferable by assignment, in pieces of not less than $1,000, and of any multiple of 1,000, in exchange for, and in place of, any coupon bonds issued under the laws of this State, bearing the same rate of interest and maturing at the same time as the bonds that the Treasurer of State may receive therefor in exchange. The place of payment prescribed therein must be the State Treasury. Said bonds must bear the facsimile of the signature of the Governor and must be signed by the Treasurer of State or the Treasurer of State's deputy and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. [1991, c. 780, Pt. Y, §15 (amd).]

PL 1969, Ch. 202, §2 (AMD).

PL 1973, Ch. 625, §18 (AMD).
PL 1985, Ch. 785, §A16 (AMD).
PL 1991, Ch. 780, §Y15 (AMD).

§145-A. Minibonds

Notwithstanding any other provisions of the laws of this State, whenever the Treasurer of State is authorized to issue and sell bonds for the State, and he determines to issue and sell all or a portion of these bonds in denominations of less than $5,000, minibonds, he may issue and sell these minibonds at public or private sale, maturing in such amounts and upon such dates, at such interest rate or rates, payable at such time and in such manner, at discount, with or without disclosure, in bearer or registered form, and upon such other terms and conditions, all as he shall determine to be in the best interests of the State; provided that: Not more than $1,000,000 principal amount of minibonds shall be sold by the Treasurer of State in any one fiscal year; no minibond shall mature more than 5 years after its date; no one sale to a purchaser of minibonds shall be in an aggregate principal amount equal to or greater than $5,000; and each minibond shall provide that it shall be redeemed by the State upon due presentation by an appropriate person on any business day after one year from its date of sale by the Treasurer of State at such price as the Treasurer of State shall determine according to a schedule established with respect to each issue of minibonds prior to the sale thereof. Section 137 shall not apply to the issuance of minibonds. [1979, c. 560 (new).]

The minibonds must bear the facsimile of the signature of the Governor and must be signed by the Treasurer of State, or the Treasurer of State's deputy, and attested by the Commissioner of Administrative and Financial Services, or such agent as the commissioner may designate. [1991, c. 780, Pt. Y, §16 (amd).]

The Treasurer of State may adopt rules pursuant to chapter 375 for purposes of this section. [1979, c. 560 (new).]

PL 1979, Ch. 560, § (NEW).
PL 1985, Ch. 785, §A17 (AMD).
PL 1991, Ch. 780, §Y16 (AMD).

§145-B. Issuance of registered bonds; miscellaneous provisions

1. Issuance. Notwithstanding any other provisions of the laws of this State, whenever the Treasurer of State is authorized to issue and sell bonds for the State, he may issue the bonds in registered form.
[1983, c. 745 (new).]

2. Signatures. Registered bonds must bear the facsimile signatures of the Governor and the Treasurer of State, or the Treasurer of State's deputy, and must be attested by the facsimile signature of the Commissioner of Administrative and Financial Services or such agents as the commissioner may designate. Whenever signatures on registered bonds of other state officials are required, their facsimile signatures may be used.
[1991, c. 780, Pt. Y, §17 (amd).]

3. Seal. The seal of the State on registered bonds may be by facsimile.
[1983, c. 745 (new).]

4. Agents. The Treasurer of State may appoint, for such terms as may be agreed upon, including for as long as a registered bond may be outstanding, corporate or other authenticity, agents, transfer agents, registrars, paying or other agents, and specify the terms of their appointments, including their rights, compensation and duties. None of the agents need have an office or do business within this State.
[1983, c. 745 (new).]

5. Storage and transfer. The Treasurer of State may agree with custodial banks and financial intermediaries, within or without this State, and the nominees of any of them, in connection with the establishment and maintenance by others of a central depository system for the storage of transferable certificates and the transfer of registered bonds. Any such custodial banks and financial intermediaries, and nominees, if qualified and acting as fiduciaries, may also serve as authenticating agents, transfer agents, registrars, paying or other agents of the Treasurer of State with respect to the same issue of registered bonds.
[1983, c. 745 (new).]

PL 1983, Ch. 745, § (NEW).
PL 1985, Ch. 785, §A18 (AMD).
PL 1991, Ch. 780, §Y17 (AMD).

§145-C. Capital appreciation bonds

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

A. "College savings bonds" means any general obligation bonds of the State that:

(1) The Treasurer of State is authorized to issue and sell;

(2) Are offered for initial sale at a substantial discount from face value with some or all of the payment to bondholders of principal or interest or both deferred until maturity; and

(3) Are designated by the Treasurer of State as college savings bonds.

[1991, c. 603, §1 (new).]

[1991, c. 603, §1 (new).]

2. **Authorization.** Any general obligation bonds of the State that the Treasurer of State now or after July 30, 1991 is authorized to issue and sell may be issued and sold by the Treasurer of State as college savings bonds. The Treasurer of State, after consultation with the advisory committee established in subsection 3, may offer college savings bonds in such amounts and form and on such terms and conditions as the Treasurer of State determines necessary. Notwithstanding any contrary provision of any general obligation bond act, the Treasurer of State is authorized to issue bonds in serial or term form in the name of and on behalf of the State, in amounts that will raise usable bond proceeds equal to the total amount for the projects authorized by the general obligation bond act and approved at referendum. For purposes of determining the amount of bonds of the State being issued or outstanding as of any given time, the amount of capital appreciation bonds is the greater of the original issue amount and the accreted value, as determined by the Treasurer of State.
[RR 1997, c. 2, §8 (cor).]

3. **Advisory committee.** There is established an advisory committee on college savings bonds to advise the Treasurer of State on the issuance of college savings bonds. The advisory committee consists of 3 ex officio members, the Commissioner of Administrative and Financial Services, the Commissioner of Education, the Chief Executive Officer of the Finance Authority of Maine; and one representative of the University of Maine System designated by the Governor for a 4-year term. The advisory committee shall consult with the Treasurer of State on the amount of college savings bonds to be issued by the State, their terms, maturities and structures and the marketing and availability of the bonds.
[1991, c. 780, Pt. Y, §18 (amd).]

4. **Sale of college savings bonds.** College savings bonds may be sold by competitive or negotiated sale, provided that the Treasurer of State shall determine that the underwriter or underwriters to which the bonds are sold have sufficient capability to provide for broad retail distribution of the bonds to investors residing in the State. College savings bonds may be issued in certificate or book entry form, in face amounts as low as $1,000 if determined advisable by the Treasurer of State. The Treasurer of State may covenant and consent to establish any sinking funds, reserve funds or other accounts necessary to pay the bonds at maturity.
[1991, c. 603, §1 (new).]

PL 1991, Ch. 603, §1 (NEW).
PL 1991, Ch. 780, §Y18 (AMD).
RR 1997, Ch. 2, §8 (COR).

§146. Equivalent bond to be issued on assignment

Upon due assignment of any such registered bond and delivery thereof to the Treasurer of State, an equivalent bond or bonds, in form as provided, shall be issued to the assignee in substitution therefor.

§147. Cancellation and registry of old bonds

All bonds received by the Treasurer of State for exchange must be canceled and retained in the office of the Treasurer of State.
[1989, c. 857, §14 (amd).]

PL 1989, Ch. 857, §14 (AMD).

§148. Cremation of old bonds

The Treasurer of State, in the presence of the Commissioner of Administrative and Financial Services and the State Auditor, or such agents as they may designate, may cremate any state bonds and coupons, on the premises of the state bond and coupon paying agent, that have matured and have been paid after the paid certification has been received by the Treasurer of State and the State Auditor. This paid

certification must bear the additional sworn certification of the auditor of the bank paying agent employed by the Treasurer of State. A cremation certificate, signed under oath by the state officers named in this section and the bank paying agent auditor identifying the bonds and coupons destroyed, must be filed in the office of the Treasurer of State. [1991, c. 780, Pt. Y, §19 (amd).]

PL 1969, Ch. 202, §3 (AMD).
PL 1971, Ch. 181, §8 (AMD).
PL 1981, Ch. 100, § (RPR).
PL 1985, Ch. 785, §A19 (AMD).
PL 1991, Ch. 780, §Y19 (AMD).

§149. Signature of outgoing Treasurer of State valid

The facsimile signature of the Treasurer of State who is leaving office shall be valid until new signature plates for the signing of checks have been obtained for his successor.

§150. Temporary loans by State

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of the issuance of bonds authorized but not yet issued. Such temporary loan or loans shall be repaid from the proceeds of the bonds within one year from the date of the loan. [1975, c. 771, §46 (amd).]

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of taxes levied for that fiscal year, but not exceeding a total of that amount of taxes estimated by the Treasurer of State to be collected in the fiscal year in which the temporary loan or loans, or renewal of the temporary loan or loans, is made, as long as the temporary loans or renewals of the temporary loans do not exceed any limitation set forth in the Constitution of Maine, Article IX, Section 14. Any such loans may be renewed from time to time as the Treasurer of State, with the approval of the Governor, determines, except that each loan or renewal of the loan must be retired not later than the close of the fiscal year in which the loan was originally made and for which were levied the taxes in anticipation of the collection of which the loan was originally made; and that each loan or renewal of the loan must comply with the provisions of this section and the Constitution of Maine, Article IX, Section 14. [2001, c. 705, §1 (amd).]

PL 1967, Ch. 417, § (RPR).
PL 1967, Ch. 544, §115 (AMD).
PL 1969, Ch. 452, § (AMD).
PL 1971, Ch. 156, § (AMD).
PL 1971, Ch. 176, §1,2 (AMD).
P&SL 1975, Ch. 147, §C13 (AMD).
PL 1975, Ch. 771, §46 (AMD).
PL 1981, Ch. 705, §P (AMD).
PL 1991, Ch. 5, §1 (AMD).
PL 1991, Ch. 589, §1 (AMD).
PL 1991, Ch. 589, §5 (AFF).
PL 1991, Ch. 780, §BB1 (AMD).
RR 1991, Ch. 2, §6 (COR).
PL 1993, Ch. 382, §1 (AMD).
PL 1993, Ch. 707, §P1 (AMD).
PL 1995, Ch. 368, §V1 (AMD).
PL 1995, Ch. 665, §P1 (AMD).
PL 1997, Ch. 24, §F1 (AMD).
PL 1997, Ch. 643, §E5 (AFF).
PL 2001, Ch. 467, §A1 (AMD).
PL 2001, Ch. 705, §1 (AMD).

§150-A. Short-term borrowing in anticipation of federal transportation funds

The Treasurer of State, with the approval of the Governor, may from time to time negotiate a temporary loan or loans in anticipation of federal transportation funds, as long as the term of the loans does not exceed 12 months and the aggregate principal amount of all notes issued in a federal fiscal year does not exceed 50% of the total of transportation funds appropriated by the Federal Government

in the prior federal fiscal year. The obligation to repay the notes must be a limited obligation of the State, payment of which may not be secured by a pledge of the faith and credit of the State or of a municipality or political subdivision but is payable solely from federal transportation funds, and a note must contain on its face a statement to that effect. A note may not directly, indirectly or contingently obligate the State or a municipality or political subdivision to levy or to pledge any form of taxation whatever for a payment on a note or to make an appropriation for payment of a note. Proceeds of a note must be used for highways, roads, bridges, other transportation improvements and related and subordinate facilities. A note must be dated, delivered, bear interest at a rate or rates and mature at a time or times not exceeding 12 months from the date of delivery, as may be determined by the Treasurer of State with the approval of the Governor, and may be made redeemable before maturity, at the option of the Treasurer of State with the approval of the Governor, at a price or prices and under terms and conditions as may be fixed by the Treasurer of State with the approval of the Governor. The Treasurer of State with the approval of the Governor may enter into an indenture or other agreement necessary for issuing a note. The Commissioner of Transportation, at the request of the Treasurer of State with the approval of the Governor, may enter into an agreement necessary for issuing a note. A note and the income from that note are exempt from all taxation within the State. [2001, c. 565, Pt. G, §1 (new); §2 (aff).]

As used in this section, unless the context otherwise indicates, "note" means a bond, note or other obligation issued to evidence a loan negotiated pursuant to this section in anticipation of federal transportation funds. "Federal transportation funds" means federal funds used for transportation purposes including funds administered by or through the United States Department of Transportation. [2001, c. 565, Pt. G, §1 (new); §2 (aff).]

PL 2001, Ch. 565, §G1 (NEW).
PL 2001, Ch. 565, §G2 (AFF).

§151. Funds of professional licensing boards

All money received by the Treasurer of State from those boards listed in section 12004-A constitutes a fund for each board, which is a continuous carrying account for the payment of the compensation and expenses of the members and the expenses of the board and for executing the law relating to each board respectively and as much of the fund as may be required is appropriated for these purposes. All payments must be made from the respective funds held in the State Treasury, after the approval of the State Controller. In no event may these payments exceed the amounts received by the Treasurer of State from the treasurer of each respective board. Any balance remaining to the credit of any board at the end of any year must be carried forward to the next year. [1997, c. 393, Pt. B, §1 (rpr); §2 (aff).]

Whenever there shall accumulate in the State Treasury to the account of any board or commission charged with the duty of issuing licenses for the conduct of any profession, trade or business, sums of money in excess of the amount required properly to cover the expense of performing the duties imposed upon the board or commission in connection with the granting of licenses and the supervision of persons licensed, the board or commission, with the approval of the Governor, may suspend the payment or reduce the amount of any license fees fixed by law for any renewal until, in the opinion of the board or commission, it shall be necessary to collect the full amount established by law. [1987, c. 395, Pt. A, § 16 (rpr).]

PL 1967, Ch. 253, §11 (AMD).
PL 1967, Ch. 423, §2 (AMD).
PL 1967, Ch. 544, §7 (AMD).
PL 1971, Ch. 9, § (AMD).
PL 1971, Ch. 518, §1 (AMD).
PL 1971, Ch. 622, §7 (AMD).
PL 1973, Ch. 101, §2 (AMD).
PL 1973, Ch. 558, §2 (AMD).
PL 1975, Ch. 705, §1 (AMD).
PL 1975, Ch. 771, §47 (AMD).
PL 1979, Ch. 606, §1 (AMD).
PL 1987, Ch. 395, §A16 (RPR).
PL 1993, Ch. 600, §B20-22 (AMD).
PL 1995, Ch. 402, §A2 (AMD).
PL 1995, Ch. 505, §2 (AMD).
PL 1995, Ch. 505, §22 (AFF).
PL 1997, Ch. 393, §B1 (AMD).
PL 1997, Ch. 393, §B2 (AFF).

§151-A. Income from temporary investment of bonds

All net income realized from the temporary investment of bond proceeds on general fund bond issues approved by the 103rd Legislature and future Legislatures shall be credited to a special account designated as Debt Service Account, and used only for the retirement of bonds and notes. [1971, c. 544, § 10 (amd).]

P&SL 1967, Ch. 154, §E (NEW).
PL 1967, Ch. 544, §8 (RPR).
PL 1971, Ch. 544, §10 (AMD).

§152. Ratification of bond issue; signed statement

In accordance with the Constitution of Maine, Article IX, section 14, the Treasurer of State shall prepare a signed statement to accompany any question submitted to the electors for ratification of a bond issue setting forth the total amount of bonds of the State outstanding and unpaid, the total amount of bonds of the State authorized and unissued and the total amount of bonds of the State contemplated to be issued if the enactment submitted to the electors should be ratified. The Treasurer of State shall also set forth in that statement an estimate of costs involved, including explanation of, based on such factors as interest rates which may vary, the interest cost contemplated to be paid on the amount to be issued, the total cost of principal and interest that will be paid at maturity and any other substantive explanatory information relating to the debt of the State as he may deem appropriate. [1979, c. 534, § 2 (new).]

PL 1979, Ch. 534, §2 (NEW).

§153. Rules

The Treasurer of State may adopt and amend rules necessary to carry out this chapter. These rules shall be adopted and amended pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [1985, c. 816, § 2 (new).]

PL 1985, Ch. 816, §2 (NEW).

§154. Services to nonstate agencies

Notwithstanding any other provision of law, the State Controller may establish an account within Other Special Revenue funds for the Treasurer of State to recover the cost of providing administrative services to the Maine Military Authority. [2001, c. 559, Pt. F, §1 (new).]

PL 2001, Ch. 559, §F1 (NEW).

Title 5, §200-C, State Fraud Division

§200-C. State Fraud Division

1. Establishment. The Attorney General is authorized to create a State Fraud Division, hereinafter referred to in this section as the "division," within the Department of the Attorney General.
[1975, c. 715, §1 (new).]

2. Purpose. The purpose of the division shall be to investigate and prosecute, including actions for civil recovery, any act of fraud or attempted fraud perpetrated against the State or any department, agency or commission thereof. The division shall not have primary responsibility for the investigation of any act of fraud or attempted fraud or incident of commingling or misapplication of funds pursuant to Title 22, section 13, subsection 2.
[1975, c. 715, §1 (new).]

3. Cooperation, information. All agencies of the State and municipal governments shall cooperate fully with the division, rendering any assistance requested by the division. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the division any suspected act of fraud or attempted fraud or violation of any law in connection with funds of the State. Any such act or violation involving funds administered by the Department of Health and Human Services shall be reported pursuant to Title 22, section 13, subsection 3.
[1975, c. 715, §1 (new); 2003, c. 689, Pt. B, §6 (rev).]

All information in the files of any department, commission or agency of State Government, regardless of any statute relating to confidentiality, shall be available to the division for use in connection with its official purpose. [1975, c. 715, §1 (new).]

PL 1975, Ch. 715, §1 (NEW).
PL 2003, Ch. 689, §B6 (REV).

Chapter 421: GENERAL PROVISIONS (HEADING: PL 1985, c. 801, §5 (new))

Subchapter 1: DEFINITIONS (HEADING: PL 1985, c. 801, §5 (new))

§17001. Definitions (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 801, §§5, 7 (new).]

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) **Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2, except that, for a member with less than 10 years of creditable service, if the amounts contributed by the member or picked up by the employer do not equal 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee for service rendered after December 31, 1991, "accumulated contributions" includes as much of the employer's contribution in the Retirement Allowance Fund as is needed to reach 7.5% of the member's compensation for service as a part-time, seasonal or temporary employee.
[1991, c. 619, §1 (amd); §18 (aff).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) **Accumulated contributions.** "Accumulated contributions" means the sum of all the amounts contributed by the member or picked up by the employer from the compensation of a member and credited to the member's individual account in the Members' Contribution Fund, plus regular interest on the member's account, as provided in subchapter IV, article 2.
[1987, c. 739, §§1, 48 (amd).]

2. **Actuarial equivalent.** "Actuarial equivalent" means an amount of equal value when computed at an interest rate contained in actuarial assumptions adopted by the board and upon the basis of mortality and service tables adopted by the board. "Actuarial equivalent," when used to indicate the amount that must be paid in order to purchase service credit, means the amount that equals the cost of additional benefits that become payable as a result of the service credit, including, when applicable, the projected cost of a member's earlier eligibility for retirement.
[1993, c. 387, Pt. A, §3 (amd).]

3. **Actuary.** "Actuary" means the individual or the organization designated by the board to be the technical advisor to the board under section 17107.
[1985, c. 801, §§5, 7 (new).]

3-A. **Annual base compensation.** "Annual base compensation" means a member's gross compensation, based upon amounts reported by the member's employer on the member's previous year's federal wage and tax statement, that is used the first day of each April for setting the amount of coverage prior to retirement for participants in the group life insurance program administered by the board.
[1993, c. 386, §1 (amd).]

3-B. **Alternate payee.** "Alternate payee" means a spouse, former spouse, child or other dependent of a member or retiree who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by the retirement system with respect to that member or retiree.
[1991, c. 746, §3 (new); §10 (aff).]

4. Average final compensation. "Average final compensation" means:

A. The average annual rate of earnable compensation of a member during the 3 years of creditable service as an employee in Maine, not necessarily consecutive, in which the member's annual rate of earnable compensation is highest. However, if a member is subject to a temporary layoff or other time off without pay as a result of a Governor's Executive Order, time off without pay or loss of pay pursuant to the agreements of February 15, 1991, October 23, 1991 and June 11, 1993 between the Executive Department and the American Federation of State, County and Municipal Employees, Council 93, time off without pay pursuant to the agreement of June 11, 1993 between the Executive Department and the Maine State Employees Association, days off without pay as authorized by legislative action or days off without pay resulting from any executive order declaring or continuing a state of emergency relating to the lack of an enacted budget document for fiscal years ending June 30, 1992 and June 30, 1993, or, if a member elects to make the payments as set forth in section 17704-B, as a result of days off without pay as authorized by legislative action, by the State Court Administrator or from executive order for the fiscal year beginning July 1, 2002, or, if a member is subject to days off without pay, not to exceed 10 days in each fiscal year ending June 30, 1992 and June 30, 1993, as a result of actions taken by local school administrative units to offset school subsidy reductions or, notwithstanding section 18202, as a result of actions of a participating local district to offset reductions in municipal revenue sharing or a combination thereof, for the fiscal years ending June 30, 1992 and June 30, 1993, the 3-year average final compensation must be determined as if the member had not been temporarily laid off, reduced in pay or provided days off without pay; or [2003, c. 486, §3 (amd).]

B. The average annualized rate of earnable compensation of a member during his entire period of creditable service if that period is less than 3 years. [1985, c. 801, §§5, 7 (new).]

[2003, c. 486, §3 (amd).]

5. Beneficiary. "Beneficiary" means a person or persons designated by a member to receive a benefit under this Part or a person otherwise entitled to receive a benefit under this Part.

[1985, c. 801, §§5, 7 (new).]

6. Benefit. "Benefit" means any payment made, or required to be made, to a beneficiary under chapter 423, subchapter V or chapter 425, subchapter V.

[1985, c. 801, §§5, 7 (new).]

7. Board. "Board" means the board of trustees, established under section 12004-F, subsection 9, to administer the Maine State Retirement System.

[1989, c. 503, Pt. B, §32 (amd).]

8. Child. "Child" means any natural or legally adopted, born or unborn, progeny of a member.

[1985, c. 801, §§5, 7 (new).]

9. Consumer Price Index. "Consumer Price Index" means:

A. The Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the Bureau of Labor Statistics, United States Department of Labor; or [2001, c. 181, §3 (amd).]

B. If the index described in paragraph A is revised or superseded, the board must employ the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor that the board finds to be most reflective of changes in the purchasing power of the dollar for the broadest population of consumers, including retired consumers. [2001, c. 181, §3 (amd).]

[2001, c. 181, §3 (amd).]

10. Creditable service. "Creditable service" means a person's membership service, the person's prior service and service for which credit is allowable under sections 17755 and 17756; section 17760, subsection 3; section 18258; sections 18355 and 18356; and section 18360, subsection 2.

[2003, c. 693, §1 (amd).]

11. Department. "Department" means any department, commission, institution or agency of State Government including the Maine Community College System.

[1989, c. 443, §16 (amd); 2003, c. 20, Pt. OO, §2 (amd); §4 (aff).]

12. Dependent child. "Dependent child" means:

A. Any unmarried, natural or legally adopted, born or unborn, member's progeny, who is:

(1) Under 18 years of age; or

(2) Under 22 years of age and a full-time student; or

[1985, c. 801, §§5, 7 (new).]

B. Regardless of age or marital status, any other progeny certified by the medical board to be permanently mentally incompetent or permanently physically incapacitated and determined by the executive director to be unable to engage in any substantially gainful employment. [1985, c. 801, §§5, 7 (new).]

[1985, c. 801, §§5, 7 (new).]

12-A. Domestic relations order. "Domestic relations order" means a judgment, decree or order, including approval of a property settlement agreement, that:

A. Relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a member or retiree; and [1991, c. 746, §4 (new); §10 (aff).]

B. Is made pursuant to a domestic relations law of this State or another state. [1991, c. 746, §4 (new); §10 (aff).]

[1991, c. 746, §4 (new); §10 (aff).]

13. Earnable compensation. "Earnable compensation" means salaries and wages paid for services rendered in an employment position, subject to the following inclusions, exclusions and limitations.

A. "Earnable compensation" includes:

(1) Workers' compensation benefits;

(2) Maintenance, if any;

(3) Any money paid by an employer to a 3rd party under a tax sheltered annuity contract or a deferred compensation plan for the future benefit of an employee provided that the money is not derived from amounts excluded from earnable compensation by paragraph B; and

(4) Pick-up contributions.

[1989, c. 800 (amd).]

B. "Earnable compensation" does not include:

(1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30 days of unused vacation leave or payment for more than 30 days of a combination of both and, effective October 1, 1999, whether or not the member is in service on October 1, 1999, the 30-day limitation may not be decreased and the exclusion set out in subparagraph (2) may not be made applicable to such a member;

(2) For any member who is not covered by subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits. [1999, c. 489, §1 (amd).]

C. The following provisions govern limitations on earnable compensation.

(1) Notwithstanding the other provisions of this subsection, for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the

year in which the payment is made. This subparagraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This subparagraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this subparagraph does not apply to earnable compensation of state employees and teachers, the provisions of this subparagraph that were in effect prior to June 30, 1993 apply. This subparagraph does not apply to earnable compensation of employees of participating local districts.

(2) Effective October 1, 1999, the 5% limitation and the 10% limitation on increases in earnable compensation set out in subparagraph (1) may not be changed to a lower percentage for members who, on October 1, 1999 or thereafter, meet the creditable service requirement for eligibility to receive a service retirement benefit, at the applicable age if so required, under section 17851 or section 17851-A, subsection 2.

[1999, c. 489, §2 (rpr).]

D. For a teacher who is eligible for participation in the retirement system who is on a leave of absence while serving as President of the Maine Education Association, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [P&S 1993, c. 67, §1 (amd).]

E. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) "Earnable compensation" of a part-time, seasonal or temporary employee is the sum of amounts computed under paragraphs A, B, C and D adjusted to reflect the wages or salary that the member would have been paid if the member had been employed, at the member's rate of pay, for the number of days or hours that a permanent full-time employee of the same employer would have been employed. [1991, c. 619, §2 (new); §18 (aff).]

E. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) [1991, c. 619, §18 (rp).]

F. For a teacher who, as provided by subsection 42, serves as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit, "earnable compensation" includes compensation paid for the released time, except that the amount of that compensation included in "earnable compensation" may not be more than the compensation that the teacher would have been paid had the teacher remained that same amount of time in the teacher's teaching position. [1993, c. 482, §1 (new).]

[1999, c. 489, §§1, 2 (amd).]

14. Employee. "Employee" means:

A. For purposes of this chapter, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, a teacher or a participating local district employee; [1987, c. 402, Pt. A, §§64, 65 (amd).]

B. For purposes of chapter 423, a state employee, including any person serving during any probationary period required under the Civil Service Law and rules of the Civil Service Appeals Board, or a teacher; or [1987, c. 402, Pt. A, §§64, 65 (amd).]

C. For purposes of chapter 425, a participating local district employee. [1985, c. 801, §§5, 7 (new).]

[1987, c. 402, Pt. A, §§64, 65 (amd).]

15. Executive body. "Executive body" means the official or body of officials who, in their official capacity, have the general powers and duties of administering, supervising and managing the affairs of an organization or governmental unit.

[1985, c. 801, §§5, 7 (new).]

16. Executive director. "Executive director" means the executive director of the Maine State Retirement System.

[1985, c. 801, §§5, 7 (new).]

17. Father. "Father" means a natural or adoptive father or stepfather.

[1985, c. 801, §§5, 7 (new).]

18. Full-time student. "Full-time student" means a person who meets the requirements for a full-time student set out in rules adopted by the board.
[1985, c. 801, §§5, 7 (new).]

19. Local district. "Local district" means:

A. Any county, municipality, quasi-municipal corporation or incorporated instrumentality of the State or of one or more of its political subdivisions; [1985, c. 801, §§5, 7 (new).]

B. Any incorporated association of employees of the State or employees of any of the entities set out in paragraph A; [1985, c. 801, §§5, 7 (new).]

C. Any incorporated association of any of the entities set out in paragraph A; [1985, c. 801, §§5, 7 (new).]

D. Any entity eligible to become a participating local district before January 1, 1976; [1985, c. 801, §§5, 7 (new).]

E. Any entity participating in the retirement system before January 1, 1976; or [1985, c. 801, §§5, 7 (new).]

F. Any educational institution in the State teaching courses equivalent to or higher than secondary institutions. [1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

20. Member. "Member" means any person included in the membership of the retirement system, as provided in chapter 423, subchapter II, or chapter 425, subchapter II.
[1987, c. 256, §2 (amd).]

21. Membership service. "Membership service" means service rendered while a member of the retirement system on account of which contributions are made and for which credit is allowable under chapter 423, subchapter IV or chapter 425, subchapter IV.
[1985, c. 801, §§5, 7 (new).]

22. Mother. "Mother" means a natural or adoptive mother or a stepmother.
[1985, c. 801, §§5, 7 (new).]

23. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any combination of age and years of service requirements at which a member becomes eligible for retirement benefits and at which those benefits may not be reduced under section 17852, subsection 3 or 3-A; section 17852, subsection 10, paragraph C; and section 18452, subsection 3.
[2001, c. 118, §1 (amd).]

24. Organization. "Organization" means a corporation, partnership or unincorporated association.
[1985, c. 801, §§5, 7 (new).]

25. Out-of-state service. "Out-of-state service" means service rendered as an employee of:

A. Any state, territory or possession of the United States, except Maine; or [1985, c. 801, §§5, 7 (new).]

B. Any political subdivision of any state, territory or possession of the United States, except Maine. [1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

26. Parent. "Parent" means mother or father.
[1985, c. 801, §§5, 7 (new).]

26-A. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) Part-time, seasonal or temporary employee. "Part-time, seasonal or temporary employee" means an employee whose employment position is part-time, seasonal or temporary as defined in 26 CFR Part 31.
[1991, c. 619, §3 (new); §18 (aff).]

26-A. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) Part-time, seasonal or temporary employee.
[1991, c. 619, §18 (rp).]

27. Participating local district. "Participating local district" means a local district which has approved the participation of its employees in the retirement system under section 18201.
[1985, c. 801, §§5, 7 (new).]

28. Participating local district employee. "Participating local district employee" means an employee of a participating local district.
[1985, c. 801, §§5, 7 (new).]

28-A. Pick-up contributions. "Pick-up contributions" means member contributions to the retirement system which are assumed and paid by the employer through a reduction of members' salaries for services rendered, in accordance with the United States Internal Revenue Code, Section 414(h), in lieu of employee contributions.
[1987, c. 739, §§3, 48 (new).]

29. Prior service. "Prior service" means service rendered before the date of establishment of the retirement system as set forth in section 17101.
[1985, c. 801, §§5, 7 (new).]

29-A. Professional employee. "Professional employee" means any employee engaged in work:

A. Predominantly intellectual and varied in character as opposed to routine mental, manual or mechanical work; [1989, c. 550, §1 (new).]

B. Involving the consistent exercise of discretion and judgment; [1989, c. 550, §1 (new).]

C. Of such a character that the product or result of the work cannot be standardized in relation to a given time period; and [1989, c. 550, §1 (new).]

D. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes. [1989, c. 550, §1 (new).]
[1989, c. 550, §1 (new).]

30. Public school. "Public school" is defined as follows.

A. "Public school" includes:

(1) Any public school conducted within the State under the authority and supervision of a duly elected board of education, superintending school committee or school directors; and

(2) Any school which received any direct state aid in 1950 and municipal tuition funds amounting to at least the amount of that state aid during 1950.

[1985, c. 801, §§5, 7 (new).]

B. "Public school" does not include:

(1) Maine Wesleyan Seminary and College, commonly known as Kents Hill School, as of September 23, 1971;

(2) Bridgton Academy, as of September 1, 1979;

(3) Gould Academy, as of September 1, 1979; and

(4) North Yarmouth Academy, as of September 1, 1979.

[1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

30-A. Qualified domestic relations order. "Qualified domestic relations order" means a domestic relations order that:

A. Creates or recognizes the right of an alternate payee, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a member or retiree under the retirement system; [1991, c. 746, §5 (new); §10 (aff).]

B. Directs the retirement system to disburse benefits to the alternate payee; and [1991, c. 746, §5 (new); §10 (aff).]

C. Meets the requirements of section 17059. [1991, c. 746, §5 (new); §10 (aff).]
[1991, c. 746, §5 (new); §10 (aff).]

31. Regular interest. "Regular interest" means interest at the rate set from time to time by the board in accordance with section 17156.
[1985, c. 801, §§5, 7 (new).]

32. Restoration to service. "Restoration to service" is defined as follows.

A. For a retired state employee or teacher, "restoration to service" means acceptance of employment as either a state employee or a teacher. [1985, c. 801, §§5, 7 (new).]

B. For a retired participating local district employee:

(1) Except as provided in subparagraph (2), "restoration to service" means acceptance of employment with the participating local district from which the employee retired; and

(2) After the date on which the consolidated plan under chapter 427 goes into operation, for a participating local district employee who retires from a participating local district that at the time of the employee's retirement is in the consolidated plan, "restoration to service" means acceptance of employment with the participating local district from which the employee retired or with any other participating local district that is in the consolidated plan at the time the employee accepts employment.

[1995, c. 274, §2 (amd).]

C. "Restoration to service" does not include election to the Legislature. [1985, c. 801, §§5, 7 (new).]
[1995, c. 274, §2 (amd).]

33. Retirement. "Retirement" means termination of membership with a retirement allowance granted under this chapter.
[1985, c. 801, §§5, 7 (new).]

34. Retirement allowance. "Retirement allowance" means the retirement payments to which a member is or may be entitled as provided in this Part.
[1985, c. 801, §§5, 7 (new).]

35. Retirement benefit. "Retirement benefit" means the same as retirement allowance.
[1985, c. 801, §§5, 7 (new).]

36. Retirement system. "Retirement system" means the Maine State Retirement System.
[1985, c. 801, §§5, 7 (new).]

37. Service. "Service" means service as an employee for which compensation was paid.
[1985, c. 801, §§5, 7 (new).]

38. Service credit. "Service credit" means credit received for creditable service as defined under subsection 10.
[1985, c. 801, §§5, 7 (new).]

39. Spouse. "Spouse" means the person currently legally married to a member.
[1985, c. 801, §§5, 7 (new).]

40. State employee. "State employee" means any regular classified or unclassified officer or employee in a department, any employee of the Maine Community College System except those who make the election provided under Title 20-A, section 12722, any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf except as provided in Title 20-A, section 7407, subsection 3-A, any employee of the Maine Military Authority, any employee of the Northern New England Passenger Rail Authority and any employee transferred from the Division of Higher Education Services to the Finance Authority of Maine who elects to be treated as a state employee, but does not include:

A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be entitled to retirement benefits under Title 4, chapter 27 or 29; [2003, c. 688, Pt. A, §4 (rpr).]

B. A member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195; or [2003, c. 688, Pt. A, §4 (rpr).]

C. A Legislator who is now or later may be entitled to retirement benefits under Title 3, chapter 29. [2003, c. 688, Pt. A, §4 (rpr).]
[2005, c. 279, §3 (amd).]

41. Surviving spouse. "Surviving spouse" means the spouse alive at the time of the death of the member or former member.
[1985, c. 801, §§5, 7 (new).]

42. Teacher. "Teacher" means:

A. Any employee of a public school who fills any position that the Department of Education requires be filled by a person who holds the appropriate certification or license required for that position and:

(1) Holds appropriate certification from the Department of Education, including an employee whose duties include, in addition to those for which certification is required, either the setup, maintenance or upgrading of a school computer system the use of which is to assist in the introduction of new learning to students or providing school faculty orientation and training related to use of the computer system for educational purposes; or

(2) Holds an appropriate license issued to a professional employee by a licensing agency of the State;

[2001, c. 699, §1 (amd).]

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that a coach who is employed by a public school and who is not otherwise covered by the definition of teacher as defined in this subsection or an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part; [1997, c. 355, §1 (amd).]

C. Any employee of a public school on June 30, 1989, in a position not included in paragraph A or B which was included in the definition of teacher in effect on June 30, 1989, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination.

Regardless of any subsequent employment history, any employee of a public school in a position which was included in the definition of teacher in effect on June 30, 1989, is entitled to creditable service as a teacher for all service in that position on or before that date; [1989, c. 550, §2 (new); c. 878, Pt. D, §4 (rpr).]

D. Any employee of a public school in a position not included in paragraph A, B or C who was a member of the retirement system as a teacher on August 1, 1988, as long as:

(1) The employee does not terminate employment; or

(2) The employee terminates employment and returns to employment in a position in the same classification within 2 years of the date of termination;

[1989, c. 550, §2 (new); c. 878, Pt. D, §4 (rpr).]

E. Any former employee of a public school in a position not included in paragraph A, B or C who was a member of the retirement system as a teacher before August 1, 1988, provided that the former employee returns to employment in a position in the same classification before July 1, 1991; or [1989, c. 550, §2 (new); c. 878, Pt. D, §4 (rpr).]

F. For service before July 1, 1989, any employee of a public school in a position which was included in the definition of teacher before July 1, 1989. [1989, c. 550, §2 (new); c. 878, Pt. D, §4 (rpr).]

"Teacher" includes a person who is on a one-year leave of absence from a position as a teacher and is participating in the education of prospective teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State.

"Teacher" also includes a person who is on a leave of absence from a position as a teacher and is duly elected as President of the Maine Education Association.

"Teacher" also includes a person who, subsequent to July 1, 1981, has served as president of a recognized or certified bargaining agent representing teachers for which released time from teaching duties for performance of the functions of president has been negotiated in a collective bargaining agreement between the collective bargaining agent and the teacher's school administrative unit and for whom contributions related to the portion of the person's salary attributable to the released time have been paid as part of the regular payroll of the school administrative unit.
[2001, c. 699, §1 (amd).]

43. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) 26 CFR Part 31. "26 CFR Part 31" means 26 Code of Federal Regulations, Part 31, as amended effective July 1, 1991, or as hereafter amended.
[1991, c. 619, §4 (new); §18 (aff).]

43. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) 26 CFR Part 31.
[1991, c. 619, §18 (rp).]

PL 1985, Ch. 711, §2 (NEW).
PL 1985, Ch. 801, §5,7 (NEW).
PL 1985, Ch. 808, §1,2 (AMD).
PL 1987, Ch. 256, §1-3 (AMD).
PL 1987, Ch. 402, §A63 (RP).
PL 1987, Ch. 402, §A64,A65 (AMD).
PL 1987, Ch. 443, §1 (RP).
PL 1987, Ch. 739, §1-3,48 (AMD).
PL 1989, Ch. 443, §16,17 (AMD).
PL 1989, Ch. 491, §1 (AMD).
PL 1989, Ch. 503, §B32 (AMD).
PL 1989, Ch. 550, §1,2 (AMD).
PL 1989, Ch. 698, §3 (AMD).
PL 1989, Ch. 700, §A24 (AMD).
PL 1989, Ch. 710, §1 (AMD).
PL 1989, Ch. 800, § (AMD).
PL 1989, Ch. 878, §D4 (AMD).
PL 1991, Ch. 121, §A1 (AMD).
PL 1991, Ch. 360, §1,2 (AMD).
PL 1991, Ch. 432, § (AMD).
PL 1991, Ch. 480, §1 (AMD).
PL 1991, Ch. 528, §EEE3,4 (AMD).
PL 1991, Ch. 528, §RRR (AFF).
PL 1991, Ch. 591, §EEE3,4 (AMD).
PL 1991, Ch. 616, § (AMD).
PL 1991, Ch. 618, §2 (AMD).
PL 1991, Ch. 618, §7 (AFF).
PL 1991, Ch. 619, §1-4 (AMD).
PL 1991, Ch. 619, §18 (AFF).
PL 1991, Ch. 622, §DD1 (AMD).
PL 1991, Ch. 746, §10 (AFF).
PL 1991, Ch. 746, §3-5 (AMD).
PL 1991, Ch. 780, §FF1 (AMD).
PL 1991, Ch. 824, §A6 (AMD).
P&SL 1993, Ch. 67, §1 (AMD).

PL 1993, Ch. 250, §1 (AMD).
PL 1993, Ch. 386, §1 (AMD).
PL 1993, Ch. 387, §A3 (AMD).
PL 1993, Ch. 410, §L12,13,RR1 (AMD).
PL 1993, Ch. 482, §1,2 (AMD).
PL 1993, Ch. 580, §1 (AMD).
PL 1993, Ch. 580, §3 (AFF).
PL 1993, Ch. 595, §16 (AFF).
PL 1993, Ch. 595, §3 (AMD).
PL 1995, Ch. 274, §1,2 (AMD).
PL 1995, Ch. 462, §A13 (AMD).
PL 1995, Ch. 471, §1 (AMD).
PL 1997, Ch. 355, §1 (AMD).
PL 1997, Ch. 763, §2 (AMD).
PL 1997, Ch. 763, §7 (AFF).
PL 1999, Ch. 152, §E3 (AMD).
PL 1999, Ch. 489, §1,2 (AMD).
PL 1999, Ch. 731, §CC1 (AMD).
PL 2001, Ch. 118, §1 (AMD).
PL 2001, Ch. 181, §3 (AMD).
PL 2001, Ch. 239, §2 (AMD).
PL 2001, Ch. 239, §5 (AFF).
PL 2001, Ch. 374, §4 (AMD).
PL 2001, Ch. 699, §1 (AMD).
PL 2003, Ch. 20, §OO2 (AMD).
PL 2003, Ch. 20, §OO4 (AFF).
PL 2003, Ch. 486, §3 (AMD).
PL 2003, Ch. 688, §A4 (AMD).
PL 2003, Ch. 693, §1 (AMD).
PL 2005, Ch. 279, §3 (AMD).

Subchapter 2: GENERAL POLICIES AND INTENT (HEADING: PL 1985, c. 801, §5 (new))

§17050. Legislative intent

It is the intent of the Legislature to encourage qualified persons to seek public employment and to continue in public employment during their productive years. It is further the intent of the Legislature to assist these persons in making provision for their retirement years by establishing benefits reasonably related to their highest earnings and years of service and by providing suitable disability and death benefits. [1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).

§17051. Nonapplicability of other retirement benefit laws

No law outside of this Part which provides wholly or in part at the expense of the State or of any subdivision of the State for retirement benefits for employees, or for the surviving spouses or other beneficiaries of those employees, may apply to members or beneficiaries of the retirement system or to the surviving spouses or other beneficiaries of those members or beneficiaries. A member may not receive service credit toward a benefit under this Part and under another system supported wholly or in part by the State for the same service. [1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).

§17052. Mandatory retirement

1. Prohibition. No employee may be required, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.
[1985, c. 801, § § 5, 7 (new).]

2. Normal retirement age. This section may not be construed to prohibit the use of a normal retirement age, except that normal retirement age and the accrual or awarding of pension or retirement benefits may not be used in any way to require the retirement of an employee or to deny employment to a person.
[1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).

§17053. Exemption from taxation

The money in the various funds created by this Part are exempt from any state, county or municipal tax in the State. [1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).

§17054. Legal process and assignment

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to any person under this Part and the money in the various funds created by this Part may not be subject to execution, garnishment, attachment or any other process and shall be unassignable except that: [1987, c. 739, §§4, 48 (amd).]

1. Retirement allowance available for child support. A member's retirement allowance is available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;
[1991, c. 184, §1 (amd).]

2. Accumulated contributions available for child support. A member's accumulated contributions, being refundable under sections 17705, 17706, 18306 and 18307, are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;
[1991, c. 746, §6 (amd); §10 (aff).]

3. Recovery of overpayments by the retirement system. Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions

resulted from an unintentional mistake by an employee of the retirement system, the retiree or the recipient of the benefit or life insurance benefit, no interest may be collected by the retirement system on the amount to be recovered. The executive director may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the executive director makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451; and
[1993, c. 386, §2 (amd).]

4. **Qualified domestic relations order.** The rights of a member, retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059.
[2005, c. 560, §1 (amd); §5 (aff).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1987, Ch. 739, §4,48 (AMD).
PL 1991, Ch. 184, §1,2 (AMD).
PL 1991, Ch. 746, §10 (AFF).
PL 1991, Ch. 746, §6-8 (AMD).
PL 1993, Ch. 386, §2 (AMD).
PL 2005, Ch. 560, §1 (AMD).
PL 2005, Ch. 560, §5 (AFF).

§17055. Beneficiary who is an incapacitated person or a minor

For the purposes of this Part: [1985, c. 801, § § 5, 7 (new).]

1. **Election of benefit.** If a beneficiary is not lawfully qualified to make an election, the election shall be made for him by the person authorized to do so by Title 18-A, article V; and
[1985, c. 801, § § 5, 7 (new).]

2. **Payment of benefit.** Payment of any benefit to an incapacitated person, as defined in Title 18-A, section 5-101, or a minor shall be made in accordance with Title 18-A, article V.
[1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).

§17056. Superior Court employees

1. **Transfer to state employee account.** Notwithstanding sections 18202 and 18408, funds held by the retirement system to the credit of employees of any Superior Court who became employees of the State pursuant to Public Law 1975, chapters 383 and 408, shall be transferred on the records of the retirement system to the state employee account.
[1989, c. 399, §1 (amd).]

2. **Vote.**
[1989, c. 399, §2 (rp).]

3. **Creditable service.** Creditable service shall be determined as follows.

A. Creditable service for employees described in subsection 1 shall be determined as if their service had been rendered as state employees. [1985, c. 801, § § 5, 7 (new).]

B. Creditable service for former employees of any Superior Court who retired after July 1, 1976, shall be determined as if all their service had been rendered as state employees. [1989, c. 399, §3 (amd).]
[1989, c. 399, §3 (amd).]

4. **Additional funds.** If, after review by the actuary of the retirement system, it is determined that additional funds are required to finance in full the accrued retirement benefits for employees described in this section:

A. The actuary shall estimate the amount of additional funds necessary to provide full retirement benefits for the period before July 1, 1976; and [1985, c. 801, § § 5, 7 (new).]

B. The counties shall provide funds necessary to fulfill this obligation from the retirement allowance funds of those counties. [1989, c. 399, §4 (amd).]

[1989, c. 399, §4 (amd).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1989, Ch. 399, §1-5 (AMD).

§17057. Information not public record

1. Medical information. Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451 or proceedings regarding claims for other retirement benefits.
[1991, c. 824, Pt. A, §7 (rpr).]

2. Group life insurance information. Information in the possession of the retirement system regarding a participant's designated beneficiary or amount of insurance coverage or group life insurance is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3.
[1991, c. 824, Pt. A, §7 (rpr).]

3. Home contact information. Except as provided in this subsection, records of home contact information of retirement system members, benefit recipients or staff members that are in the possession of the retirement system are confidential, not open to public inspection and not public records as defined in Title 1, section 402, subsection 3.

A. For purposes of this subsection, "home contact information" means a home address, home telephone number, home facsimile transmission number or home e-mail address. [2003, c. 632, §1 (new).]

B. Beginning September 15, 2007, this subsection does not apply to home contact information of a retirement system member or benefit recipient if that person has signed a waiver of the confidentiality of the member's or recipient's home contact information. The retirement system shall make available a waiver form for such purpose. [2005, c. 149, §1 (amd).]

C. This subsection does not apply to the home address of a retirement system member or a benefit recipient used only for membership recruitment purposes by a nonprofit or public organization established to provide programs, services and representation to Maine public sector retirees unless the retirement system member or benefit recipient has signed a form made available by the retirement system indicating that the individual does not authorize disclosure of that individual's home address. The retirement system may not provide information under this subseetion to an organization if the retirement system has determined that the organization obtained information for the purpose of membership recruitment but used the information for a purpose other than membership recruitment. This paragraph is repealed September 15, 2007. [2005, c. 149, §2 (new).]

[2005, c. 149, §§1, 2 (amd).]

PL 1989, Ch. 76, § (NEW).
PL 1991, Ch. 480, §2 (RPR).
PL 1991, Ch. 580, §2 (AMD).
PL 1991, Ch. 824, §A7 (RPR).
PL 2003, Ch. 632, §1 (AMD).
PL 2005, Ch. 149, §1,2 (AMD).

§17058. Information for administrative or judicial proceedings

If information regarding the availability, calculation or value of any benefit is required for an administrative or judicial proceeding, the party seeking the information must file written questions requesting that information with the executive director. The executive director, or the executive director's designee, shall make a certified response to those questions within 30 days and the certified response is admissible as evidence in any administrative or judicial proceeding. A subpoena or other form of discovery directed at obtaining the information may not be issued nor may employees of the retirement system be required to testify on the subjects covered by the certified

response unless there is an express finding by an administrative agency or a court that there is a compelling necessity to permit further discovery or to require testimony. [1991, c. 580, §3 (new).]

PL 1991, Ch. 580, §3 (NEW).

§17059. Qualified domestic relations orders

1. **Determination by executive director.** The executive director or the executive director's designee has exclusive authority to determine whether a domestic relations order is a qualified domestic relations order under this section. A determination by the executive director or the executive director's designee under this section may be appealed to the board as provided by section 17451. [1991, c. 746, §9 (new); §10 (aff).]

2. **No jurisdiction over retirement system.** The retirement system may not be made a party with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the retirement system is created or established. A party to such an action who attempts to make the retirement system a party to the action contrary to this subsection is liable to the retirement system for its costs and attorney's fees. [1991, c. 746, §9 (new); §10 (aff).]

3. **Benefits and withdrawal of contributions.** For the purposes of this section, benefits payable with respect to a member or retiree under the retirement system include the types of benefits payable by the retirement system and a withdrawal of contributions from the retirement system. [1991, c. 746, §9 (new); §10 (aff).]

4. **Requirements.** A domestic relations order is a qualified domestic relations order only if the order:

A. Clearly specifies the name, social security number and last known mailing address, if any, of the member or retiree and the name, social security number and mailing address of each alternate payee covered by the order; [1991, c. 746, §9 (new); §10 (aff).]

B. Clearly specifies the amount or percentage of the member's or retiree's benefits to be paid by the retirement system to each alternate payee or the manner in which the amount or percentage is to be determined; [1991, c. 746, §9 (new); §10 (aff).]

C. Clearly specifies the number of payments or the period to which the order applies; [1991, c. 746, §9 (new); §10 (aff).]

D. Clearly specifies that the order applies to the retirement system; [1991, c. 746, §9 (new); §10 (aff).]

E. Does not require the retirement system to provide a type or form of benefit or an option not otherwise provided by the retirement system; [1991, c. 746, §9 (new); §10 (aff).]

F. Does not require the retirement system to provide increased benefits determined on the basis of actuarial value; [1991, c. 746, §9 (new); §10 (aff).]

G. Does not require the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and [1991, c. 746, §9 (new); §10 (aff).]

H. Does not require the payment of benefits to an alternate payee before the retirement of a member, the distribution of a withdrawal of contributions to a member or other distribution to a member required by law. [1991, c. 746, §9 (new); §10 (aff).]

[1991, c. 746, §9 (new); §10 (aff).]

5. **Additional criteria.** The board may also require by rule that a qualified domestic relations order meet one or more of the following requirements.

A. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event of the retirement of the member before normal retirement age. [1991, c. 746, §9 (new); §10 (aff).]

B. The order may not purport to require the designation of a particular person as the recipient of benefits in the event of a member's or retiree's death. [1991, c. 746, §9 (new); §10 (aff).]

C. The order may not purport to require the selection of a particular benefit payment plan or option. [1991, c. 746, §9 (new); §10 (aff).]

D. The order must provide clearly for each possible benefit distribution under plan provisions. [1991, c. 746, §9 (new); §10 (aff).]

E. The order may not require any action on the part of the retirement system contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to an alternate payee. [1991, c. 746, §9 (new); §10 (aff).]

F. The order may not make the award of an interest contingent on any condition other than those conditions resulting in the liability of the retirement system for payments under its plan provisions. [1991, c. 746, §9 (new); §10 (aff).]

G. The order may not purport to award any future benefit increases that are provided or required by the Legislature. [1991, c. 746, §9 (new); §10 (aff).]

H. The order must provide for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the retiree or member are reduced by law. [1991, c. 746, §9 (new); §10 (aff).]

[1991, c. 746, §9 (new); §10 (aff).]

6. Determination. The executive director or the executive director's designee, upon receipt of a certified copy of a domestic relations order and written request for a determination, shall determine whether the order is a qualified domestic relations order and shall notify the member or retiree and each alternate payee of the determination.

A. If the order is determined to be a qualified domestic relations order, it is presumed to be in compliance with all requirements of this Part. The retirement system shall pay benefits in accordance with the order and shall give effect to the plain meaning of its terms notwithstanding any failure of the order to cite or reference statutory or rule provisions. A beneficiary or recipient of a right or benefit provided for or awarded in a qualified domestic relations order may not be deprived of that right or benefit, or any part of that right or benefit, by a subsequent act or omission of the member, another claimant or beneficiary or the retirement system, notwithstanding any provision of law to the contrary or any policy or procedure the retirement system employs in the implementation of this Part. [2005, c. 560, §2 (amd); §5 (aff).]

B. If the order is determined not to be a qualified domestic relations order, the member or retiree or any alternate payee named in the order may appeal the executive director's determination in the manner specified in section 17451 or may petition the court that issued the order to amend the order so that it is qualified. Except as otherwise provided by law, the court that issued the order or that otherwise would have jurisdiction over the matter has jurisdiction to amend the order so that it will be qualified even though all other matters incident to the action or proceeding have been fully and finally adjudicated. [1991, c. 746, §9 (new); §10 (aff).]

[2005, c. 560, §2 (amd); §5 (aff).]

7. Interim accounting. During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the executive director, the executive director's designee, the board, a court of competent jurisdiction or otherwise, the retirement system shall account separately for the amounts, in this section referred to as the "segregated amounts," that would have been payable to the alternate payee during that period if the order had been determined to be a qualified domestic relations order.

[1991, c. 746, §9 (new); §10 (aff).]

8. Payment of segregated amounts. If a domestic relations order is determined to be a qualified domestic relations order, the retirement system shall pay the segregated amounts to the person or persons entitled to the segregated amounts and shall thereafter pay benefits pursuant to the order.

[1991, c. 746, §9 (new); §10 (aff).]

9. Payments if determined not qualified or if no determination within 18 months. If a domestic relations order is determined not to be a qualified domestic relations order or if the issue as to whether a domestic relations order is a qualified domestic relations order is not resolved within 18 months of the date the order and written request for a determination are received by the retirement system, the retirement system shall pay the segregated amounts without interest, and shall thereafter pay benefits, to the person or persons who would

have been entitled to such amounts if there had been no order. This subsection may not be construed to limit or otherwise affect any liability, responsibility or duty of a party with respect to any other party to the action from which the order arose.
[1991, c. 746, §9 (new); §10 (aff).]

10. Determination after 18 months. Any determination that an order is a qualified domestic relations order that is made after the close of the 18-month period established in subsection 9 must be applied prospectively only.
[1991, c. 746, §9 (new); §10 (aff).]

11. No liability. The retirement system, the board and officers and employees of the retirement system are not liable to any person for making payments of any benefits in accordance with a domestic relations order in a cause of action in which a member or a retiree was a party or for making payments in accordance with subsection 9.
[1991, c. 746, §9 (new); §10 (aff).]

12. Information provided to spouse. Upon being furnished with an attested copy of a complaint for divorce, the retirement system shall provide the spouse of a member with the same information that would be provided to the member.
[1991, c. 746, §9 (new); §10 (aff).]

13. Rules. The board may adopt rules to implement this section. The rules may provide for charging a reasonable fee for processing domestic relations orders.
[1991, c. 746, §9 (new); §10 (aff).]

14. Application. This section applies to all domestic relations orders issued after March 27, 1992 and, with the mutual consent of the parties, to any domestic relations orders issued on or before March 27, 1992.
[RR 1997, c. 2, §20 (cor).]

PL 1991, Ch. 746, §10 (AFF).
PL 1991, Ch. 746, §9 (NEW).
RR 1997, Ch. 2, §20 (COR).
PL 2005, Ch. 560, §2 (AMD).
PL 2005, Ch. 560, §5 (AFF).

§17060. Life annuity or lump-sum payment in lieu of benefits awarded by qualified domestic relations order

1. Annuity or lump sum. The board may by rule provide that, in lieu of paying an alternate payee the interest awarded by a qualified domestic relations order, the retirement system may pay the alternate payee an amount that is the actuarial equivalent of that interest in the form of:

A. An annuity payable in equal monthly installments for the life of the alternate payee; or [1991, c. 746, §9 (new); §10 (aff).]

B. A lump sum. [1991, c. 746, §9 (new); §10 (aff).]
[1991, c. 746, §9 (new); §10 (aff).]

2. Determination by retirement system. The determination of whether to pay an amount authorized by this section in lieu of the interest awarded by the qualified domestic relations order is within the exclusive discretion of the retirement system.
[1991, c. 746, §9 (new); §10 (aff).]

3. Reduced payment to member, retiree or beneficiary. If the retirement system elects to pay the alternate payee pursuant to this section, the benefit payable by the retirement system to the member, retiree or beneficiary must be reduced by the interest in the benefit awarded to the alternate payee by the qualified domestic relations order.
[1991, c. 746, §9 (new); §10 (aff).]

4. Reliance on designation or selection. If the retirement system pays the alternate payee pursuant to this section, the retirement system is entitled to rely on a beneficiary designation or benefit option selection made or changed pursuant to its plan without regard to any domestic relations order.
[1991, c. 746, §9 (new); §10 (aff).]

PL 1991, Ch. 746, §10 (AFF).
PL 1991, Ch. 746, §9 (NEW).

§17061. Termination of interest in retirement system

The death of an alternate payee as defined in section 17001, subsection 3-B terminates the interest of the alternate payee in the retirement system. This section does not affect an interest in the retirement system accrued to an individual as a member of the retirement system. [1991, c. 746, §9 (new); §10 (aff).]

PL 1991, Ch. 746, §10 (AFF).
PL 1991, Ch. 746, §9 (NEW).

Subchapter 3: ESTABLISHMENT AND ADMINISTRATION (HEADING: PL 1985, c. 801, §5 (new))

§17101. Establishment

1. Purpose. There is established a retirement system, the functions and operations of which are under the supervision of the board, for the purpose of providing retirement allowances and other benefits under this Part for employees.
[1993, c. 410, Pt. L, §14 (amd).]

2. Name. The retirement system shall be known as the "Maine State Retirement System" and by that name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held in trust for the purpose for which received.
[1985, c. 801, § § 5, 7 (new).]

3. Date of establishment. The date of establishment of the retirement system is:

A. July 1, 1942, for all employees who were employed by the State before July 1, 1947; [1985, c. 801, § § 5, 7 (new).]

B. July 1, 1947, for employees employed for the first time after July 1, 1947; [1985, c. 801, § § 5, 7 (new).]

C. July 1, 1947, for all teachers employed as teachers before July 1, 1947; [1985, c. 801, § § 5, 7 (new).]

D. The date of participation set by the participating local district under section 18201; or [1985, c. 801, § § 5, 7 (new).]

E. The date on which contributions were first made to any retirement system supported in whole or in part by the State, for all other employees. [1985, c. 801, § § 5, 7 (new).]
[1985, c. 801, § § 5, 7 (new).]

4. Corporation.
[1993, c. 410, Pt. L, §15 (rp).]

5. Body corporate and politic. The retirement system is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part are held to be the performance of essential government functions.
[1993, c. 410, Pt. L, §16 (new).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1993, Ch. 410, §L14-16 (AMD).

§17102. Board of trustees

1. Composition. The Board of Trustees of the Maine State Retirement System, established by section 12004-F, subsection 9, is composed of 8 trustees, as follows:

A. The Treasurer of State or the Deputy Treasurer of State; [1997, c. 625, §1 (amd).]

B. A person who is a member of the retirement system through employment as a teacher and who is duly elected by the Maine Education Association; [P&S 1993, c. 67, §1 (amd).]

C. A person who is a member of the retirement system through employment as a state employee and who is duly elected by the Maine State Employees' Association; [1987, c. 256, §4 (rpr).]

D. Four persons appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature:

(1) At least 2 of whom must be qualified through training or experience in the field of investments, accounting, banking or insurance or as actuaries;

(2) One of whom must be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association; and

(3) One of whom must be the recipient of a retirement allowance through the retirement system and be selected from a list or lists of nominees submitted by retired state employees, retired participating local district employees or a committee comprised of representatives of these groups; and

[1995, c. 3, §1 (amd).]

E. A person who is a member of the retirement system through a participating local district and who must be appointed by the governing body of the Maine Municipal Association. [1993, c. 410, Pt. L, §17 (amd).]

F. [1987, c. 715, §5 (rp).]

The names of proposed trustees elected or appointed under paragraphs B, C or E must be submitted to the Legislature by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over retirement matters and to confirmation by the Legislature. A member who is elected or appointed may serve in the position of trustee from the date of election or appointment unless the Legislature rejects the confirmation.

Each trustee subject to paragraphs B to E must have a working knowledge of retirement policy and legal issues and a general knowledge and understanding of banking, finance and investment practices.
[1997, c. 625, §1 (amd).]

1-A. Retirement system employees ineligible. The executive director and the employees of the retirement system may not serve on the board of trustees.
[1989, c. 483, Pt. A, §25 (new).]

2. Chairman. The board shall elect from its membership a chairman.
[1985, c. 801, §§5, 7 (new).]

3. Term. The terms of the trustees shall be determined as follows.

A. Each trustee, except the Treasurer of State, shall serve a term of 3 years. [1985, c. 801, §§5, 7 (new).]

B. A trustee shall continue to serve after the expiration of his term until a successor is appointed and qualified, but the trustee's continuation as a trustee does not change the expiration date of the trustee's term. [1985, c. 801, §§5, 7 (new).]

C. The term of a trustee appointed to succeed a trustee whose term has expired shall begin on the day after the expiration date of the 3-year term of the previous trustee, regardless of the effective date of the new appointment. [1985, c. 801, §§5, 7 (new).]

D. Appointments to any vacancy caused by death, resignation or ineligibility shall be for the unexpired portion of the term. [1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

4. Oath. Each trustee shall, within 30 days after the trustee's appointment, take an oath of office to faithfully discharge the duties of a trustee, in the form prescribed by the Constitution of Maine.

A. The oath must be subscribed to by the trustee making it. [2001, c. 181, §4 (amd).]

B. The oath must be certified by the officer before whom it was taken and immediately filed in the office of the Secretary of State. [2001, c. 181, §4 (amd).]
[2001, c. 181, §4 (amd).]

5. Transaction of business. The transaction of business by the board is governed as follows.

A. Five trustees constitute a quorum for the transaction of any business. [1997, c. 625, §2 (amd).]

B. Each trustee is entitled to one vote. [1997, c. 625, §2 (amd).]

C. Five votes are necessary for any resolution or action by the board at any meeting of the board. [1997, c. 625, §2 (amd).]
[1997, c. 625, §2 (amd).]

6. **Compensation.** The trustees shall be compensated, as provided in chapter 379, from the funds of the retirement system. For the purposes of this subsection, "administrative leave" means an excused absence from work during the employee's normal work schedule for which the employee does not receive a reduction in compensation, except that it does not include the use of earned vacation time specified by the employment contract; "public employee trustee" means a trustee selected or elected according to subsection 1, paragraph B, C or E, or an employee as that term is defined by section 17001, subsection 14. Notwithstanding section 12004-F, subsection 9, certain trustees shall be compensated as follows. The employer of a public employee trustee shall grant administrative leave at the request of that trustee in order for that trustee to attend an activity compensable under section 12002-B. If administrative leave is granted to the trustee, then the trustee shall not receive per diem authorized under chapter 379 and an amount equal to the legislative per diem which would otherwise be paid from the funds of the retirement system to the trustee shall be paid directly to that person's employer, unless the employer is the State. [1989, c. 483, Pt. A, §26 (rpr).]

7. **Expenses.** The necessary expenses incurred by the board in the operation of the retirement system shall be paid from the funds so allocated.
[1985, c. 801, §§5, 7 (new).]

8. **Legal advisor.** The Attorney General or an assistant designated by the Attorney General shall be legal advisor to the board.
[1985, c. 801, §§5, 7 (new).]

9. **Record.** The board shall keep a record of all its proceedings, which:

A. Shall comply with the requirements of section 8056, subsection 5 and sections 9059 and 9061, to the extent those laws are applicable; and [1985, c. 801, §§5, 7 (new).]

B. Shall be open to public inspection. [1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

10. **Reports.** The board shall publish annually for each fiscal year:

A. A report showing the fiscal transactions of the retirement system for the fiscal year and the assets and liabilities of the retirement system at the end of the fiscal year; and [1985, c. 801, §§5, 7 (new).]

B. The actuary's report on the actuarial valuation of the financial condition of the retirement system for the fiscal year. [1985, c. 801, §§5, 7 (new).]
[1985, c. 801, §§5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1987, Ch. 256, §4 (AMD).
PL 1987, Ch. 715, §4,5 (AMD).
PL 1989, Ch. 483, §A25,A26 (AMD).
PL 1989, Ch. 503, §B33 (AMD).
P&SL 1993, Ch. 67, §1 (AMD).
PL 1993, Ch. 410, §L17 (AMD).
PL 1995, Ch. 3, §1 (AMD).
PL 1997, Ch. 625, §1 (AMD).
PL 1997, Ch. 625, §2 (AMD).
PL 2001, Ch. 181, §4 (AMD).

§17103. Duties of the board of trustees

In addition to other duties set out in this Part, the board shall have the following duties. [1985, c. 801, § § 5, 7 (new).]

1. **Operation of retirement system.** The board shall have responsibility for the proper operation of the retirement system and for making this Part effective.
[1985, c. 801, § § 5, 7 (new).]

2. **Policy-making and supervision.** The board shall formulate policies and exercise general supervision under this Part.
[1985, c. 801, § § 5, 7 (new).]

Title 5, §1504, Charging off accounts due State

§1504. Charging off accounts due State

The State Controller shall charge off the books of account of the State or any department, institution or agency thereof, such accounts receivable, including all taxes for the assessment or collection of which the State is responsible, and all impounded bank accounts, as are certified to the State Controller as impractical of realization by or for the State, department, institution or agency. Such certification must be by the Attorney General, the Commissioner of Administrative and Financial Services and the head of the department, institution or agency responsible for such account, subject to the approval of the Governor. In each such case, the charging off of such accounts must be recommended by the head of the department, institution or agency originally responsible for such account. [1991, c. 780, Pt. Y, §38 (amd).]

PL 1973, Ch. 701, §3 (AMD).
PL 1975, Ch. 771, §65 (AMD).
PL 1985, Ch. 785, §A48 (AMD).
PL 1991, Ch. 780, §Y38 (AMD).

Title 5, §1514, Tax Adjustment Reserve Fund

§1514. Tax Adjustment Reserve Fund

1. Tax Adjustment Reserve Fund established. There is established a Tax Adjustment Reserve Fund which shall be maintained for the exclusive purpose of mitigating the impact of changes in individual and corporate income tax collections by the state occurring as a consequence of the State's conformity to the provisions of the Internal Revenue Code of 1986.
[1987, c. 4, § 1 (new)]

2. Transfers to the Tax Adjustment Reserve Fund. Notwithstanding any other provision of law, the State Controller shall transfer to the Tax Adjustment Reserve Fund, without deductions, that portion of undedicated General Fund revenues which is jointly certified by the State Budget Officer and the State Tax Assessor to be directly attributable to increased corporate or individual income tax collections resulting from conformity to the Internal Revenue Code of 1986 through the period ending June 30, 1988. The State Auditor shall verify that the amount transferred and the process used to issue rebate checks are reasonable.
[1987, c. 832, §1 (amd).]

3. Investment earnings on fund deposited in the Tax Adjustment Reserve Fund. Funds transferred to the Tax Adjustment Reserve Fund shall be invested by the Treasurer of State in accordance with applicable provisions of law and all earnings on these funds shall be credited to the fund.
[1987, c. 4, § 1 (new).]

4. Fund adjustments. Adjustments to the fund shall be as follows.

A. A transfer from this fund to the General Fund to offset the loss of revenue attributable to income tax reductions to avoid a windfall for the tax year 1987 is required prior to June 30, 1988, in the amount of $16,500,000. [1987, c. 892, §1 (rpr).]

B. A transfer from this fund to the General Fund is required to offset the loss of revenue resulting from individual income tax reform for the 1988 tax year. The amount of this transfer will be equal to the amount certified to the fund because of increased individual income tax collections through the period ending June 30, 1988, plus accrued interest, less the amount transferred in paragraph A to offset individual income tax reductions and less the amount expended to offset 1987 tax year rebates and their administrative costs. This transfer shall be made no later than October 1, 1988. [1989, c. 502, Pt. A, §13 (rpr); c. 878, Pt. A, §12 (rpr).]

C. The State Controller shall transfer to the General Fund any balance in this fund on June 30, 1988, which was certified to it in accordance with subsection 2 as revenue directly attributable to corporate income tax. This transfer will provide additional resources for property tax relief through an appropriation to the General Purpose Aid to Local Schools Account. [1989, c. 502, Pt. A, §14 (new); c. 878, Pt. A, §13 (rpr).]

D. It is intended that the State Controller transfer the amounts defined in paragraph C from the General Fund balance to undedicated revenue. These transfers shall be made on a monthly basis during the period of January 1989, to June 1989, in amounts directly proportional to total individual income tax revenue estimates for those months. [1987, c. 892, §1 (new).]
[1989, c. 502, §§13 and 14 (amd); c. 878, Pt. A, §§12, 13 (amd).]

PL 1987, Ch. 4, §1 (NEW).
PL 1987, Ch. 504, §1 (AMD).
PL 1987, Ch. 816, §S (AMD).

Title 5, §1514, Tax Adjustment Reserve Fund

PL 1987, Ch. 819, §1 (AMD).
PL 1987, Ch. 832, §1 (AMD).
PL 1987, Ch. 892, §1 (AMD).
PL 1989, Ch. 502, §A13,A14 (AMD).
PL 1989, Ch. 878, §A12,13 (AMD).

Title 5, §1543, Disbursements; exceptions

§1543. Disbursements; exceptions

Money may not be drawn from the State Treasury except in accordance with appropriations duly authorized by law. Every disbursement from the State Treasury must be upon the authorization of the State Controller and the Treasurer of State, as evidenced by their facsimile signatures, except that the Treasurer of State may authorize interbank and intrabank transfers for purposes of pooled investments. Disbursements must be in the form of a check or an electronic transfer of funds against a designated bank or trust company acting as a depository of the State Government. [1993, c. 680, Pt. A, §9 (rpr).]

The State Controller and the Treasurer of State are authorized to issue rules, policies or procedures to limit the number of disbursements made for less than $5. [1993, c. 410, Pt. UU, §1 (new).]

Notwithstanding the foregoing paragraph, the Commissioner of Labor is authorized to prepare and sign warrants for the payment of benefits to eligible unemployed persons and allowances to persons eligible under federally sponsored human resources development programs that authorize the Department of Labor to designate the recipients of allowances from federal funds granted or allocated to the department under these programs, which warrants, upon being delivered to the payee, become a check against a designated bank or trust company acting as a depository of the State Government. The authority of the commissioner to prepare and sign the warrants is limited solely to the payment of benefits to eligible unemployed persons and to allowances to persons eligible under these federal programs. The facsimile signature of the commissioner who is leaving office is valid until a new signature plate for the signature authorized has been obtained for the commissioner's successor. [1995, c. 462, Pt. B, §2 (amd).]

Notwithstanding the foregoing paragraphs, the treasurer of the 3 Indian school committees is authorized to prepare and sign warrants for the payment of Indian school payrolls and bills. [1973, c. 571, §3-A (new); c. 625, §29 (new).]

PL 1969, Ch. 186, §1 (AMD).
PL 1973, Ch. 571, §3-A (AMD).
PL 1973, Ch. 625, §29 (AMD).
PL 1979, Ch. 312, §3 (AMD).
PL 1993, Ch. 410, §UU1 (AMD).
PL 1993, Ch. 445, §1 (AMD).
PL 1993, Ch. 477, §D1 (AMD).
PL 1993, Ch. 477, §F1 (AFF).
PL 1993, Ch. 680, §A9 (AMD).
PL 1995, Ch. 462, §B2 (AMD).

Title 5, §17154, Administration of funds

§17154. Administration of funds

1. Custodian. Except as otherwise provided, the Treasurer of State shall be the custodian of the funds of the retirement system. [1985, c. 801, §§5, 7 (new).]

2. Budget estimates. The board shall submit budget estimates of contributions required to fund benefits for state employees and teachers to the State Budget Officer in accordance with section 1665, except that after July 1, 1995, the board may not submit estimates of contributions required to pay premiums for health insurance for retired state employees and retired teachers. [1995, c. 368, Pt. G, §7 (amd).]

3. Combination or elimination of funds. On the advice of the actuary of the retirement system, the board may combine or eliminate all or any parts of the funds set forth in this subchapter, except that any combination or elimination may not impair the actuarial valuations. [1985, c. 801, §§5, 7 (new).]

4. Payment upon vouchers. Upon receipt of vouchers signed by a person or persons designated by the board, the State Controller shall draw a warrant on the Treasurer of State for the amount authorized. A duly attested copy of the resolution of the board designating those persons, and bearing on its face specimen signatures of those persons, shall be filed with the State Controller. The duly attested copy of the resolution shall be the State Controller's authority for making payments upon the vouchers. [1985, c. 801, §§5, 7 (new).]

5. Payment of employer charges for state employees. For state employees, on every payroll from which retirement contributions are deducted or picked up, the State Controller shall cause a charge to be made to each department of the State in order to pay employer costs.

A. The charge shall be a percentage, to be predetermined by the actuary and approved by the board, of the total earnable compensation of members appearing on the payroll of each department. [1987, c. 739, §§5, 48 (amd).]

B. The amount or amounts shall be credited to the appropriate funds as listed in this subchapter. [1985, c. 801, §§5, 7 (new).]

[1987, c. 739, §§5, 48 (amd).]

6. Payment of employer charges for teachers. For teachers, percentage rates to be predetermined by the actuary and approved by the board shall be applied to the total earnable compensation of members covering the most recent school year preceding the preparation of the biennial budget.

A. The resulting amount shall be appropriated and credited to the appropriate funds. [1985, c. 801, §§5, 7 (new).]

B. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided from federal grants or through federal reimbursement shall be paid by local school systems from those federal funds. [1985, c. 801, §§5, 7 (new).]

C. Notwithstanding this section, the employer retirement cost related to the retirement system applicable to those teachers who are permitted to continue to accrue service credit while on a one-year leave of absence and participating in the education of prospective

teachers by teaching and supervising students enrolled in college-level teacher preparation programs in this State shall be paid from funds provided by the college employing the teacher during that year. [1989, c. 491, §2 (new).]

D. Notwithstanding this section, the employer retirement cost related to the retirement system applicable to a teacher who is permitted to continue to accrue service credit while on a leave of absence and serving as President of the Maine Education Association must be paid from funds provided by the Maine Teachers Association. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [P&S 1993, c. 67, §1 (amd).]

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606-B. [2005, c. 2, Pt. D, §1 (amd); §§72, 74 (aff); c. 12, Pt. WW, §18 (aff).]

F. Notwithstanding this section, effective September 1, 1993, the employer retirement cost related to the retirement system, less the unfunded liability, applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position. [1995, c. 471, §3 (new).]

[2005, c. 2, Pt. D, §1 (amd); §§72, 74 (aff); c. 12, Pt. WW, §18 (aff).]

7. Payment of employer charges for participating local district employees. Employer charges for participating local district employees are governed by sections 18301 to 18303.

[1985, c. 801, §§5, 7 (new).]

8. Transfers among funds. When considered necessary by the executive director for the efficient administration of the retirement system, he may make transfers among the various funds of the system set forth in this subchapter in accordance with accepted accounting and actuarial principles.

[1987, c. 256, §5 (new).]

9. Improper application of statutes. Notwithstanding the other provisions of this section, additional actuarial and administrative costs resulting from omissions or misrepresentations by an employer as to a member's earnings, service or service credits or from improper application of retirement system statutes or rules regarding earnings, service or service credits must be charged to and paid by the employer that omitted information, provided misinformation or improperly applied the statutes or rules, unless the omission, misrepresentation or improper application results from erroneous information provided by the retirement system. The employer is liable for amounts not recovered from the retiree and for costs incurred by the retirement system in resolving problems caused by the employer's actions and in addition may be subject to administrative fees, penalties and interest under section 17105, subsection 5. For purposes of this subsection, "employer" means any department of State Government, school administrative unit or participating local district.

[1993, c. 595, §5 (amd).]

10. Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives. Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive pursuant to section 17159. For purposes of this subsection, "early retirement" has the same meaning as in section 17159, subsection 1.

[1995, c. 541, §2 (rpr).]

11. Payment of actuarial cost of excess increase in earnable compensation. Notwithstanding the other provisions of this section, the employer may pay to the retirement system the cost of the actuarial liability resulting from any increase in earnable compensation for any year within the 3-year period used in determining average final compensation that exceeds the prior year's earnable compensation by more than 5% or, if it would result in a lesser additional actuarial liability, any increase in earnable compensation over a total increase of 10% during the 3-year period. The retirement system shall calculate the cost of the additional actuarial liability for each member when calculating the retirement benefit for that member at retirement. The cost must be paid in accordance with this subsection.

A. For state employees, the State Controller shall establish an account from which payments required by section 17001, subsection 13, paragraph C must be made. At the time any collective bargaining agreement is funded, funds must be appropriated to this account to pay for the anticipated cost of any increases over the limits established in section 17001, subsection 13, paragraph C that

may result from the provisions of that agreement. When the additional actuarial liability is incurred with respect to a retiring state employee, the retirement system shall bill the State Controller for the cost and the State Controller shall transfer to the retirement system the amount billed. [1993, c. 410, Pt. L, §27 (new).]

B. For teachers, the cost must be paid by the school administrative unit that provides an increase over the limits established in section 17001, subsection 13, paragraph C. If the school administrative unit has agreed to pay the cost of the additional actuarial liability, the retirement system shall bill the school administrative unit for the cost, which must be paid by the school administrative unit within 60 days of its receipt of the bill. If the retirement system does not receive payment within 60 days, the system shall notify the State Controller, who shall immediately reduce the school administrative unit's general purpose aid by the amount billed plus interest applied as of the 60th day and transfer the total amount of the reduction to the retirement system. If the general purpose aid payable at the time to the school administrative unit is insufficient to pay the entire amount of the reduction, general purpose aid payable to the school administrative unit in the future must be reduced until the entire amount of the reduction, plus any additional accrued interest, has been transferred to the retirement system. [1993, c. 410, Pt. L, §27 (new).]

C. The retirement system shall provide information with the bill to the employer stating the basis on which the cost billed was calculated and showing the calculations. If the State Controller or school administrative unit questions the cost, its basis or the calculations, the retirement system shall promptly respond and, if necessary, meet with the State Controller or school administrative unit to resolve any dispute. [1993, c. 410, Pt. L, §27 (new).]

This subsection does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of the school administrative unit in effect on July 1, 1993. In addition, this subsection does not apply to increases granted to state employees during fiscal years 1993-94 and 1994-95.
[1993, c. 580, §2 (amd); §3 (aff).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1987, Ch. 256, §5 (AMD).
PL 1987, Ch. 739, §5,48 (AMD).
PL 1989, Ch. 491, §2 (AMD).
PL 1991, Ch. 360, §3 (AMD).
PL 1991, Ch. 857, §1 (AMD).
P&SL 1993, Ch. 67, §1 (AMD).
PL 1993, Ch. 387, §A7 (AMD).
PL 1993, Ch. 410, §L26,27 (AMD).
PL 1993, Ch. 482, §3 (AMD).
PL 1993, Ch. 580, §2 (AMD).
PL 1993, Ch. 580, §3 (AFF).
PL 1993, Ch. 595, §5 (AMD).
PL 1995, Ch. 368, §G7 (AMD).
PL 1995, Ch. 462, §A14 (AMD).
PL 1995, Ch. 471, §2,3 (AMD).
PL 1995, Ch. 541, §2 (AMD).
PL 2003, Ch. 504, §B1 (AMD).
PL 2005, Ch. 2, §D1 (AMD).
PL 2005, Ch. 2, §D72,74 (AFF).
PL 2005, Ch. 12, §WW18 (AFF).

Title 7, §621, Disposition of funds

§621. Disposition of funds

All money received by the board under this subchapter must be deposited in the State Treasury to the credit of a special fund to be used for carrying out the provisions of this subchapter and Title 22, chapter 258-A, Board of Pesticides Control, and for such other expenses related to insect and pest management as provided by law. Positions that are allocated to the fund but that do not perform functions specifically assigned to the board in this subchapter and Title 22, chapter 258-A remain under supervision and management of the Department of Agriculture, Food and Rural Resources. [2005, c. 620, §21 (amd).]

PL 1975, Ch. 382, §3 (NEW).
PL 1979, Ch. 644, §2,8 (AMD).
PL 1989, Ch. 878, §E20 (AMD).
PL 1993, Ch. 410, §S2 (AMD).
PL 2005, Ch. 620, §21 (AMD).

Title 7, §1332, Animal Industry Fund

§1332. Animal Industry Fund

The Treasurer of State shall establish a separate account known as the Animal Industry Fund. This fund does not lapse but must be carried forward. Except as provided in section 1346, license fees collected under section 1333, subsection 3 and license and tagging fees collected under section 1342, subsections 3 and 4 must be deposited in the account. Funds from this account may be used to pay for administrative costs associated with licenses issued under sections 1333 and 1342, tags issued under section 1342 and other costs associated with administration and enforcement of this chapter and chapter 202-A. [2003, c. 386, §5 (amd).]

PL 1999, Ch. 765, §2 (NEW).
PL 2003, Ch. 386, §5 (AMD).

Title 10, §363, Allocation of the state ceiling

§363. Allocation of the state ceiling

1. Formula and procedure.
[1987, c. 413, §4 (rp).]

1-A. Procedure. For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the written agreement must be executed by no fewer than 4 of the 6 voting representatives. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.
[2005, c. 425, §22 (amd).]

2. Allocations by the Governor and the Legislature.
[1987, c. 413, §4 (rp).]

2-A. Recommendation of Governor and issuers. At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the State Planning Office shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the State Planning Office.
[1999, c. 728, §2 (amd).]

3. Emergency allocation.
[1987, c. 769, Pt. A, §41 (rp).]

Title 10, §363, Allocation of the state ceiling

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes must be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[1999, c. 728, §3 (amd).]

5. Allocation to the Treasurer of State. That portion of the state ceiling allocated under this section to the category of general obligation bonds of the State must be allocated to the Treasurer of State, who may further allocate that portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Treasurer of State to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[1999, c. 728, §3 (amd).]

6. Allocation to the Finance Authority of Maine. That portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B, must be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Finance Authority of Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[1999, c. 728, §4 (amd).]

7. Allocation to the Maine Municipal Bond Bank. That portion of the state ceiling allocated to the category of bonds that are general obligations of issuers within the State, other than the State; that are included in bond issues of the Maine Municipal Bond Bank; that are included in bond issues of the Maine Public Utility Financing Bank; or that are qualified redevelopment bonds as defined in the United States Code, Title 26, must be allocated to the Maine Municipal Bond Bank, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine Municipal Bond Bank to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[1999, c. 728, §5 (amd).]

8. Allocations to the Maine Educational Loan Authority. That portion of the state ceiling allocated to the issuance of bonds by the Maine Educational Loan Authority pursuant to Title 20-A, chapter 417-A must be allocated to the Maine Educational Loan Authority.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Office of Consumer Credit Regulation for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Office of Consumer Credit Regulation for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Office of Consumer Credit Regulation shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [2003, c. 112, §2 (amd).]

B. [T. 10, §363, sub-§8, paragraph B (rp).]

B-1. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased or originated with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1, provided that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee

agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [2003, c. 112, §2 (amd).]
[2003, c. 112, §2 (amd).]

8-A. Allocations to issuer of bonds for purchase of education loans. That portion of the state ceiling allocated to the categories of bonds providing funds for the purposes of an entity designated pursuant to Title 20-A, section 11407, must be allocated to the entity designated pursuant to Title 20-A, section 11407.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions, Department of Professional and Financial Regulation if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Office of Consumer Credit Regulation, Department of Professional and Financial Regulation for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Office of Consumer Credit Regulation for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Office of Consumer Credit Regulation shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [2003, c. 112, §3 (new).]

B. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1; however, this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [2003, c. 112, §3 (new).]
[2003, c. 112, §3 (new).]

9. Use of carryforward. In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue. To the extent permitted by federal law, a group consisting of a representative of each of the issuers specifically identified in subsections 4 to 7; a representative of a corporation created pursuant to former Title 20, section 2237 and Title 20-A, section 11407; and a representative of the Governor designated each year by the Governor may reallocate, by written agreement executed by no fewer than 4 of the 5 voting representatives, carryforward amounts from one of the specific issuers designated in this section to another specific issuer.
[1999, c. 728, §7 (amd).]

10. Allocation for benefit of State. All of the allocation of the state ceiling must be used for a purpose that benefits individuals, communities or businesses in this State. For purposes of this subsection, a bond issuance is presumed to benefit individuals, communities or businesses in this State if it benefits business operations located in this State, residents of this State, students attending institutions of higher education in this State, residents of this State attending institutions of higher education outside this State or municipalities in this State. An allocation of the state ceiling may only be used to purchase student loans if the borrower is a resident of this State or is a student attending an institution of higher education in this State or if the borrower has previously obtained a student loan while a resident of this State or while attending an institution of higher education in this State. A student eligible to receive the benefit of a portion of the state ceiling remains eligible for student loans notwithstanding any changes in residency or institution attended.
[1999, c. 443, §4 (new).]

11. Annual review. By March 15th of each year, each issuer identified in subsections 4 to 8 shall deliver a report to the Governor, the group of representatives described in subsection 1-A and the joint standing committee of the Legislature having jurisdiction over

business and economic development matters. Each report must include, without limitation, a review of what bonds have been issued in the most recent year, how the state ceiling was allocated or carried forward, a demonstration of the benefits to the State of the allocation of the state ceiling to such issuer for the most recent year and a demonstration that allocation of the state ceiling is necessary to fulfill an unmet need for financing by the private sector. In addition, each report must be accompanied by the most recent annual audited financial statements of the issuer and by a letter from an independent accountant addressing the savings attributable to the use of tax-exempt financing and how that savings was passed on to the entities or individuals benefiting from the bond proceeds.
[1999, c. 728, §8 (amd).]

MRSA , §T.10 SEC. 363/8/B (AMD).
PL 1985, Ch. 594, §1 (NEW).
PL 1987, Ch. 3, §1,2 (AMD).
PL 1987, Ch. 413, §4 (RPR).
PL 1987, Ch. 668, §1 (AMD).
PL 1987, Ch. 769, §A41,A42 (AMD).
PL 1987, Ch. 807, §2 (AMD).
PL 1989, Ch. 224, §1,2 (AMD).
PL 1989, Ch. 502, §A27 (AMD).
PL 1989, Ch. 812, §1 (AMD).
PL 1991, Ch. 603, §2 (AMD).
PL 1993, Ch. 671, §1 (AMD).
PL 1999, Ch. 443, §1-4 (AMD).
PL 1999, Ch. 728, §1-8 (AMD).
PL 1999, Ch. 728, §20 (AFF).
PL 2001, Ch. 44, §11 (AMD).
PL 2001, Ch. 44, §14 (AFF).
PL 2003, Ch. 112, §1-3 (AMD).
PL 2003, Ch. 385, §1 (AMD).
PL 2005, Ch. 425, §22 (AMD).

Chapter 11: KIM WALLACE ADAPTIVE EQUIPMENT LOAN PROGRAM (HEADING: PL 1987, c. 817, §2 (new); PL 1999, c. 731, Pt. FF, §2 (rpr))

§371. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 817, §2 (new).]

1. Board. "Board" means the Kim Wallace Adaptive Equipment Loan Program Fund Board.
[1999, c. 731, Pt. FF, §3 (amd).]

2. Fund. "Fund" means the Kim Wallace Adaptive Equipment Loan Program Fund.
[1999, c. 731, Pt. FF, §3 (amd).]

3. Qualifying borrower. "Qualifying borrower" means any individual, for-profit or nonprofit corporation or partnership which demonstrates that the loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community. The individual, corporation or partnership must demonstrate credit worthiness and repayment abilities to the satisfaction of the board.
[1989, c. 191, §1 (amd).]

PL 1987, Ch. 817, §2 (NEW).
PL 1989, Ch. 191, §1 (AMD).
PL 1999, Ch. 731, §FF3 (AMD).

§372. Fund established

1. Creation of fund. There is established the Kim Wallace Adaptive Equipment Loan Program Fund, which must be used to provide funding for loans to qualified borrowers within the State in order to acquire adaptive equipment designed to assist the borrower in becoming independent and for other purposes as allowed under section 376. The fund must be deposited with, maintained and administered by the Finance Authority of Maine or other state agency and contain appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund and funds received in repayment of loans. This fund is a nonlapsing revolving fund. All money in the fund must be continuously applied to carry out the purposes of this chapter.
[2005, c. 191, §1 (amd).]

2. Administrative expenses. Costs and expenses of maintaining, servicing and administering the Kim Wallace Adaptive Equipment Loan Program Fund established by this chapter may be paid out of amounts in the fund.
[1999, c. 731, Pt. FF, §4 (amd).]

PL 1987, Ch. 817, §2 (NEW).
PL 1999, Ch. 731, §FF4 (AMD).
PL 2003, Ch. 99, §1 (AMD).
PL 2005, Ch. 191, §1 (AMD).

§373. Board

1. Establishment; membership. There is established the Kim Wallace Adaptive Equipment Loan Program Fund Board that consists of 9 members as follows: the Director of the Bureau of Rehabilitation Services or the director's designee; the Treasurer of State or the Treasurer of State's designee; an experienced consumer lender; a certified public accountant; and 5 persons with a range of disabilities, all nondesignated members to be appointed by the Governor. The board shall annually elect a chair from among its members.
[1999, c. 731, Pt. FF, §5 (amd).]

2. Terms. The members appointed by the Governor serve for terms of 4 years. All other members serve during their tenure in the position that they represent on the board. Any vacancy is filled in the same manner as the original appointment for the unexpired term of that position. Members appointed by the Governor upon completion of the terms of the initial members are appointed as follows:

A. One member for one year; [1991, c. 871, §1 (new).]

B. Two members for 2 years; [1991, c. 871, §1 (new).]

C. Two members for 3 years; and [1991, c. 871, §1 (new).]

D. Two members for 4 years. [1991, c. 871, §1 (new).]

Thereafter, the terms of office of members appointed by the Governor are for 4 years.
[1991, c. 871, §1 (amd).]

3. Compensation. Members shall be compensated according to Title 5, chapter 379.
[1987, c. 817, §2 (new).]

PL 1987, Ch. 817, §2 (NEW).
PL 1989, Ch. 276, § (AMD).
PL 1991, Ch. 871, §1 (AMD).
PL 1995, Ch. 322, §3 (AMD).
PL 1995, Ch. 519, §3 (AMD).
PL 1997, Ch. 489, §1 (AMD).
PL 1999, Ch. 731, §FF5 (AMD).

§374. Duties of board

The board shall have the following powers and duties.
[1987, c. 817, §2 (new).]

1. Receipt of money and property. The board may accept and receive gifts, grants, bequests or devises from any source, including funds from the Federal Government or any of its political subdivisions.
[1987, c. 817, §2 (new).]

2. Contracts. The board may, with the approval of the Governor, enter into any necessary contracts and agreements with appropriate state or community-based groups dealing with disabled persons.
[1987, c. 817, §2 (new).]

3. Administer loan program. The board shall administer the Kim Wallace Adaptive Equipment Loan Program Fund established by this chapter and may contract with the Finance Authority of Maine and state or community-based groups dealing with disabled persons for such assistance in administering the program as the board may require. The board may employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. Employees of the board are not subject to Title 5, chapter 71 and Title 5, chapter 372, subchapter 2.
[2005, c. 191, §2 (amd).]

4. Rules. The board may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. The rules must ensure that:

A. Individuals and business entities are eligible for loans; [1997, c. 489, §2 (new).]

B. A preference is given for loans to qualifying individual borrowers seeking loans to acquire adaptive equipment for personal, family or household purposes; and [1997, c. 489, §2 (new).]

C. [2005, c. 191, §3 (rp).]

D. Loan applications may be approved or denied by the board only at a regular or special meeting except as follows:

(1) Approval of applications for loans may be delegated by the board to a subcommittee of the board containing at least 5 members if an applicant would suffer undue hardship by waiting for the next regular meeting; or

(2) Approval of applications for loans may be delegated to outside contractors with criteria and terms as provided by the board and approved no less than annually.

All approved loans must be ratified by the board at the board's next regular or special meeting. All loans recommended for denial by the delegated authority must be acted upon by the board at the board's next regular or special meeting. [2005, c. 191, §4 (new).]

[2005, c. 191, §§3, 4 (amd).]

PL 1987, Ch. 817, §2 (NEW).
PL 1997, Ch. 489, §2 (AMD).
PL 1999, Ch. 731, §FF6 (AMD).
PL 2005, Ch. 191, §2-4 (AMD).

§375. Loans

1. Demonstration of purpose of loan. The board may enter into loan agreements with any qualifying borrower and exercise all powers of a lender or creditor. Loan security may include the acquisition, use, management, improvement or disposition of any interest in, or type of, real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding and also including the assessment of fees, the forgiveness of indebtedness, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds. The borrower must demonstrate that:

A. The loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community; and [1987, c. 817, §2 (new).]

B. The applicant has the ability to repay the loan. [1987, c. 817, §2 (new).]
[2005, c. 191, §5 (amd).]

2. Loan limit. Any necessary loan limitation shall be determined by the board.
[1987, c. 817, §2 (new).]

3. Terms. All loans must be repaid within such terms and at such interest rates as the board may determine to be appropriate in accordance with guidelines established by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.
[1987, c. 817, §2 (new).]

4. Distribution.
[1997, c. 489, §3 (rp).]

PL 1987, Ch. 817, §2 (NEW).
PL 1989, Ch. 191, §2 (AMD).
PL 1997, Ch. 489, §3 (AMD).
PL 2005, Ch. 191, §5 (AMD).

§376. Purposes for which loans may be awarded

The board may award loans to qualifying borrowers for the following purposes: [2003, c. 99, §2 (amd).]

1. Individual independence. To assist one or more persons with disabilities to improve their independence through the purchase of adaptive equipment;
[2003, c. 99, §2 (amd).]

2. Productive members of community. To assist one or more persons with disabilities to become more independent members of the community and improve quality of life within the community through the purchase of adaptive equipment; and
[2003, c. 99, §2 (amd).]

3. Transportation assistance. For the purpose set forth in section 377.
[2005, c. 191, §6 (amd).]

PL 1987, Ch. 817, §2 (NEW).
PL 2003, Ch. 99, §2 (AMD).
PL 2005, Ch. 191, §6 (AMD).

§377. Loans for transportation assistance program

The board may award loans for the purpose of assisting persons with disabilities to purchase used vehicles necessary to obtain or retain employment or employment training, subject to the following limitations. [2003, c. 99, §3 (new).]

1. Qualifications of borrower. A loan may be made under this section only to a qualifying borrower who meets the other requirements of this chapter and who demonstrates a need for a vehicle as part of an individualized plan toward employment developed with a state or community-based organization that provides employment services to persons with disabilities and that is approved by the board.
[2003, c. 99, §3 (new).]

2. Limitation on loan amount.
[2005, c. 191, §7 (rp).]

3. Aggregate amount of loans. The maximum aggregate amount of loans issued under this section may not exceed 7% of the value of program gross notes receivable.
[2005, c. 191, §7 (amd).]

4. Repeal.
[2005, c. 191, §7 (rp).]

PL 2003, Ch. 99, §3 (NEW).
PL 2005, Ch. 191, §7 (AMD).

Title 10, §965, Membership

§965. Membership

There shall be 15 voting members of the authority as follows. [1989, c. 598, §4 (amd).]

1. Selected board members.
[2001, c. 417, §5 (rp).]

2. Designated members. Three members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development and subject to confirmation by the Legislature shall consist of:

A. One member who is a certified public accountant; [1983, c. 519, §6 (new).]

B. One member who is an attorney; and [1983, c. 519, §6 (new).]

C. One member who is a commercial banker. [1983, c. 519, §6 (new).]
[1987, c. 596, §1 (amd).]

3. At-large members. Nine members appointed by the Governor in accordance with the following and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and subject to confirmation by the Legislature must be appointed from at large.

A. Two of the at-large members must be veterans. [2001, c. 417, §6 (new).]

B. Two of the at-large members must be knowledgeable in the field of natural resource enterprises or financing. [2001, c. 417, §6 (new).]

C. One of the at-large members must be knowledgeable in the field of student financial assistance. [2001, c. 417, §6 (new).]

D. One of the at-large members must be knowledgeable in the field of higher education. [2001, c. 417, §6 (new).]
[2001, c. 417, §6 (amd).]

4. State members. Three members of the authority shall represent the State and shall consist of:

A. The Commissioner of Economic and Community Development or the commissioner's designee; [2005, c. 425, §24 (amd).]

B. One natural resources commissioner designated by the Governor from either the Department of Agriculture, Food and Rural Resources; the Department of Conservation; or the Department of Marine Resources; and [1985, c. 344, §12 (amd).]

C. The Treasurer of State, ex officio. [1987, c. 403, §2 (rpr).]
[2005, c. 425, §24 (amd).]

4-A. Director; serving on more than one board. With the exception of a member serving in an ex officio capacity pursuant to subsection 4, a member may not serve at the same time as a director or officer of the Maine Educational Loan Authority, of any nonprofit

corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407 or of any entity that has a contract to provide a significant level of administrative services to the authority, to the Maine Educational Loan Authority or to any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407.
[1999, c. 728, §9 (new).]

5. Compensation. A member of the authority shall be compensated as provided in Title 5, chapter 379.
[1985, c. 344, §13 (new).]

PL 1983, Ch. 519, §6 (NEW).
PL 1985, Ch. 344, §10-13 (AMD).
PL 1987, Ch. 403, §1,2 (AMD).
PL 1987, Ch. 534, §B7,B23 (AMD).
PL 1987, Ch. 596, §1 (AMD).
PL 1989, Ch. 559, §5-7 (AMD).
PL 1989, Ch. 598, §4,5 (AMD).
PL 1989, Ch. 698, §5 (AMD).
PL 1991, Ch. 511, §A1 (AMD).
PL 1991, Ch. 854, §A1,2 (AMD).
PL 1993, Ch. 359, §C2,3 (AMD).
PL 1999, Ch. 728, §9 (AMD).
PL 2001, Ch. 417, §5,6 (AMD).
PL 2005, Ch. 425, §24 (AMD).

Title 12, §5202, Maine Shoreline Public Access Protection Fund

§5202. Maine Shoreline Public Access Protection Fund

1. Fund established. To accomplish the purposes of this chapter, there is established a nonlapsing Maine Shoreline Public Access Protection Fund, referred to in this chapter as the "fund." All income received by the Department of Conservation for the purposes of this chapter shall be recorded on the books of the State in a separate account and shall be deposited with the Treasurer of State to be credited to the fund. These funds shall be made available to the commissioner for the purpose of implementing the Maine Shoreline Public Access Protection Program, established under section 5203.
[1987, c. 402, Pt. A, § 94 (amd).]

2. Expenditure of funds. All money credited to the fund shall be used to preserve and protect public access to coastal shoreland areas in accordance with the guidelines established by the commissioner pursuant to section 5203. As provided in section 5203, not less than 50% of all revenue available from the fund shall be dispersed to municipalities located in the coastal area, as defined in Title 38, section 1802. No more than 10% of the revenues available in the fund may be used for the development of acquired access areas.
[1987, c. 402, Pt. A, § 94 (amd).]

PL 1985, Ch. 794, §B (NEW).
PL 1987, Ch. 402, §A94 (AMD).

Title 12, §8426, Funding

§8426. Funding

1. Recommendation of the director. On or before January 1st of each year, the director shall report in writing to the Bureau of the Budget and to the Legislature his estimate of the costs of implementation of any management program proposed for that program year, along with his estimate of the cost of funding program planning activities for the period beginning October 1st and ending on April 30th of the following year.

If the director finds that no spray project is necessary in 1987, he shall make a determination of the need for ongoing management program activities. The director shall base his determination upon recommendations of affected landowners and the public, and other factors that the director deems to be in furtherance of the legislative policies of this subchapter. On or before January 1, 1987, the director shall report in writing to the Legislature his estimate of the costs of implementation of the management program activities determined to be necessary, along with a complete description of the activities and the related staff requirements. Management program activities in a year without a spray project shall include only necessary budworm survey and detection, research and administration. The director shall include in his report any recommended changes to this subchapter to ensure the implementation of equitable methods for financing ongoing budworm survey activities in years with no spray project, consistent with the legislative policies of this subchapter.
[1985, c. 664, § 1 (amd).]

2. Authorization by Legislature. Following the recommendation made in accordance with subsection 1, the Legislature shall determine, not later than March 1st, the amount, if any, authorized for expenditure for any management program in that program year. That excise tax shall be assessed and collected in accordance with section 8427, subsection 2. At the same time, the Legislature shall determine the amount, if any, authorized for expenditure for preproject planning during the period beginning October 1st and ending April 30th of the following year.
[1985, c. 664, § 1 (amd).]

3. Management program special accounts. Special accounts shall be established in the following manner.

A. The Treasurer of State shall establish 2 dedicated revenue accounts as follows.

(1) Into one account shall be deposited any revenues received by the State from the Government of the United States for any spray project.

(2) Into the other account shall be deposited any revenues received by the State from the excise taxes authorized pursuant to this subchapter.

[1979, c. 737, § 12 (new).]

B. The moneys credited to such accounts shall be used by the Bureau of Forestry to pay any expenses, debts, accounts and lawful demands incurred in connection with management programs authorized under this subchapter, and the director shall authorize the State Controller to draw his warrant therefor at any time. Any remaining balance in these accounts shall continue from year to year as a fund available for the purposes set out in this subchapter and for no other purpose. [1985, c. 58, § 2 (amd).]

C. Any revenue deposited in spray project special accounts attributable to services funded from other state accounts shall be credited to the accounts funding these services. If the General Fund funded these services, the revenue shall be credited to the General Fund Undedicated Revenue Account. In the case where the original source cannot be determined, these funds shall be deposited in the General Fund. [1983, c. 819, Pt. A, § 36 (new).] [1985, c. 58, § 2 (amd).]

4. Borrowing from General Fund. To accomplish the purpose of this subchapter, the director, subject to the approval of the Governor, may borrow moneys from the General Fund for up to 120 days, at no interest, in order to enable the bureau to pay expenses, debts, accounts and lawful demands for any management program authorized under subsection 2; provided that the aggregate amount of such borrowing may at no time exceed the amount of uncollected excise taxes authorized under this subchapter for that spray project. [1985, c. 58, § 2 (amd).]

5. Treasurer of State; temporary loan. The Treasurer of State, upon the recommendation of the director, as approved by the Governor, may negotiate a temporary loan or loans in anticipation of excise taxes to be raised during the same fiscal year. The loan application shall be initiated by the Treasurer of State so that the funds derived therefrom are available not before July 1st for expenditure by October 1st of the same fiscal year.

The money borrowed shall be deposited in the account established pursuant to section 8426, subsection 3, paragraph A, subparagraph (2), and shall be used to fund the program during the preproject period beginning October 1st and ending on April 30th. Any income derived from investment of these funds shall be credited to the same account.

Any amount borrowed pursuant to this section shall be repaid with interest from the amount collected as a preproject excise tax under section 8427, subsection 2. In the event that no such tax is collected, this amount shall be raised by a shared tax applicable to all acres in the district, as of July 1st of that fiscal year, the per acre rate of which shall be calculated by dividing the sum to be raised by the number of acres within the district.
[1985, c. 58, § 2 (amd).]

PL 1979, Ch. 737, §12 (NEW).
PL 1981, Ch. 278, §7 (AMD).
PL 1983, Ch. 109, §1 (AMD).
PL 1983, Ch. 810, §1-3 (AMD).
PL 1983, Ch. 819, §A36 (AMD).
PL 1985, Ch. 58, §2 (AMD).
PL 1985, Ch. 664, §1 (AMD).

Title 12, §10254, Maine Wildlife Park Fund

§10254. Maine Wildlife Park Fund

1. Fund established. The Maine Wildlife Park Fund, referred to in this section as the "fund," is established. The fund receives all funds collected by the department from the operation of the Maine Wildlife Park, including gate fees, the proceeds of any sales at the Maine Wildlife Park and any donations, grants or other funds presented to the department for the benefit of the Maine Wildlife Park, except that any funds that are solicited by and earned by volunteers for the benefit of the Maine Wildlife Park may not be used, directly or indirectly, to supplant appropriations from the General Fund or allocations from other revenue sources. All money deposited in the fund and the earnings on the money remain in the fund to be used for the management and maintenance of the Maine Wildlife Park. Unexpended balances in the fund at the end of the fiscal year are nonlapsing and must be carried forward to the next fiscal year to be used for the same purposes.

[2005, c. 504, §1 (amd).]

2. Report. By February 1st of each year, the commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The report must detail the amount of money collected in the fund over the course of the prior year and the expense of managing and maintaining the Maine Wildlife Park. The commissioner shall make recommendations concerning how the fund may be increased or expenses reduced or both so that the Maine Wildlife Park becomes increasingly financially self-sustaining.

[2003, c. 414, Pt. A, §2 (new); c. 614, §9 (aff).]

PL 2003, Ch. 414, §A2 (NEW).
PL 2003, Ch. 414, §D7 (AFF).
PL 2003, Ch. 614, §9 (AFF).
PL 2003, Ch. 655, §B422 (AFF).
PL 2003, Ch. 655, §B52 (AMD).
PL 2005, Ch. 504, §1 (AMD).

Title 13, §3169, Administration of ministerial and school funds

§3169. Administration of ministerial and school funds

The ministerial and school funds now held in trust by any town or by a corporation existing under section 3162 may be turned over to the Treasurer of State to be administered in accordance with the terms and provisions of such trust and those funds must be invested by the Treasurer of State in the same manner as provided for investments in securities enumerated in Title 9-B, chapter 55-A. Such town or corporation thereupon is relieved of any further duties or liabilities for such funds, provided such town, acting under an appropriate article in the warrant at any annual town meeting, votes to cause such funds to be entrusted to the Treasurer of State. [1991, c. 824, Pt. A, §22 (amd).]

PL 1967, Ch. 494, §15 (AMD).
PL 1971, Ch. 544, §42 (AMD).
PL 1977, Ch. 78, §109 (AMD).
PL 1991, Ch. 824, §A22 (AMD).

Title 14, Chapter 1, PARTIES AND TITLE OF ACTIONS

Chapter 1: PARTIES AND TITLE OF ACTIONS

Subchapter 1: PARTIES

§1. Treasurers may bring action in own name

Treasurers of state, counties, towns and corporations may maintain civil actions in their own names as treasurers on contracts given to them or their predecessors and prosecute civil actions pending in the names of their predecessors.

§2. Actions by unincorporated societies

Any organized unincorporated society or association may sue in the name of its trustees for the time being and may maintain an action, though the defendant or defendants or some of them are members of the same society or association.

§3. Guardian of incompetent party; compensation

A guardian appointed to prosecute or defend an action for an incompetent party is entitled to a reasonable compensation and is not liable for costs.

§4. Action on real covenants of first grantor by assignee of grantee

The assignee of a grantee or his executor or administrator after eviction by an older and better title may maintain an action on a covenant of seizin or freedom from encumbrance contained in absolute deeds of the premises between the parties, and recover such damages as the first grantee might have recovered on eviction, upon filing, with his complaint or at such later time as the court permits, for the use of his grantor, a release of the covenants of his deed and of all causes of action thereon. The prior grantee cannot, in such case, release the covenants of the first grantor to the prejudice of his grantee.

§5. Grantee may defend action

Grantees may appear and defend in civil actions against their grantors in which the real estate conveyed is attached.

§6. Property of deceased debtor on joint contract liable (REPEALED)

PL 1965, Ch. 351, §3 (RP).

Title 14, Chapter 1, PARTIES AND TITLE OF ACTIONS

Subchapter 2: MODEL JOINT OBLIGATIONS ACT

§11. Definitions

In this subchapter, unless otherwise expressly stated, obligation does not include a liability in tort; obligor does not include a person liable for a tort; obligee does not include a person having a right based on a tort. Several obligors means severally bound for the same performance. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§12. Discharge of co-obligor by judgment

A judgment against one or more of several obligors, or against one or more of joint, or of joint and several obligors shall not discharge a co-obligor who was not a party to the proceeding wherein the judgment was rendered. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§13. Payments credited to co-obligors

The amount or value of any consideration received by the obligee from one or more of several obligors, or from one or more of joint, or of joint and several obligors, in whole or in partial satisfaction of their obligations, shall be credited to the extent of the amount received on the obligations of all co-obligors to whom the obligor or obligors giving the consideration did not stand in the relation of a surety. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§14. Release with reservation of rights

Subject to section 13, the obligee's release or discharge of one or more of several obligors, or of one or more of joint, or of joint and several obligors shall not discharge co-obligors, against whom the obligee in writing and as part of the same transaction as the release or discharge, expressly reserves his rights; and in the absence of such a reservation of rights shall discharge co-obligors only to the extent provided in section 15. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§15. Release without reservation of rights

If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor, then knows or has reason to know that the obligor released or discharged did not pay so much of the claim as he was bound by his contract or relation with the co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-obligor to pay. [1965, c. 351, § 1 (new).]

If an obligee so releasing or discharging, an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of 2 amounts, namely; the amount of the fractional share of the obligor released or discharged, or the amount that such obligor was bound by his contract or relation with the co-obligor to pay. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§16. Death of joint obligor

On the death of a joint obligor in contract, his estate shall be bound as such, jointly and severally with the surviving obligor or obligors. [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

§17. Uniformity of interpretation; title

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and may be cited as the Model Joint Obligations Act [1965, c. 351, § 1 (new).]

PL 1965, Ch. 351, §1 (NEW).

Title 15, Chapter 303, FINES AND COSTS

Chapter 303: FINES AND COSTS

Subchapter 1: GENERAL PROVISIONS

§1901. Respondent not to be sentenced to pay costs of court as such

The Superior Court shall not, in any criminal proceeding, sentence any respondent to pay costs of court as such, but may take costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded. [1975, c. 775, § 2 (rpr).]

PL 1975, Ch. 775, §2 (RPR).

§1902. Fines, forfeitures and criminal costs paid to State

All fines, forfeitures and costs in criminal cases shall be paid into the State Treasury. [1975, c. 735, § 15-A (rpr).]

PL 1973, Ch. 567, §20 (AMD).
PL 1975, Ch. 623, §17-A (RPR).
PL 1975, Ch. 735, §15-A (RPR).

§1903. Fines and forfeitures recovered by indictment unless otherwise provided

All fines and forfeitures, imposed as punishment for offenses or for violations or neglects of statute duties may, when no other mode is expressly provided, be recovered by indictment. When no other appropriation is expressly made, they inure to the State. [1975, c. 623, § 17-B (amd).]

PL 1975, Ch. 623, §17-B (AMD).

§1904. Inability to pay fine and costs; liberation (REPEALED)

PL 1965, Ch. 425, §10 (AMD).
PL 1975, Ch. 499, §4 (RP).

Title 15, Chapter 303, FINES AND COSTS

Subchapter 2: CLERKS OF COURT

§1941. Duties of clerks as to certificates of fines

Clerks of court shall attest triplicate copies of certificates of all fees, fines and bail forfeitures imposed and accruing to the State at such intervals as the Chief Justice of the Supreme Judicial Court or his designee may direct, and deliver one of these copies to the State Auditor, to the Chief Justice or his designee and retain one in the clerk's office. [1977, c. 114, § 29 (rpr).]

PL 1975, Ch. 383, §15 (AMD).
PL 1975, Ch. 408, §31 (RPR).
PL 1975, Ch. 735, §16 (RPR).
PL 1977, Ch. 114, §29 (RPR).

§1942. Duty of clerks to collect fines and costs or to issue process for collection

Each clerk of court, in default of payment to him of fines, forfeitures and bills of costs, shall issue warrants of distress, or such other process therefor as the court finds necessary to enforce the execution of any order, sentence or judgment in behalf of the State, deliver them to the sheriff, or to such constable as the district attorney directs, and enter of record the name of the officer and the time when they are delivered to him. [1973, c. 567, § 20 (amd).]

PL 1973, Ch. 567, §20 (AMD).

§1943. Fines, costs and forfeitures in Superior Court

Every clerk of a Superior Court shall render under oath a detailed account of all fines, costs and forfeitures upon convictions and sentences before him, on forms prescribed by the State Department of Audit, and shall pay them into the State Treasury on or before the 15th day of the month following the collection of such fines, costs and forfeitures. Any person who fails to make such payments into the State Treasury shall forfeit, in each instance, double the amount so neglected to be paid over, to be recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in default of payment, that person is guilty of a Class E crime. [1979, c. 663, § 108 (amd).]

PL 1975, Ch. 383, §16 (AMD).
PL 1975, Ch. 408, §31 (RPR).
PL 1979, Ch. 663, §108 (AMD).

Title 15, Chapter 303, FINES AND COSTS

Subchapter 3: SHERIFFS AND OTHER OFFICERS

§1981. Payment over of fines and costs collected

Sheriffs, jailers and constables who by virtue of their office receive any fines or forfeitures, shall forthwith pay them to the Treasurer of State. [1977, c. 114, § 30 (amd).]

If any such officer neglects to pay over such fine or forfeiture for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine or forfeiture and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after the escape pay the amount thereof to the clerk of the court, he forfeits to the State double the amount. The Treasurer of State shall give notice of such neglect to the Attorney General, who shall sue therefor in a civil action in the name of such treasurer. [1977, c. 114, § 31 (amd).]

All such fines imposed by the District Court shall be paid over to the District Court.

PL 1973, Ch. 567, §20 (AMD).
PL 1975, Ch. 383, §17 (AMD).
PL 1975, Ch. 408, §32 (AMD).
PL 1975, Ch. 735, §17 (AMD).
PL 1977, Ch. 114, §30,31 (AMD).

§1982. Receipts for process for recovery of fines

Every sheriff or other officer to whom any process for the recovery of such fine, forfeiture or costs is committed by the clerk of courts shall, at the next session of the court in the same county, produce a receipt in full for the same or assign a satisfactory excuse for not so doing. In case of neglect, the court shall order a prosecution to be commenced therefor by the district attorney. [1973, c. 567, § 20 (amd).]

PL 1973, Ch. 567, §20 (AMD).

§1983. Disposal of securities for fines and costs

Each sheriff, as often as every 3 months, shall deliver to the Treasurer of State all securities taken by him for fines and costs, on the liberation of poor convicts from prison pursuant to law. [1975, c. 408, § 33 (amd).]

All such securities taken for fines imposed by the District Court shall be paid over to the District Court.

PL 1975, Ch. 383, §18 (AMD).
PL 1975, Ch. 408, §33 (AMD).

Subchapter 4: COUNTY TREASURERS

§2031. Fees claimed within 3 years

Sums allowed to any person as fees or for expenses in any criminal prosecution and payable from the State Treasury may be claimed by such person of the Treasurer of State at any time within 3 years after the allowance, and not afterwards. [1975, c. 408, § 34 (amd).]

PL 1975, Ch. 383, §19 (AMD).
PL 1975, Ch. 408, §34 (AMD).

§2032. Schedule of securities

A schedule of all securities with the amount due on each, received by the Treasurer of State from the sheriff pursuant to section 1983, shall be filed by the sheriff with the clerk. The clerk, from time to time, shall examine such securities, and, where he deems appropriate, shall request that the court order the Attorney General to take such measures for their collection as are deemed expedient or authorize the treasurer to compound and cancel them on such terms as may be ordered. [1975, c. 408, § 34 (amd).]

PL 1975, Ch. 383, §20 (AMD).
PL 1975, Ch. 408, §34 (AMD).

§2033. Treasurer's annual report to court (REPEALED)

PL 1975, Ch. 383, §21 (AMD).
PL 1975, Ch. 408, §34 (AMD).
PL 1975, Ch. 735, §18 (RPR).
PL 1979, Ch. 127, §116 (RP).

Title 15, Chapter 303, FINES AND COSTS

Subchapter 5: DISTRICT ATTORNEYS

§2061. Examination of records of clerks and treasurers by district attorney

District attorneys shall examine the records and files in the offices of clerks and the certificates and accounts in the offices of treasurers, relating to fines, forfeitures and bills of costs accruing to their counties; ascertain, so far as practicable, the cause of any delinquencies in paying over the same; and move the court for all necessary orders and processes to enforce the collection thereof. [1973, c. 567, § 20 (amd).]

PL 1973, Ch. 567, §20 (AMD).

§2062. Delinquent sheriff or other officer summoned before court by district attorney

When it appears that any sheriff or other officer is not discharged of any fine, forfeiture or bill of costs committed to him to collect, the district attorney shall cause him to be summoned and brought before the court that imposed such fine, forfeiture or bill of costs to show a proper discharge or the cause for not collecting the same and paying it over. Such sheriff or other officer shall carry into execution all lawful orders of the court relating to the collection and payment thereof, and shall, by all other means pertaining to his office, promote and enforce the same. [1973, c. 567, § 20 (amd).]

PL 1973, Ch. 567, §20 (AMD).

Title 17, §314, Issuance of license; fees

§314. Issuance of license; fees

The Chief of the State Police may issue licenses to operate beano or bingo games to any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans' organization that was in existence and founded, chartered or organized in the State at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of that organization by duly authorized members. The Chief of the State Police may also issue a license to any auxiliary associated with an organization, department or association qualified for a license under this section if the auxiliary was founded, chartered or organized in this State and has been in existence at least 2 years before applying for a license and the games are sponsored, operated and conducted for the exclusive benefit of the auxiliary by duly authorized members of the auxiliary. Proceeds from any game conducted by the auxiliary or the auxiliary's parent organization may not be used to provide salaries, wages or other remuneration to members, officers or employees of the auxiliary or its parent organization, except as provided in sections 326 and 335. The 2 years' limitation does not apply to any organizations in this State having a charter from a national organization, or auxiliaries of those organizations, even though the organizations have not been in existence for 2 years prior to their application for a license. The 2 years' limitation does not apply to any volunteer fire department or rescue unit or auxiliary of that department or unit. A license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association. [1999, c. 63, §1 (amd).]

The fee for such a license to any nonprofit organization is $12.00 for each calendar week, or portion thereof, that the amusement is to be operated, or the license may be issued for a calendar month for a fee of $36.00 or a calendar year for a fee of $400. A special per-game license may be issued to any qualified nonprofit organization for the purposes of operating a game of "beano" or "bingo" for a fee of $5.00. The special per-game license may not be issued more than 6 times to any one organization in a calendar year. All license fees must be paid to the Treasurer of State to be credited to the General Fund. A license is not assignable or transferable. Nothing contained in this section may be construed to prohibit any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious, veterans' organization or auxiliary of any of them from obtaining licenses for a period not to exceed 6 months on one application. No more than one license may be issued to any organization for any one period. No more than one licensee may operate or conduct a game of "beano" or "bingo" on the same premises on the same date. [1997, c. 684, §1 (amd).]

All fees required by this chapter shall accompany the application for a license. Fees submitted as license fees shall be refunded if the license is not issued. Fees shall not be refunded for unused licenses or for any license which is suspended or revoked as provided by this chapter. [1975, c. 307, §2 (new).]

PL 1975, Ch. 307, §2 (NEW).
PL 1977, Ch. 696, §365 (AMD).
PL 1981, Ch. 395, § (AMD).
PL 1983, Ch. 610, § (AMD).
PL 1987, Ch. 197, §2 (AMD).
PL 1991, Ch. 87, §1,2 (AMD).
PL 1991, Ch. 528, §H1 (AMD).
PL 1991, Ch. 528, §RRR (AFF).
PL 1991, Ch. 591, §H1 (AMD).
PL 1993, Ch. 45, §1 (AMD).
PL 1995, Ch. 677, §4 (AMD).
PL 1997, Ch. 684, §1 (AMD).

Title 18, §1655, Distribution of balance

§1655. Distribution of balance

When there is in the hands of a public administrator an amount of money more than is necessary for the payment of the deceased's debts and for other purposes of administration, if no widow, widower or heirs of the deceased have been discovered, the administrator must be required by the judge to deposit it with the Treasurer of State, who shall receive it and dispose of it according to Title 33, chapter 41. [2003, c. 20, Pt. T, §11 (amd).]

PL 1979, Ch. 540, §24-C (RP).
PL 1979, Ch. 641, §5 (RPR).
PL 2003, Ch. 20, §T11 (AMD).

Chapter 417-A: MAINE EDUCATIONAL LOAN AUTHORITY (HEADING: PL 1987, c. 807, §3 (new))

§11411. Title

This chapter shall be known and may be cited as the "Maine Educational Loan Authority Act." [1987, c. 807, §3 (new).]

PL 1987, Ch. 807, §3 (NEW).

§11412. Declaration of necessity and purpose

The Legislature declares that there is a need to provide additional assistance for higher education for residents and inhabitants of this State; the cost of higher education is increasing; assistance to higher education, including recipients and providers of higher education, will benefit the people of this State, enhance their welfare and increase their commerce and economic prosperity; it is the purpose of this chapter to provide assistance to students or the families of students who are residents of this State attending institutions of higher education within or outside of this State, to students and the families of students attending institutions of higher education within this State and to institutions of higher education within this State; the assistance provided by this chapter is intended in part to supplement federal guaranteed higher education loan programs, other student loan programs, grant programs, scholarship programs, programs assisting institutions of higher education and other means of assisting students, families of students and institutions of higher education; and the exercise of the powers to the extent and in the manner provided in this chapter is the exercise of an essential governmental function. [1987, c. 807, §3 (new).]

PL 1987, Ch. 807, §3 (NEW).

§11413. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 807, §3 (new).]

1. Authority. "Authority" means the Maine Educational Loan Authority and its successors or assigns. [1987, c. 807, §3 (new).]

2. Authority loans. "Authority loans" means loans by the authority to institutions of higher education, students or other persons for the purpose of funding, financing or acquiring education loans. [1987, c. 807, §3 (new).]

3. Bonds. "Bonds" includes bonds, notes, refunding bonds, commercial paper, pass-through instruments or any other evidences of obligations of the authority issued under this chapter. [1987, c. 807, §3 (new).]

4. Borrower. "Borrower" means a student who has received an education loan or any parent who has received or agreed to repay an education loan. [1987, c. 807, §3 (new).]

5. Code. "Code" means the United States Internal Revenue Code of 1986, as amended, and the regulations to that Code. [1987, c. 807, §3 (new).]

6. Cost of attendance. "Cost of attendance" means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution, including, without limitation, the cost of room and board, transportation, books and supplies.
[1989, c. 502, Pt. A, §59 (amd).]

7. Default insurance. "Default insurance" means insurance which insures authority loans or bonds against default.
[1987, c. 807, §3 (new).]

8. Default Reserve Fund. "Default Reserve Fund" means a fund established by the authority for the purpose of securing authority loans or bonds.
[1987, c. 807, §3 (new).]

9. Education loan. "Education loan" means a loan which is made by the authority or by, or on behalf of, an institution to a student or to parents of a student, or both, in amounts not in excess of the maximum amounts specified by the authority to finance a part or all of the student's cost of attendance at an institution. An education loan shall constitute an authority loan.
[1989, c. 502, Pt. A, §59 (amd).]

10. Education loan series portfolio. "Education loan series portfolio" means all education loans made by a specific institution which are funded from or acquired by the proceeds of an authority loan to the institution of higher education out of the proceeds of a related specific bond issue through the authority.
[1987, c. 807, §3 (new).]

11. Institution. "Institution" or "institution of higher education" means any public or private nonprofit educational institution within the State, any public or private nonprofit educational institution outside of the State which is attended by residents of the State, any proprietary educational institution within the State for which loan guarantee services are readily and conveniently available to the authority or any proprietary educational institution outside of the State which is attended by residents of the State and for which loan guarantee services are readily and conveniently available to the authority, which:

A. Provides a program of education beyond the high school level; [1987, c. 807, §3 (new).]

B. Awards an associate, bachelor or advanced degree; and [1987, c. 807, §3 (new).]

C. Meets the conditions of applicable rules. [1987, c. 807, §3 (new).]
[1989, c. 222 (amd).]

12. Loan funding deposit. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee or custodian, in amounts the authority determines necessary as a condition for an institution's participation in the authority's programs to:

A. Provide security for bonds; [1987, c. 807, §3 (new).]

B. Fund a default reserve fund; [1987, c. 807, §3 (new).]

C. Acquire default insurance; or [1987, c. 807, §3 (new).]

D. Defray costs of the authority. [1987, c. 807, §3 (new).]
[1987, c. 807, §3 (new).]

13. Parent. "Parent" means any parent or guardian of a student at an institution of higher education.
[1987, c. 807, §3 (new).]

14. Rule. "Rule" means a rule adopted by the authority pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.
[1987, c. 807, §3 (new).]

15. Secondary market. "Secondary market" means the entity created pursuant to section 11407 prior to the enactment of this chapter.
[1987, c. 807, §3 (new).]

16. **Supplemental loan.** "Supplemental loan" means a loan to a student or to a parent to finance the costs of higher education other than a loan guaranteed pursuant to the federal Higher Education Act of 1965, 20 United States Code, Chapter 28.
[1999, c. 728, §12 (new).]

PL 1987, Ch. 807, §3 (NEW).
PL 1989, Ch. 222, § (AMD).
PL 1989, Ch. 502, §A59 (AMD).
PL 1999, Ch. 728, §12 (AMD).

§11414. Authority created

There is created the "Maine Educational Loan Authority," which is constituted a public body corporate and politic and a public instrumentality of the State. The exercise by the authority of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State. [1987, c. 807, §3 (new).]

PL 1987, Ch. 807, §3 (NEW).

§11415. Members

1. **Composition.** There are 7 members of the authority, 6 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and confirmation by the Legislature.
[2005, c. 397, Pt. C, §12 (amd).]

2. **Qualifications.** Each member must be a resident of this State. One member must be the Treasurer of State, ex officio, or the Treasurer of State's designee. Of the remaining 6 members to be appointed by the Governor, 3 members must be trustees, directors, officers or employees of institutions of higher education, one of whom must be from an institution not owned or operated by the State or any of its political subdivisions and one of whom must be from a community college owned or operated by the State. Each member of the authority, before entering upon that member's duties, shall take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX, Section 1. A record of each oath must be filed in the office of the Secretary of State. With the exception of a member serving in an ex officio capacity, a member of the authority may not at the same time serve as an officer, director or employee of a nonprofit corporation formed under section 11407 and former Title 20, section 2237, of the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1 or of any entity that has a contract to provide a significant level of administrative services to the authority, to a nonprofit corporation formed under section 11407 and former Title 20, section 2237 or to the state agency designated as administrator of federal guaranteed student loan programs pursuant to chapter 417, subchapter 1.
[2003, c. 20, Pt. OO, §2 (amd); §4 (aff); c. 385, §2 (amd).]

3. **Term of office.** Of the 5 members of the authority first appointed, one shall serve for a term expiring June 30, 1989, 2 shall serve for terms expiring June 30, 1990, and 2 shall serve for terms expiring June 30, 1991, and until a successor is appointed and qualified. On the expiration of the term of any member, a successor shall be appointed for a term of 3 years and serve until a successor is appointed and qualified. The Governor shall appoint a qualified person to fill any vacancy. A member of the authority shall be eligible for reappointment. A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualified. After notice, any member may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty or other cause.
[1987, c. 807, §3 (new).]

4. **Officers.** Each year the authority shall elect from among its members a chairman, vice chairman, a secretary and any other officers it requires.
[1987, c. 807, §3 (new).]

Each member of the authority shall be compensated by the authority in accordance with Title 5, chapter 379. [1987, c. 807, §3 (new).]

PL 1987, Ch. 807, §3 (NEW).
PL 1995, Ch. 519, §6 (AMD).
PL 1999, Ch. 443, §6 (AMD).
PL 1999, Ch. 728, §13 (AMD).
PL 2003, Ch. 20, §OO2 (AMD).
PL 2003, Ch. 20, §OO4 (AFF).

Title 21-A, Chapter 13, CAMPAIGN REPORTS AND FINANCES

Chapter 13: CAMPAIGN REPORTS AND FINANCES

Subchapter 1: GENERAL PROVISIONS

§1001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, § 6 (new).]

1. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.
[1985, c. 161, § 6 (new).]

2. Election. "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.
[1995, c. 483, §1 (amd).]

3. Person. "Person" means an individual, committee, firm, partnership, corporation, association, group or organization.
[1985, c. 161, §6 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1995, Ch. 483, §1 (AMD).

§1002. Meetings of commission

The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise. Meetings may be held over the telephone if necessary, as long as the commission office remains open for attendance by complainants, witnesses and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted only during the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission. The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election and from 8 a.m. until at least 8 p.m. on election day. The commission shall meet at other times on the call of the Speaker of the House, the President of the Senate, the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance. [2001, c. 667, Pt. A, §43 (rpr).]

PL 1985, Ch. 161, §6 (NEW).
PL 2001, Ch. 430, §7 (AMD).
PL 2001, Ch. 470, §4 (AMD).
PL 2001, Ch. 667, §A43 (RPR).

§1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.
[2005, c. 301, §5 (amd).]

2. Investigations requested. A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.
[1991, c. 839, §1 (amd); §34 (aff).]

2-A. Confidentiality.
[2001, c. 535, §1 (rp).]

3. State Auditor. The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.
[1999, c. 426, §31 (amd).]

4. Attorney General. Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.
[2001, c. 470, §5 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §1,31 (AMD).
PL 1991, Ch. 839, §1 (AMD).
PL 1991, Ch. 839, §34 (AFF).
PL 1999, Ch. 426, §31 (AMD).
PL 2001, Ch. 237, §1 (AMD).
PL 2001, Ch. 470, §5 (AMD).
PL 2001, Ch. 535, §1 (AMD).
PL 2005, Ch. 301, §5 (AMD).

§1004. Violations

The violation of any of the following subsections is a Class E crime. [1985, c. 161, §6 (new).]

1. Contributions and expenditures. A person, candidate, treasurer, political committee or political action committee may not knowingly make or accept any contribution or make any expenditure in violation of this chapter.
[1991, c. 839, §2 (amd); §34 (aff).]

2. False statements. A person, candidate, treasurer or political action committee may not make a false statement in a report required by this chapter.
[2003, c. 447, §36 (amd).]

3. Contributions in another's name. A person may not knowingly:

A. Make a contribution in the name of another person; [2003, c. 447, §37 (new).]

B. Permit the person's name to be used to accomplish a contribution in violation of paragraph A; or [2003, c. 447, §37 (new).]

C. Accept a contribution made by one person in the name of another person. [2003, c. 447, §37 (new).]
[2003, c. 447, §37 (rpr).]

4. Registration; political action committees. A political action committee required to be registered under section 1053 may not operate in this State unless it is so registered.
[2003, c. 447, §38 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §2,31 (AMD).
PL 1991, Ch. 839, §2 (AMD).
PL 1991, Ch. 839, §34 (AFF).
PL 2003, Ch. 447, §36-38 (AMD).

§1004-A. Penalties

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter. [2003, c. 628, Pt. A, §1 (new).]

1. Late campaign finance report. A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than $100.
[2003, c. 628, Pt. A, §1 (new).]

2. Contribution in excess of limitations. A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.
[2003, c. 628, Pt. A, §1 (new).]

3. Contribution in name of another person. A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed $5,000.
[2003, c. 628, Pt. A, §1 (new).]

4. Substantial misreporting. A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed $5,000.
[2003, c. 628, Pt. A, §1 (new).]

5. Material false statements. A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed $5,000.
[2005, c. 301, §6 (amd).]

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. [2003, c. 628, Pt. A, §1 (new).]

PL 2003, Ch. 628, §A1 (NEW).
PL 2005, Ch. 301, §6 (AMD).

Title 21-A, Chapter 13, CAMPAIGN REPORTS AND FINANCES

Subchapter 2: REPORTS ON CAMPAIGNS FOR OFFICE

§1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. [2001, c. 430, §8 (amd).]

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 and referenda as defined in Title 30-A, section 2502, subsection 2 are governed by this subchapter, with the following provisions: [1995, c. 483, §2 (new).]

1. Role of the municipal clerk; commission. For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. The commission retains the sole authority to prescribe the content of all reporting forms. [1995, c. 483, §2 (new).]

2. Exemptions. Exemptions for municipal candidates from the reporting requirements of this subchapter are governed by this subsection.

A. At the time a municipal candidate registers under section 1013-A, the candidate may notify the municipal clerk in writing that the candidate will not accept contributions, make expenditures or incur financial obligations associated with that person's candidacy. A candidate who provides this written notice is not required to appoint a treasurer or to meet the filing requirements of this section as long as the candidate complies with the commitment. [1995, c. 483, §2 (new).]

B. The notice provided to the municipal clerk in paragraph A may be revoked. A written revocation must be presented to the municipal clerk before the candidate may accept contributions, make expenditures or incur obligations associated with that person's candidacy. A candidate who has filed a notice with the municipal clerk under paragraph A and accepts contributions, makes expenditures or incurs obligations associated with that person's candidacy prior to filing a revocation may be assessed a penalty of $10 for each business day that the revocation is late, up to a maximum of $500. This penalty may be imposed in addition to the penalties assessed under other sections of this Title. [1995, c. 483, §2 (new).]

[1995, c. 483, §2 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1995, Ch. 483, §2 (AMD).
PL 2001, Ch. 430, §8 (AMD).

§1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (new).]

1. Clearly identified. "Clearly identified," with respect to a candidate, means that:

A. The name of the candidate appears; [1985, c. 161, §6 (new).]

B. A photograph or drawing of the candidate appears; or [1985, c. 161, §6 (new).]

C. The identity of the candidate is apparent by unambiguous reference. [1985, c. 161, §6 (new).]

[1985, c. 161, §6 (new).]

2. Contribution. The term "contribution:"

A. Includes:

(1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and

[1995, c. 483, §3 (amd).]

B. Does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed $100 with respect to any election;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed $100 with respect to any election;

(4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election;

(4-A) Any unreimbursed travel expenses incurred and paid for by the candidate or the candidate's spouse;

(5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

(7) Compensation paid by a political party to an employee of that party for the following purposes:

(a) Providing advice to any one candidate for a period of no more than 20 hours in any election;

(b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or

(c) Coordinating campaign events involving 3 or more candidates;

(8) Campaign training sessions provided to 3 or more candidates;

(8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;

(8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;

(8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;

(9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or

(10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

[2005, c. 301, §7 (amd).]

[2005, c. 301, §7 (amd).]

3. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

(4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

[2005, c. 575, §2 (amd).]

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate;

(1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;

(2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed $100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election;

(5-A) Any unreimbursed travel expenses incurred and paid for by the candidate or the candidate's spouse;

(6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;

(7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;

(9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

(10) Compensation paid by a political party to an employee of that party for the following purposes:

(a) Providing advice to any one candidate for a period of no more than 20 hours in any election;

(b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or

(c) Coordinating campaign events involving 3 or more candidates;

(10-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;

(11) Campaign training sessions provided to 3 or more candidates;

(11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes; or

(12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider.

[2005, c. 301, §8 (amd).]
[2005, c. 575, §2 (amd).]

4. Exploratory committee.
[1991, c. 839, §3 (rp); §34 (aff).]

5. Party candidate listing. "Party candidate listing" means any communication that meets the following criteria.

A. The communication lists the names of at least 3 candidates for election to public office. [2005, c. 301, §9 (new).]

B. The communication is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, and through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery. [2005, c. 301, §9 (new).]

C. The treatment of all candidates in the communication is substantially similar. [2005, c. 301, §9 (new).]

D. The content of the communication is limited to:

(1) The identification of each candidate, with which pictures may be used;

(2) The offices sought;

(3) The offices currently held by the candidates;

(4) The party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments or biographies;

(5) Encouragement to vote for the candidates identified; and

(6) Information about voting, such as voting hours and locations.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing. [2005, c. 301, §9 (new).]
[2005, c. 301, §9 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 160, §1 (AMD).
PL 1991, Ch. 839, §3 (AMD).
PL 1991, Ch. 839, §34 (AFF).
PL 1995, Ch. 483, §3 (AMD).
PL 1999, Ch. 432, §1,2 (AMD).
PL 2003, Ch. 615, §1 (AMD).
PL 2005, Ch. 301, §7-9 (AMD).
PL 2005, Ch. 575, §2 (AMD).

§1013. Treasurer; political committees (REPEALED)

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 160, §2,3 (AMD).
PL 1989, Ch. 504, §3,31 (RP).

§1013-A. Registration

1. Candidates, their treasurers and political committees. A candidate shall register the candidate's name and the name of a treasurer with the commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2, paragraph A shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register

the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

[RR 1995, c. 2, §35 (cor).]

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee and before accepting contributions, making expenditures or incurring obligations, a candidate for state, county or municipal office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the commission the following information regarding the political committee:

(1) The name of the committee;

(2) The name and address of the committee's treasurer;

(3) The name of the candidate who authorized the committee; and

(4) The names and addresses of the committee's officers.

[1995, c. 483, §4 (amd).]

C. No later than 10 days after becoming a candidate, as defined in section 1, subsection 5, a candidate for the office of State House of Representatives or Senate shall file in writing a statement declaring that the candidate agrees to accept voluntary limits on political expenditures or that the candidate does not agree to accept voluntary limits on political expenditures, as specified in section 1015, subsections 7 to 9, or that the candidate has filed a declaration of intent to become certified as a candidate under the Maine Clean Election Act.

The statement filed by a candidate who voluntarily agrees to limit spending must state that the candidate knows the voluntary expenditure limitations as set out in section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the candidate's political expenditures and those made on behalf of the candidate by the candidate's political committee or committees, the candidate's party and the candidate's immediate family to the amount set by law. The statement must further state that the candidate does not condone and will not solicit any independent expenditures made on behalf of the candidate.

The statement filed by a candidate who does not agree to voluntarily limit political expenditures must state that the candidate does not accept the voluntary expenditure limits as set out in section 1015, subsection 8.

The statement filed by a candidate who has filed a declaration of intent under the Maine Clean Election Act must state that the candidate will be bound by the expenditure limitations imposed by that Act. [1999, c. 729, §1 (amd).]

[1999, c. 729, §1 (amd).]

2. Authorized political committees.

[1991, c. 839, §5 (rp); §34 (aff).]

3. Party committees. The state, district and county committees of parties shall submit to the commission the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. Municipal committees must file copies of the same information with the commission and the municipal clerk. District, county and municipal committees that provide their state party committees with the information required by this subsection to be submitted to the commission have met that requirement. No later than the 2nd Monday in April of each year in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection, for the district, county and municipal committees of that party.

[1995, c. 483, §5 (amd).]

4. Reporting by registered treasurers. Any contribution accepted and any expenditure made or authorized by or on behalf of a candidate registered under this section or qualified under sections 335 and 336 or sections 354 and 355 must be recorded and reported as provided in sections 1016 and 1017.
[1991, c. 839, §6 (amd); §34 (aff).]

5. Changes in registration information. Every change in information required by this section to be reported to the commission shall be reported within 10 days of the date of the change.
[1989, c. 504, §§4, 31 (new).]

PL 1989, Ch. 504, §4,31 (NEW).
PL 1989, Ch. 833, §1 (AMD).
PL 1991, Ch. 839, §34 (AFF).
PL 1991, Ch. 839, §4-6 (AMD).
PL 1995, Ch. 384, §1 (AMD).
PL 1995, Ch. 483, §4,5 (AMD).
RR 1995, Ch. 2, §35 (COR).
PL 1999, Ch. 729, §1 (AMD).

§1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the commission. The candidate shall file a written statement of resignation of a treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify the accuracy of the treasurer's records to the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records. [1991, c. 839, §7 (new); §34 (aff).]

PL 1991, Ch. 839, §34 (AFF).
PL 1991, Ch. 839, §7 (NEW).

§1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section.
[2005, c. 301, §10 (amd).]

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."
[2003, c. 510, Pt. F, §1 (amd); c. 599, §15 (aff).]

2-A. Communication. If a communication that names or depicts a clearly identified candidate is disseminated during the 21 days before an election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate.

[2005, c. 301, §11 (new).]

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.
[1985, c. 161, §6 (new).]

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.
[1991, c. 839, §9 (new).]

3-B. Newspapers. A newspaper may not publish a communication described in subsection 1 or 2 without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.
[2005, c. 308, §1 (new).]

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than $200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil fine of no more than $100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than $5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.
[2005, c. 542, §1 (amd).]

5. Automated telephone calls. Automated telephone calls that name a clearly identified candidate must clearly state the name of the person who made or financed the expenditure for the communication, except for automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call.
[2005, c. 301, §12 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 188, §17 (AMD).
PL 1989, Ch. 504, §5,6,31 (AMD).
PL 1991, Ch. 466, §37 (AMD).
PL 1991, Ch. 839, §8-10 (AMD).
PL 1995, Ch. 483, §6 (AMD).
PL 2003, Ch. 302, §1 (AMD).
PL 2003, Ch. 510, §F1 (AMD).
PL 2003, Ch. 510, §F2 (AFF).
PL 2003, Ch. 599, §15 (AFF).
PL 2005, Ch. 301, §10-12 (AMD).
PL 2005, Ch. 308, §1 (AMD).
PL 2005, Ch. 542, §1 (AMD).

§1014-A. Endorsements of political candidates

1. Definition. For purposes of this section, "endorsement" means an expression of support for the election of a clearly identified candidate by methods including but not limited to the following: broadcasting stations, newspapers, magazines, outdoor advertising

facilities, direct mails or other similar types of general public political advertising or through computer networks, flyers, handbills, bumper stickers and other nonperiodical publications.
[1995, c. 43, §1 (new).]

2. Authorization. A candidate may not use an endorsement unless the endorser has expressly authorized its use. The communication must clearly and conspicuously state that the endorsement has been authorized. If applicable, the communication must also satisfy the requirements of section 1014.
[1995, c. 43, §1 (new).]

3. Civil forfeiture. A candidate who uses an endorsement without the authorization of the endorser violates this section and is subject to a civil forfeiture of no more than $200.
[1995, c. 43, §1 (new).]

4. Enforcement. The full amount of the forfeiture is due within 30 days of the commission's determination that an endorsement has been used without the endorser's authorization. The commission is authorized to use all necessary powers to collect the forfeiture. If the full amount of the forfeiture is not collected within the 30 days after the commission has determined that a violation of this section has occurred, the commission shall report to the Attorney General the name of the person who has failed to pay. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the forfeiture. This action must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.
[1995, c. 43, §1 (new).]

PL 1995, Ch. 43, §1 (NEW).

§1014-B. Push polling

1. Push poll defined. For purposes of this section, "push poll" means any paid telephone survey or series of telephone surveys that are similar in nature that reference a candidate or group of candidates other than in a basic preference question, and when:

A. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics; [2001, c. 416, §1 (new).]

B. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices; [2001, c. 416, §1 (new).]

C. The pollster or polling organization does not collect or tabulate survey results; [2001, c. 416, §1 (new).]

D. The survey prefaces a question regarding support for a candidate on the basis of an untrue statement; and [2001, c. 416, §1 (new).]

E. The survey is primarily for the purpose of suppressing or changing the voting position of the call recipient. [2001, c. 416, §1 (new).]

"Push poll" does not include any survey supporting a particular candidate that fails to reference another candidate or candidates other than in a basic preference question.
[2001, c. 416, §1 (new).]

2. Push polls; political telephone solicitations; requirements. Push polling must be conducted in accordance with this subsection.

A. A person may not authorize, commission, conduct or administer a push poll by telephone or telephonic device unless, during each call, the caller identifies the person or organization sponsoring or authorizing the call by stating "This is a paid political advertisement by (name of persons or organizations)," and identifies the organization making the call, if different from the sponsor, by stating "This call is conducted by (name of organization)." [2001, c. 416, §1 (new).]

B. If any person identified as either sponsoring or authorizing the call is not required to file any document with election officials pursuant to this Title, a valid, current, publicly listed telephone number and address for the person or organization must be disclosed during each call. [2001, c. 416, §1 (new).]

C. If any person sponsoring or authorizing the call is affiliated with a candidate, the candidate's name and the office sought by that candidate must be disclosed during each call. [2001, c. 416, §1 (new).]

D. If the call is an independent expenditure, as defined in section 1019-B, that a candidate has not approved the call must be disclosed during each call. [2003, c. 448, §1 (amd).]

It is not a violation of this subsection if the respondent voluntarily terminates the call or asks to be called back before the required disclosures are made, unless the respondent is in any way encouraged to do so by the person initiating the call.

A person may not state or imply false or fictitious names or telephone numbers when providing the disclosures required under this subsection.

All oral disclosures required by this subsection must be made in a clear and intelligible manner and must be repeated in that fashion upon request of the call respondent. Disclosures made by any telephonic device must offer respondents a procedure to have the disclosures repeated.

This subsection does not apply to a push poll or political telephone solicitation or contact if the individuals participating in the call know each other prior to the call.

A person who violates this subsection may be assessed a forfeiture of $500 by the commission.
[2003, c. 448, §1 (amd).]

3. Registered agents; requirements; registration. Persons conducting push polling shall register and comply with the requirements of this subsection.

A. A person who conducts a paid push poll or political telephone solicitation or contact, prior to conducting that poll, solicitation or contact, must have and continuously maintain for at least 180 days following the cessation of business activities in this State a designated agent for the purpose of service of process, notice or demand required or permitted by law, and shall file with the commission identification of that designated agent. Conducting business in this State includes both placing telephone calls from a location in this State and calls from other states or nations to individuals located within this State. The designated agent must be an individual resident of this State, a domestic corporation or a foreign corporation authorized to do business in this State. This paragraph does not apply to any entity already lawfully registered to conduct business in this State. [2001, c. 416, §1 (new).]

B. The commission shall create and maintain forms for the designation of agents required pursuant to paragraph A and require, at a minimum, the following information:

(1) The name, address and telephone number of the designated agent; and

(2) The name, address and telephone number of the person conducting business in this State.

[2001, c. 416, §1 (new).]

C. The person conducting push polling shall notify the commission of any changes in the designated agent and the information required by paragraph B. [2001, c. 416, §1 (new).]

D. A person who violates this subsection may be assessed a forfeiture of $500 by the commission. [2001, c. 416, §1 (new).]
[2001, c. 416, §1 (new).]

4. Permitted practices. This section does not prohibit legitimate election practices, including but not limited to:

A. Voter identification; [2001, c. 416, §1 (new).]

B. Voter facilitation activities; or [2001, c. 416, §1 (new).]

C. Generally accepted scientific polling research. [2001, c. 416, §1 (new).]
[2001, c. 416, §1 (new).]

PL 2001, Ch. 416, §1 (NEW).
PL 2003, Ch. 448, §1 (AMD).

§1015. Limitations on contributions and expenditures

1. Individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than $500 in any election for a gubernatorial candidate or more than $250 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse.
[1999, c. 729, §2 (amd).]

2. Committees; corporations; associations. A political committee, other committee, corporation or association may not make contributions to a candidate in support of the candidacy of one person aggregating more than $500 in any election for a gubernatorial candidate or more than $250 in any election for any other candidate.
[1999, c. 729, §2 (amd).]

3. Aggregate contributions. No individual may make contributions to candidates aggregating more than $25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or his spouse.
[1985, c. 161, §6 (new).]

4. Political committees; intermediaries. For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.
[1985, c. 161, §6 (new).]

5. Other contributions and expenditures. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.
[1989, c. 504, §§7, 31 (amd).]

6. Prohibited expenditures. A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.
[1991, c. 839, §11 (amd); §34 (aff).]

7. Voluntary limitations on political expenditures. A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.
[1995, c. 384, §2 (new).]

8. Political expenditure limitation amounts. Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, $25,000; [1999, c. 729, §3 (amd).]

B. For State Representative, $5,000; and [1999, c. 729, §3 (amd).]

C. For State Senator or State Representative as a candidate certified under the Maine Clean Election Act, to the extent authorized by that Act. [1999, c. 729, §3 (new).]

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.
[1999, c. 729, §3 (amd).]

9. Publication of list. The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.
[1995, c. 384, §2 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §7,31 (AMD).
PL 1991, Ch. 839, §11 (AMD).
PL 1991, Ch. 839, §34 (AFF).
IB 1995, Ch. 1, §11 (AMD).
PL 1995, Ch. 384, §2 (AMD).
PL 1999, Ch. 729, §2,3 (AMD).

§1015-A. Corporate contributions

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure activities are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee. [1991, c. 839, §12 (new).]

1. Single entities. Two or more entities are treated as a single entity if the entities:

A. Share the majority of members of their boards of directors; [1991, c. 839, §12 (new).]

B. Share 2 or more officers; [1991, c. 839, §12 (new).]

C. Are owned or controlled by the same majority shareholder or shareholders; or [1991, c. 839, §12 (new).]

D. Are in a parent-subsidiary relationship. [1991, c. 839, §12 (new).]
[1991, c. 839, §12 (new).]

PL 1991, Ch. 839, §12 (NEW).

§1016. Records

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer. [1991, c. 839, §13 (amd); §34 (aff).]

1. Segregated funds. All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee.
[1991, c. 839, §13 (amd); §34 (aff).]

2. Report of contributions and expenditures. A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of $10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received.
[1991, c. 839, §13 (amd); §34 (aff).]

3. Record keeping. A treasurer shall keep a detailed and exact account of:

A. All contributions made to or for the candidate or committee, including any contributions by the candidate; [1989, c. 504, §§10, 31, (amd).]

B. The name and address of every person making a contribution in excess of $10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than $50, the account must include the contributor's occupation and principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A; [1991, c. 839, §13 (amd).]

C. All expenditures made by or on behalf of the committee or candidate; and [1985, c. 161, §6 (new).]

D. The name and address of every person to whom any expenditure is made and the date and amount of the expenditure. [1985, c. 161, §6 (new).]

[1991, c. 839, §13 (amd).]

4. Receipts preservation. A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of $50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds $50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the commission or a court.

[1991, c. 839, §13 (amd); §34 (aff).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §8-10,31 (AMD).
PL 1989, Ch. 878, §A47,48 (AMD).
PL 1991, Ch. 839, §13 (AMD).
PL 1991, Ch. 839, §34 (AFF).

§1017. Reports by candidates

1. Federal candidates. The treasurer of the campaign committee of each candidate for federal office shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.

[1989, c. 504, §§11, 31 (amd).]

2. Gubernatorial candidates. A treasurer of a candidate for the office of Governor shall file reports with the commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of $1,000 or made or authorized expenditures in excess of $1,000, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report. [1991, c. 839, §14 (amd); §34 (aff).]

B. Reports must be filed no later than 5 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date. [1991, c. 839, §14 (amd); §34 (aff).]

C. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. [1991, c. 839, §14 (amd); §34 (aff).]

D. Contributions aggregating $1,000 or more from any one contributor or single expenditures of $1,000 or more, made after the 12th day before the election, and more than 24 hours before 5 p.m. on the day of the election, must be reported within 24 hours of those contributions or expenditures. [2005, c. 301, §13 (amd).]

E. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date. [1991, c. 839, §14 (amd); §34 (aff).]

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of $50 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a

candidate or political committee with a surplus or deficit in excess of $50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section. [1991, c. 839, §14 (amd); §34 (aff).]

G. Unless otherwise specified in this subsection, reports must be complete back to the completion date of the previous report. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election. [1991, c. 839, §14 (amd); §34 (aff).]

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election. [1991, c. 839, §14 (amd); §34 (aff).]

[2005, c. 301, §13 (amd).]

3. Other candidates.

[1989, c. 504, §§13, 31 (rp).]

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of $500 or made or authorized expenditures in excess of $500, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report. [1991, c. 839, §15 (amd); §34 (aff).]

B. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date. [1991, c. 839, §15 (amd); §34 (aff).]

C. Contributions aggregating $1,000 or more from any one contributor or single expenditures of $1,000 or more, made after the 12th day before any election and more than 24 hours before 5 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures. [2005, c. 301, §14 (amd).]

D. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date. [1991, c. 839, §15 (amd); §34 (aff).]

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of $50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of $50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section. [1991, c. 839, §15 (amd); §34 (aff).]

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election. [1991, c. 839, §15 (amd); §34 (aff).]

[2005, c. 301, §14 (amd).]

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating Maine Clean Election Act candidates pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, obligations and expenditures to date. [2001, c. 470, §6 (new).]

B. A nonparticipating candidate with a Maine Clean Election Act opponent shall file the following additional reports detailing the candidate's total campaign contributions, obligations and expenditures to date, unless that candidate signs an affidavit by the date the report is due, attesting that the candidate has not received, spent or obligated an amount sufficient to require a report under paragraph A:

(1) A report filed not later than 5 p.m. on the 42nd day before the date on which an election is held and complete as of the 44th day before that date;

(2) A report filed no later than 5 p.m. on the 21st day before the date on which an election is held and complete as of the 23rd day before that date; and

(3) A report filed no later than 5 p.m. on the 12th day before the date on which an election is held and complete as of the 14th day before that date.

[2001, c. 589, §1 (amd).]

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 5:00 p.m. on the date of that election:

(1) For a candidate for Governor, a single expenditure of $1,000;

(2) For a candidate for the state Senate, a single expenditure of $750; and

(3) For a candidate for the state House of Representatives, a single expenditure of $500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure. [2003, c. 628, Pt. B, §3 (amd).]

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.
[2003, c. 628, Pt. B, §3 (amd).]

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.
[1991, c. 839, §16 (amd).]

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of $50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. Total contributions with respect to an election of less than $500 and total expenditures of less than $500 need not be itemized. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993, the candidate and the treasurer are jointly responsible for the timely and accurate filing of each required report.
[1991, c. 839, §17 (amd).]

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction. [1987, c. 726, §2 (new).]

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of $50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate. [1991, c. 839, §18 (rpr); §34 (aff).]

[1991, c. 839, §18 (amd); §34 (aff).]

6. Forms. Reports required by this section not filed electronically must be on forms prescribed, prepared and sent by the commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Establishment of or amendments to the campaign report filing forms required by this section must be by rule. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms.

Rules of the commission establishing campaign report filing forms for candidates are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 301, §15 (amd).]

7. Reporting exemption.

[1991, c. 839, §20 (rp); §34 (aff).]

7-A. Reporting exemption. A candidate is exempt from reporting as provided by this subsection.

A. A candidate may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true. [1995, c. 483, §8 (new).]

B. The notice provided to the commission under paragraph A may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice must be in the form of an amended registration, which must be filed with the commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 4, up to a maximum of $5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest. [RR 1995, c. 2, §36 (cor).]

[RR 1995, c. 2, §36 (cor).]

8. Disposition of surplus. A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 may dispose of a surplus exceeding $50 by:

A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed; [2005, c. 301, §16 (amd).]

B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party; [1991, c. 839, §21 (amd); §34 (aff).]

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality; [2005, c. 542, §2 (amd).]

D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election; [1989, c. 504, §§17, 31 (new).]

D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election; [1989, c. 833, §7 (new).]

E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015; [1991, c. 839, §21 (amd); §34 (aff).]

F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate; [1995, c. 193, §1 (amd).]

G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and [1995, c. 193, §2 (amd).]

H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift. [1995, c. 193, §3 (new).]

The choice must be made by the candidate for whose benefit the contributions were made and distribution of the entire surplus by one or more of the methods prescribed in this subsection must be completed within 4 years of the election for which the contributions were received.
[2005, c. 542, §2 (amd).]

9. Campaign termination report forms. The commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign termination report with the commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in section 1017, subsection 8. Campaign reporting is as follows.

A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year. [1991, c. 839, §22 (new).]

B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year. [1991, c. 839, §22 (new).]

C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated. [1991, c. 839, §22 (new).]

D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the commission pursuant to section 1013-A. [1991, c. 839, §22 (new).]
[1991, c. 839, §22 (new).]

10. Electronic filing. Beginning January 1, 2006, the treasurer of a candidate or committee that has receipts or expects to have receipts of more than $1,500 shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a candidate or committee submits a written request that states that the candidate or committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by April 15th of the election year. The commission shall grant all reasonable requests for exceptions.
[2005, c. 301, §17 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1985, Ch. 383, §14 (AMD).
PL 1985, Ch. 566, §1,2 (AMD).
PL 1987, Ch. 726, §1,2 (AMD).
PL 1989, Ch. 166, §10 (AMD).
PL 1989, Ch. 504, §11-17,31 (AMD).
PL 1989, Ch. 833, §2-7,21 (AMD).

PL 1989, Ch. 878, §A49,50 (AMD).
PL 1991, Ch. 839, §14-22 (AMD).
PL 1991, Ch. 839, §34 (AFF).
IB 1995, Ch. 1, §12 (AMD).
PL 1995, Ch. 193, §1-3 (AMD).
PL 1995, Ch. 483, §7,8 (AMD).
RR 1995, Ch. 2, §36 (COR).
PL 1999, Ch. 157, §1 (AMD).
PL 1999, Ch. 729, §4 (AMD).
PL 2001, Ch. 470, §6 (AMD).
PL 2001, Ch. 589, §1,2 (AMD).
RR 2001, Ch. 1, §25 (COR).
PL 2003, Ch. 628, §B1-3 (AMD).
PL 2005, Ch. 301, §13-17 (AMD).
PL 2005, Ch. 542, §2 (AMD).

§1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than $200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of $200 or less must be reported, and these contributions may be reported as a lump sum. [1993, c. 680, Pt. C, §2 (amd).]

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

A. The name and address of each candidate and the identity and address of a campaign or committee; [1991, c. 839, §23 (new); §33 (aff).]

B. The office sought by a candidate and the district that the candidate seeks to represent; and [1991, c. 839, §23 (new); §33 (aff).]

C. The date and amount of each expenditure. [1993, c. 715, §1 (amd).]
[1993, c. 715, §1 (amd).]

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item. The party committee shall report:

A. The name and address of each recipient; [1993, c. 715, §2 (new).]

B. The reason for the expenditure; and [1993, c. 715, §2 (new).]

C. The date and amount of each expenditure. [1993, c. 715, §2 (new).]
[1993, c. 715, §2 (amd).]

4. Filing schedule.
[2003, c. 302, §2 (rp).]

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule.

A. Quarterly reports must be filed:

(1) On January 15th and must be complete up to January 5th;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to July 5th; and

(4) On October 10th and must be complete up to September 30th.

[2003, c. 302, §3 (new).]

B. General and primary election reports must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.
[2003, c. 302, §3 (new).]

E. A state party committee shall report any expenditure of $500 or more, made after the 12th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure. [2005, c. 301, §18 (amd).]
[2005, c. 301, §18 (amd).]

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission on:

(1) July 15th and be complete as of June 30th;

(2) October 27th and be complete as of October 22nd; and

(3) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

B. Reports filed during a nonelection year must be filed on:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

C. Any contribution or expenditure of $1,000 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure. [2005, c. 301, §19 (amd).]
[2005, c. 301, §19 (amd).]

4-C. Electronic filing. Beginning January 1, 2006, state party committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions.
[2005, c. 301, §20 (new).]

5. Penalties. A party committee is subject to the penalties in section 1020-A, subsection 4-A.
[RR 2003, c. 1, §13 (cor).]

6. Notice; forms. A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

[1991, c. 839, §23 (new); §33 (aff).]

7. Exemption. Any party committee receiving and expending less than $1,500 in one calendar year is exempt from the reporting requirements of this section for that year.
[1991, c. 839, §23 (new); §33 (aff).]

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.
[1995, c. 483, §10 (new).]

PL 1991, Ch. 839, §23 (NEW).
PL 1991, Ch. 839, §33 (AFF).
PL 1993, Ch. 228, §1 (AMD).
PL 1993, Ch. 680, §C2 (AMD).
PL 1993, Ch. 715, §1,2 (AMD).
PL 1995, Ch. 228, §1 (AMD).
PL 1995, Ch. 483, §9,10 (AMD).
RR 1995, Ch. 2, §37 (COR).
PL 2003, Ch. 302, §2,3 (AMD).
PL 2003, Ch. 628, §A2,B4 (AMD).
RR 2003, Ch. 1, §13 (COR).
PL 2005, Ch. 301, §18-20 (AMD).

§1018. Reports by party committees

1. State committee; federal reports. The state committee of each party shall file with the commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.
[1985, c. 161, §6 (new).]

2. Party committee.
[IB 1995, c. 1, §13 (rp).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §18,31 (AMD).
PL 1989, Ch. 833, §8,21 (AMD).
IB 1995, Ch. 1, §13 (AMD).
PL 1995, Ch. 483, §11 (AMD).

§1018-B. Recounts of elections

1. Reporting. Candidates who are involved in a recount of an election shall file a report 90 days after the election containing itemized accounts of cash, goods and services received for the recount and payments made by the candidate for the recount. The reports must be made on forms prepared and sent by the commission. Persons donating services to the candidate are required to provide the candidate with an estimate of the value of the services donated. Political action committees and party committees making expenditures for a candidate's recount shall identify on their regularly filed reports that the expenditures were made for the purposes of a recount.
[2005, c. 301, §21 (new).]

2. Limitations. Candidates may receive donations without limitation for purposes of a recount from party committees and caucus campaign committees and from attorneys, consultants and their firms that are donating their services without reimbursement. Candidates may not spend revenues received under chapter 14 for recount expenditures.
[2005, c. 301, §21 (new).]

PL 2005, Ch. 301, §21 (NEW).

§1019. Reports of independent expenditures (REPEALED)

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §19,31 (AMD).
PL 1989, Ch. 833, §9,10,21 (AMD).
IB 1995, Ch. 1, §14 (RPR).
PL 1995, Ch. 483, §12,13 (AMD).
PL 2001, Ch. 465, §1 (AMD).
PL 2003, Ch. 448, §2 (RP).

§1019-A. Reports of membership communications

Any membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate shall report any expenses related to such communications aggregating in excess of $50 in any one candidate's election race, notwithstanding the fact that such communications are not expenditures under section 1012, subsection 3, paragraph A. Reports required by this section must be filed with the commission on forms prescribed and prepared by the commission and according to a reporting schedule that the commission shall establish by rule. [2001, c. 465, §2 (new).]

PL 2001, Ch. 465, §2 (NEW).

§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and [2003, c. 448, §3 (new).]

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 21 days, including election day, before a general election; or during a special election until and on election day. [2003, c. 448, §3 (new).]
[2003, c. 448, §3 (new).]

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate. [2003, c. 448, §3 (new).]

3. Report required; content; rules. A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of $100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 448, §3 (new).]

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of $100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate. [2003, c. 448, §3 (new).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. [2003, c. 448, §3 (new).]

[2003, c. 448, §3 (new).]

PL 2003, Ch. 448, §3 (NEW).

§1020. Failure to file on time (REPEALED)

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §20,31 (RPR).
PL 1989, Ch. 833, §11,21 (AMD).
PL 1991, Ch. 839, §24,25 (AMD).
PL 1995, Ch. 228, §2 (AMD).
PL 1995, Ch. 483, §14 (RP).

§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.
[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

5. Maximum penalties.
[2001, c. 470, §8 (amd); T. 21-A, §1020-A, sub-§5 (rp).]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2003, c. 448, §4 (amd).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (amd).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (amd).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (amd).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than $5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]
[2003, c. 628, Pt. A, §4 (amd).]

6. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.
[RR 1995, c. 2, §38 (cor).]

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4-A and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.
[RR 2003, c. 1, §14 (cor).]

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. If a candidate fails to file a report after 3 written communications from the commission, the commission shall send up to 2 more written communications by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the communications required by this subsection is guilty of a Class E crime.

[2003, c. 628, Pt. A, §5 (rpr).]

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[2003, c. 628, Pt. A, §6 (new).]

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[1995, c. 483, §15 (new).]

10. Enforcement. The commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

[1999, c. 426, §33 (amd).]

MRSA , §T.21A SEC.1020A/4,5 (AMD).
IB 1995, Ch. 1, §15 (AMD).
PL 1995, Ch. 483, §15 (NEW).
PL 1995, Ch. 625, §B5 (AMD).
RR 1995, Ch. 1, §10 (COR).
RR 1995, Ch. 2, §38 (COR).
PL 1999, Ch. 426, §32,33 (AMD).
PL 1999, Ch. 729, §5 (AMD).
PL 2001, Ch. 470, §11 (AFF).
PL 2001, Ch. 470, §7,8 (AMD).
PL 2001, Ch. 714, §PP1 (AMD).
PL 2001, Ch. 714, §PP2 (AFF).
PL 2003, Ch. 302, §4 (AMD).
PL 2003, Ch. 448, §4 (AMD).
PL 2003, Ch. 628, §A3-6 (AMD).
RR 2003, Ch. 1, §14 (COR).

Title 21-A, Chapter 13, CAMPAIGN REPORTS AND FINANCES

Subchapter 3: REPORTS ON REFERENDUM CAMPAIGNS

§1031. Application (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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§1032. Definitions (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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§1033. Committee (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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§1034. Publication or distribution of statements (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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§1035. Records (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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§1036. Reports (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 383,  §15 (AMD).
PL 1985, Ch. 614,  §24 (RP ).
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§1037. Failure to file report on time (REPEALED)

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PL 1985, Ch. 161,  §6 (NEW).
PL 1985, Ch. 614,  §24 (RP ).
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Title 21-A, Chapter 13, CAMPAIGN REPORTS AND FINANCES

Subchapter 4: REPORTS BY POLITICAL ACTION COMMITTEES

§1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of $50 in any one calendar year for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter. [1995, c. 483, §16 (amd).]

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine." [1987, c. 280 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 280, § (AMD).
PL 1989, Ch. 833, §12 (AMD).
PL 1991, Ch. 839, §26 (AMD).
PL 1991, Ch. 839, §33 (AFF).
PL 1995, Ch. 483, §16 (AMD).

§1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (new).]

1. Campaign. "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17; [1985, c. 161, §6 (new).]

B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18; [1985, c. 161, §6 (new).]

C. An amendment to the Constitution of Maine under Article X, Section 4; [1985, c. 161, §6 (new).]

D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19; [1989, c. 504, §§21, 31 (amd).]

E. The ratification of the issue of bonds by the State or any agency thereof; and [1989, c. 504, §§21, 31 (amd).]

F. Any county or municipal referendum. [1995, c. 483, §17 (amd).]
[1995, c. 483, §17 (amd).]

2. Committee. "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political committee.
[1985, c. 161, §6 (new).]

3. Contribution. "Contribution" includes:

A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included; [1985, c. 161, §6 (new).]

B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee; [1985, c. 161, §6 (new).]

C. Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a direct initiative, in this State; or [2005, c. 575, §3 (amd).]

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State. [1985, c. 161, §6 (new).]

[2005, c. 575, §3 (amd).]

4. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

[2005, c. 575, §4 (amd).]

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;

(2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed $100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

[2005, c. 301, §22 (amd).]

[2005, c. 575, §4 (amd).]

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than $1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

[2005, c. 575, §5 (amd).]

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 1, paragraph B; or

(3) A party committee under section 1013-A, subsection 3.

[RR 2005, c. 2, §14 (cor).]

[RR 2005, c. 2, §14 (cor).]

PL 1985, Ch. 161, §6 (NEW).
PL 1985, Ch. 614, §23 (AMD).
PL 1989, Ch. 504, §21-23,31 (AMD).
PL 1989, Ch. 833, §13,21 (AMD).
PL 1991, Ch. 839, §27 (AMD).
PL 1991, Ch. 839, §33 (AFF).
PL 1995, Ch. 483, §17 (AMD).
PL 1997, Ch. 683, §A12 (AMD).
PL 1999, Ch. 729, §6 (AMD).
PL 2005, Ch. 301, §22 (AMD).
PL 2005, Ch. 575, §3-5 (AMD).

§1053. Registration

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of $1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter: [2005, c. 575, §6 (amd).]

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers and the identity of any candidates, Legislators or other individuals who are the primary fund-raisers and decision makers for the committee;
[2005, c. 301, §23 (amd).]

2. Status. A statement whether the political action committee is a continuing one;
[1985, c. 161, §6 (new).]

3. Depository of funds. The names and addresses of the depositories in which funds of the committee are kept and the account numbers of each depository account;
[1985, c. 161, §6 (new).]

4. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified;
[1985, c. 161, §6 (new).]

5. Assets. The total assets of the committee available to influence elections in this State at the time of registration to be itemized and to include deposits in financial institutions, real property, personal property, investments, cash and any other form of wealth available to the committee;
[1985, c. 161, §6 (new).]

6. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the commission as soon as the committee knows this information; and
[1985, c. 161, §6 (new).]

7. Contributions to committee. The names and mailing addresses of contributors who donate in excess of $50 each year to the committee with amount or value of each contribution at the time of registration. Any person who makes contributions on an installment basis, the total of which exceeds $50 in the calendar year, is considered a contributor to be identified under this subsection. [1985, c. 161, §6 (new).]

Every change in information required by this section must be included in an amended registration form submitted to the commission within 10 days of the date of the change. The committee must file an updated registration form every 2 years between January 1st and March 1st of an election year. [2005, c. 301, §24 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §24,25,31 (AMD).
PL 1989, Ch. 833, §14 (AMD).
PL 1995, Ch. 167, §1 (AMD).
PL 1999, Ch. 729, §7 (AMD).
PL 2005, Ch. 301, §23,24 (AMD).
PL 2005, Ch. 575, §6 (AMD).

§1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before making any expenditure, as defined in this chapter. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State. [1985, c. 161, §6 (new).]

PL 1985, Ch. 161, §6 (NEW).

§1055. Publication or distribution of statements

When a political action committee makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, the communication must clearly and conspicuously state the name and address of the political action committee that authorized, made or financed the expenditure for the communication and that the communication has been authorized by the political action committee. [2001, c. 430, §9 (amd).]

A person operating a broadcasting station within this State may not broadcast any such communication without an oral or visual announcement of the name and address of the political action committee that made or financed the expenditure for the communication. [2003, c. 615, §2 (amd).]

A newspaper may not publish a communication described in this section without including the disclosure required by this section. For purposes of this paragraph, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure. [2005, c. 308, §2 (new).]

An expenditure, communication or broadcast that results in a violation of this section may result in a civil penalty of no more than $200. Enforcement and collection procedures must be in accordance with section 1062-A. [2001, c. 430, §9 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §26,31 (AMD).
PL 1993, Ch. 352, §5 (AMD).
PL 1995, Ch. 483, §18 (AMD).
PL 1997, Ch. 436, §119 (AMD).
PL 2001, Ch. 430, §9 (AMD).
PL 2003, Ch. 615, §2 (AMD).
PL 2005, Ch. 308, §2 (AMD).

§1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations. [1985, c. 161, §6 (new).]

1. Aggregate expenditures. A committee may not make contributions in support of the candidacy of one person aggregating more than $500 in any election for a gubernatorial candidate, or $250 in any election for any other candidate.
[2001, c. 430, §10 (amd).]

2. Prohibited expenditures. No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.
[1985, c. 161, §6 (new).]

PL 1985, Ch. 161, §6 (NEW).
IB 1995, Ch. 1, §16 (AMD).
PL 2001, Ch. 430, §10 (AMD).

§1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee. [1993, c. 715, §3 (new).]

PL 1993, Ch. 715, §3 (NEW).

§1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. [1999, c. 729, §8 (new).]

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.
[1999, c. 729, §8 (new).]

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than $500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question.
[1999, c. 729, §8 (new).]

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.
[1999, c. 729, §8 (new).]

PL 1999, Ch. 729, §8 (NEW).

§1057. Records

Any political action committee that makes expenditures which aggregate in excess of $50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.
[1985, c. 161, §6 (new).]

1. Details of records. The treasurer of a political action committee must record a detailed account of:

A. All expenditures made to or in behalf of a candidate, campaign or committee; [1985, c. 161, §6 (new).]

B. The identity and address of each candidate, campaign or committee; [1985, c. 161, §6 (new).]

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and [1985, c. 161, §6 (new).]

D. The date of each expenditure. [1985, c. 161, §6 (new).]
[1985, c. 161, §6 (new).]

2. Receipts. The treasurer of a political action committee must retain all receipts of expenditures made for a candidate, committee or campaign in this State. Receipts may be in the form of cancelled checks.
[1985, c. 161, §6 (new).]

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed $50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed $50, the record must include the aggregate amount of all contributions from that donor.
[1989, c. 504, §§27, 31 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §27,31 (AMD).

§1058. Reports; qualifications for filing

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of $50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality. [2005, c. 575, §7 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 833, §15 (AMD).
PL 1991, Ch. 839, §28 (AMD).
PL 1993, Ch. 715, §4 (AMD).
PL 1995, Ch. 483, §19 (AMD).
PL 1997, Ch. 567, §1 (AMD).
PL 2005, Ch. 575, §7 (AMD).

§1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed no later than 5 p.m. on the filing deadline. [1989, c. 504, §§28, 31 (rpr).]

1. Contents; quarterly reports and election year reports. The reports required under subsection 2, paragraphs A, B and C, must contain the following:

A. Itemized expenditures required by the commission to closely monitor the activities of political action committees; [1989, c. 504, §§28, 31 (rpr).]

B. Aggregate expenditures, listed by candidate or political committee, for the reporting period for which the report is filed; [1989, c. 504, §§28, 31 (rpr); c. 833, §16 (amd).]

B-1. Cumulative expenditures, listed by candidate or political committee, aggregating the expenditures made during preceding reporting periods in the same calendar year and during the reporting period for which the report is filed; [1989, c. 833, §17 (new).]

C. The total cumulative balance from all preceding reporting periods; and [1989, c. 504, §§28, 31 (rpr); c. 833, §18 (rpr).]

D. In the report required to be filed under subsection 2, paragraph B, subparagraph 2, a summary of all expenditures made during the calendar year in which the election was held. [1989, c. 833, §19 (new).]

The commission may accept computer printout sheets that contain the information required by this chapter.

[1989, c. 504, §§28, 31 (rpr); c. 833, §§16-19 (amd).]

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports shall be filed:

(1) On January 15th and must be complete as of January 5th;

(2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

[1989, c. 504, §§28, 31 (new).]

B. General and primary election reports shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

[1989, c. 504, §§28, 31 (new).]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments shall be filed:

(1) On the 6th day before the date on which the election is held and must be complete as of the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

[1989, c. 504, §§28, 31 (new).]

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [1991, c. 839, §29 (rpr).]

E. A committee shall report any expenditure of $500 or more, made after the 12th day before the election and more than 24 hours before 5 p.m. on the day of the election, within 24 hours of that expenditure. [2005, c. 301, §25 (amd).]

[2005, c. 301, §25 (amd).]

3. Report of expenditures made after the 11th day and more than 48 hours before any election.

[1989, c. 504, §§28, 31 (rp).]

4. Special election reports.

[1989, c. 504, §§28, 31 (rp).]

5. Electronic filing. Beginning January 1, 2006, committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted no later than March 1, 2006 or within 30 days of the registration of the committee, whichever is later. The commission shall grant all reasonable requests for exceptions.

[2005, c. 301, §26 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 7, §06 (AMD).
PL 1989, Ch. 504, §28,31 (RPR).
PL 1989, Ch. 833, §16-20 (AMD).
PL 1991, Ch. 839, §29 (AMD).
PL 2003, Ch. 628, §B5 (AMD).
PL 2005, Ch. 301, §25,26 (AMD).

§1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of political action committees: [1985, c. 161, §6 (new).]

1. Identification of candidates. The names and mailing addresses of any candidate whom the committee supports, intends to support or seeks to defeat. The report must indicate the office that the candidate is seeking, the political party represented by the candidate, if any, the date of the contest and whether the contest is an election or a primary;
[1985, c. 161, §6 (new).]

2. Identification of committees; parties. The names and mailing addresses of any political committee or political party supported in any way by the registrant;
[1985, c. 161, §6 (new).]

3. Identification of referendum or initiated petition. The referendum or initiated petition which the committee supports or opposes and the names and mailing addresses of the organizations to which expenditures were made;
[1985, c. 161, §6 (new).]

4. Itemized expenditures. An itemization of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including the date, payee and purpose of the expenditure and the address of the payee. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;
[2005, c. 575, §8 (amd).]

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, referendum or initiated petition;
[1991, c. 839, §30 (amd).]

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than $50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. The information already reported as required by section 1053, subsection 7 should not be duplicated; and
[2003, c. 615, §4 (amd).]

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.
[1991, c. 839, §31 (new); §33 (aff).]

PL 1985, Ch. 161, §6 (NEW).
PL 1991, Ch. 839, §30,31 (AMD).
PL 1991, Ch. 839, §33 (AFF).
PL 2003, Ch. 615, §3,4 (AMD).
PL 2005, Ch. 301, §27 (AMD).
PL 2005, Ch. 575, §8 (AMD).

§1061. Dissolution of committees

Whenever any political action committee disbands or determines that obligations will no longer be incurred and no expenditures will be made to any candidate, political committee or political party, or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, election or primary, and the committee has no outstanding obligations, the committee shall file a termination report with the Commission on Governmental Ethics and Election Practices. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter. [1993, c. 695, §36 (amd).]

PL 1985, Ch. 161, §6 (NEW).
PL 1993, Ch. 695, §36 (AMD).

§1062. Failure to file on time (REPEALED)

PL 1985, Ch. 161, §6 (NEW).
PL 1989, Ch. 504, §29,31 (RPR).
PL 1991, Ch. 839, §32 (AMD).
PL 1995, Ch. 228, §3 (AMD).
PL 1995, Ch. 483, §20 (RP).

§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of $250. [1995, c. 483, §21 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (amd).]

B. An error by the commission staff; or [1999, c. 729, §9 (amd).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §9 (new).]

[2003, c. 628, Pt. A, §7 (amd).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (new).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (new).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (new).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. [1995, c. 483, §21 (new).]

4. Maximum penalties. The maximum penalties under this subchapter are $10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and $5,000 for reports required under section 1059, subsection 2, paragraph A. [1995, c. 483, §21 (new).]

5. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to the principal officer and treasurer of the political action committee whose report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 3 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. A request for determination must be made within 10 calendar days

of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.
[1995, c. 483, §21 (new).]

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If no determination is requested, the commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.
[1999, c. 426, §34 (amd).]

7. List of late-filing committees. The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1), section 1059, subsection 2, paragraph C or D or section 1059, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.
[1995, c. 483, §21 (new).]

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.
[2003, c. 628, Pt. A, §8 (amd).]

8-A. Penalties for failure to file report. The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph B, C or E is $10,000. The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph A is $5,000.
[2003, c. 628, Pt. A, §9 (new).]

9. Enforcement. The commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after issuing the notice of penalty, the commission shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.
[1999, c. 426, §34 (amd).]

PL 1995, Ch. 483, §21 (NEW).
PL 1999, Ch. 426, §34 (AMD).
PL 1999, Ch. 729, §9 (AMD).
PL 2003, Ch. 628, §A7-9 (AMD).

§1063. Constitutional officers and State Auditor

The Secretary of State, the Treasurer of State, the Attorney General, the State Auditor, or any individual running for these offices, may not form a political action committee or be involved in decision making for or solicit contributions to a political action committee.
[1995, c. 167, §2 (new).]

PL 1995, Ch. 167, §2 (NEW).

Title 21-A, Chapter 13, CAMPAIGN REPORTS AND FINANCES

Subchapter 5: MAINE CODE OF FAIR CAMPAIGN PRACTICES (HEADING: PL 1989, c. 802, §1 (new))

§1101. Maine Code of Fair Campaign Practices

1. Distribution to candidates. At the time a candidate for the office of Governor, the Senate or the House of Representatives registers with the commission as required under section 1013-A, the commission shall give the candidate a form containing a copy of the Maine Code of Fair Campaign Practices established in this subchapter. The commission shall, at that time, inform the candidate that subscription to the code is voluntary. For the purposes of this subchapter, "code" means the Maine Code of Fair Campaign Practices. [1989, c. 802, Â§1 (new).]

2. The code form. The code, printed on the form provided to candidates under subsection 1, must read as follows:

"Maine Code of Fair Campaign Practices

I shall conduct my campaign and, to the extent reasonably possible, insist that my supporters conduct themselves, in a manner consistent with the best Maine and American traditions, discussing the issues and presenting my record and policies with sincerity and candor.

I shall uphold the right of every qualified voter to free and equal participation in the election process.

I shall not participate in and I shall condemn defamation of and other attacks on any opposing candidate or party that I do not believe to be truthful, provable and relevant to my campaign.

I shall not use or authorize and I shall condemn material relating to my campaign that falsifies, misrepresents or distorts the facts, including, but not limited to, malicious or unfounded accusations creating or exploiting doubts as to the morality, patriotism or motivations of any party or candidate.

I shall not appeal to and I shall condemn appeals to prejudices based on race, creed, sex or national origin.

I shall not practice and I shall condemn practices that tend to corrupt or undermine the system of free election or that hamper or prevent the free expression of the will of the voters.

I shall promptly and publicly repudiate the support of any individual or group that resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this code.

I, the undersigned, candidate for election to public office in the State of Maine, hereby voluntarily endorse, subscribe to and solemnly pledge to conduct my campaign in accordance with the above principles and practices.

_____

Candidate for Public Office"

[1989, c. 802, Â§1 (new).]

PL 1989, Ch. 802, §1 (NEW).

§1102. Printing of code forms

The commission shall print, or cause to be printed, copies of the code for distribution to registered candidates. [1989, c. 802, §1 (new).]

PL 1989, Ch. 802, §1 (NEW).

§1103. Acceptance of completed forms

The commission shall accept, at all times prior to the election, completed code forms that are properly subscribed to by a candidate. [1989, c. 802, §1 (new).]

PL 1989, Ch. 802, §1 (NEW).

§1104. Public records

The commission shall retain for public inspection all completed code forms accepted by the commission under section 1103. A code subscribed to by a candidate is a public record under Title 1, section 408. [1989, c. 802, §1 (new).]

PL 1989, Ch. 802, §1 (NEW).

§1105. Subscription to code voluntary

In no event may a candidate be required to subscribe to or endorse the code. [1989, c. 802, §1 (new).]

PL 1989, Ch. 802, §1 (NEW).

Title 22, §680, Radiation user fees

§680. Radiation user fees

1. Facilities. The registration fee for a facility for:

A. Fiscal year 1997-98 is $100,000; and [1997, c. 686, §10 (new).]

B. Fiscal year 1998-99 is $25,000. [1997, c. 686, §10 (new).]
[1997, c. 686, §10 (rpr).]

2. Radiation protection services. The department shall prescribe and collect such fees as may be established by regulation for radiation protection services provided under this Act. Services for which fees may be established include, but are not limited to:

A. Registration of radiation generating equipment and other sources of radiation; [1983, c. 345, §§13, 14 (new).]

B. Issuance, amendment and renewal of licenses for radioactive materials; [1983, c. 345, §§13, 14 (new).]

C. Inspections of registrants or licensees; [1987, c. 882, §4 (amd).]

D. Environmental surveillance activities to assess the radiological impact of activities conducted by licensees; and [1987, c. 882, §4 (amd).]

E. Off-site monitoring network activities of licensed nuclear power production facilities conducted pursuant to section 674, subsection 4, paragraph M. [1987, c. 882, §5 (new).]
[1987, c. 882, §§4, 5 (amd).]

3. Fees. In determining rates of these fees, the department shall, as an objective, obtain sufficient funds therefrom to reimburse the State for the direct and indirect costs of the radiation protection services specified in subsection 2. The department shall take into account any special arrangements between the State and a registrant, licensee, another state or a federal agency whereby the cost of the service is otherwise partially or fully recovered.
[1983, c. 345, §§13, 14 (new).]

4. Report. The department shall report annually, before January 31st, to the joint standing committee of the Legislature having jurisdiction over natural resources on the fee schedule established and the justification for those fees.
[1983, c. 345, §§13, 14 (new).]

5. Exemptions. The department may, upon application by an interested person, or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.
[1991, c. 824, Pt. B, §6 (amd).]

6. Penalties. When a registrant or licensee fails to pay the applicable fee, the department may take action in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.
[1983, c. 345, §§13, 14 (new).]

7. Permanent fund. All fees shall be paid to the Treasurer of State to be maintained in a permanent fund and used to carry out the purposes of this chapter and chapter 159-A.

[1987, c. 519, §7 (rpr).]

PL 1983, Ch. 345, §13,14 (NEW).
PL 1985, Ch. 40, §1 (AMD).
PL 1987, Ch. 519, §7 (AMD).
PL 1987, Ch. 882, §3-5 (AMD).
PL 1991, Ch. 496, §4 (AMD).
PL 1991, Ch. 824, §B6 (AMD).
PL 1993, Ch. 664, §11 (AMD).
PL 1997, Ch. 395, §F2 (AMD).
PL 1997, Ch. 686, §10 (AMD).

Title 22, §2076, Authority to intercept federal and state aid

§2076. Authority to intercept federal and state aid

1. Treasurer to withhold funds. When the authority notifies the Treasurer of State in writing that an entity eligible to use the authority is in default as to the payment of principal or interest on any securities of that entity sold through or by the authority, or that the authority has reasonable grounds to predict that the entity will not be able to make a full payment when that payment is due, the Treasurer of State shall withhold any funds in the Treasurer of State's custody that are due or payable to the eligible entity until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or the authority notifies the Treasurer of State that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subsection include, but are not limited to, federal and state grants, contracts, allocations or appropriations.
[1991, c. 584, §7 (new).]

2. Withheld funds to be made available to authority. If the authority further notifies the Treasurer of State in writing that no other arrangements are satisfactory, the Treasurer of State shall deposit in the General Fund and make available to the authority any funds withheld from the eligible entity under this section. The authority shall apply the funds to the costs incurred by the eligible entity, including payments required to be made to the authority or trustee for any bondholders of debt service on any debt issued by the authority for the eligible entity or required by the terms of any other law or contract to be paid to the holders or owners of debt issued on behalf of the eligible entity upon failure or default, or reasonable expectation of failure or default, of the eligible institution to pay the principal or interest on its securities when due.
[1991, c. 584, §7 (new).]

3. Other agencies to be notified. Concurrent with any notice from the authority to the Treasurer of State under this section, the authority shall notify any other agency, department or authority of State Government that exercises regulatory, supervisory or statutory control over the operations of the eligible entity. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the eligible entity of the money due or steps that the agencies of the State other than the Treasurer of State or the authority should take to assure the continued prudent operation of the eligible entity or provision of services to the people served by the eligible entity.
[1991, c. 584, §7 (new).]

PL 1991, Ch. 584, §7 (NEW).

Title 22, Chapter 413, HEALTH FACILITIES AUTHORITY

Chapter 413: HEALTH FACILITIES AUTHORITY

§2051. Title

This chapter shall be known as, and may be cited as, the "Maine Health and Higher Educational Facilities Authority Act." [1979, c. 680, § 1 (amd).]

PL 1971, Ch. 303, §1 (NEW).
PL 1979, Ch. 680, §1 (AMD).

§2052. Declaration of necessity

It is declared that for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions, it is essential that health care facilities within the State be provided with appropriate additional means to expand, enlarge and establish health care facilities and other related facilities; that this and future generations of students be given the fullest opportunity to learn and to develop their intellectual capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable health care facilities and institutions for higher education in the State to provide the facilities and structures needed to accomplish the purposes of this chapter, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared the exercise of an essential governmental function. [1993, c. 390, §1 (amd).]

PL 1971, Ch. 303, §1 (NEW).
PL 1973, Ch. 713, §1 (AMD).
PL 1979, Ch. 680, §2 (AMD).
PL 1991, Ch. 50, §1-5 (AMD).
PL 1993, Ch. 390, §1 (AMD).

§2053. Definitions

As used in this chapter, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent. [1971, c. 303, §1 (new).]

1. Authority. "Authority" means the Maine Health and Higher Educational Facilities Authority created and established as a public body corporate and politic of the State of Maine by section 2054 or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this chapter shall be given by law. [1979, c. 680, §3 (amd).]

2. Bonds and notes. "Bonds" and "notes" mean bonds and notes of the authority issued under this chapter, including refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of the authority or the full faith and credit of a participating health care facility or of a participating institution for higher education, or any other lawfully pledged security of a participating health care facility or of a participating institution for higher education. [1993, c. 390, §2 (amd).]

2-A. Community health or social service facility. "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health or mental retardation services, substance abuse services or family counseling and domestic abuse intervention services, and is licensed by the State.
[1995, c. 179, §1 (rpr).]

2-B. Community health center. "Community health center" means an incorporated nonprofit health facility that provides comprehensive primary health care to citizens in a community.
[1993, c. 390, §4 (new).]

2-C. Congregate housing facility.
[1995, c. 670, Pt. C, §1 (rp); Pt. D, §5 (aff).]

3. Cost. "Cost" as applied to a project or any portion thereof financed under this chapter shall mean the cost of construction, building, acquisition, equipping, alteration, enlargement, reconstruction and remodeling of a project and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interest acquired, necessary, used for or useful for or in connection with a project and all other undertakings which the authority deems reasonable or necessary for the development of a project, including but not limited to the cost of demolishing or removing any building or structures on land so acquired, the cost of acquiring any lands to which such building or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to and during construction, and if judged advisable by the authority, for a period after completion of such construction, the cost of financing the project, including interest on bonds and notes issued by the authority to finance the project; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions and improvements; cost of architectural, engineering, financial, legal or other special services, plans, specifications, studies, surveys, estimates of cost and revenues; administrative and operating expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses necessary or incident to the construction and acquisition of the project, the financing of such construction, and acquisition and the placing of the project in operation.
[1971, c. 303, §1 (new).]

3-A. Health care facility. "Health care facility" means a nursing home that is, or will be upon completion, licensed under chapter 405; a residential care facility that is, or will be upon completion, licensed under chapter 1663; a continuing care retirement community that is, or will be upon completion, licensed under Title 24-A, chapter 73; an assisted living facility that is, or will be upon completion, licensed under chapter 1664; a hospital; a community mental health facility; a scene response air ambulance licensed under Title 32, chapter 2-B and the rules adopted thereunder; or a community health center.
[2005, c. 407, §1 (amd).]

3-B. Eligible entity. "Eligible entity" means a facility or institution eligible to participate in financing or other borrowing services authorized by this chapter and includes a participating community health or social service facility, a participating health care facility or a participating institution for higher education.
[1997, c. 385, §1 (new).]

4. Hospital. "Hospital" means any private, nonprofit or charitable institution or organization which is either:

A. Engaged in the operation of, or formed for the purpose of operating, a hospital which is, or will be upon completion, licensed as a hospital under the laws of the State; or [1983, c. 199, §1 (new).]

B. Whose sole members are 2 or more institutions or organizations which are licensed as hospitals or nursing homes under the laws of the State. [1983, c. 199, §1 (new).]
[1983, c. 199, §1 (rpr).]

4-A. Nursing home.
[1991, c. 584, §2 (rp).]

4-B. Institution for higher education. "Institution for higher education" means:

A. Any private, nonprofit, governmental or charitable institution or organization engaged in the operation of, or formed for the purpose of operating, an educational institution within this State, including the Maine Community College System and the University of Maine System, that, by virtue of law or charter, is an educational institution empowered to provide a program of education beyond the high school level; and [2003, c. 20, Pt. OO, §2 (amd); §4 (aff); Pt. DDD, §1 (amd).]

B. The Maine School of Science and Mathematics, as established in Title 20-A, chapter 312. To repay any necessary outstanding construction bonds, the adjusted tuition and insured value factor amount defined in Title 20-A, section 5805, subsection 3, may be increased as specified in that definition. The adjustment may be used solely to repay bonds from the authority and expires when the bond is retired. [1993, c. 706, Pt. A, §5 (new).]

[2003, c. 20, Pt. OO, §2 (amd); §4 (aff); Pt. DDD, §1 (amd).]

4-C. Participating community mental health facility.

[1993, c. 390, §6 (rp).]

4-D. Participating community health or social service facility. "Participating community health or social service facility" means a community health or social service facility that is exempt from taxation under section 501 of the United States Internal Revenue Code and that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and committed by this chapter.

[1995, c. 179, §2 (new).]

5. Participating health care facility. "Participating health care facility" means a health care or licensed assisted living facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.

[1995, c. 670, Pt. C, §3 (amd); Pt. D, §5 (aff).]

5-A. Participating institution for higher education. "Participating institution for higher education" means an institution for higher education which, pursuant to this chapter, shall undertake the financing and construction or acquisition of a project or shall undertake the refunding or refinancing of obligations or of a mortgage or of advances as provided in and permitted by this chapter.

[1979, c. 680, §5 (new).]

6. Project. "Project" means:

A. In the case of a participating health care facility or a participating community health or social service facility, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, a structure designed for use as a health care facility, community health or social service facility, congregate housing facility, laboratory, laundry, nurses or interns residence or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for treatment in the health care facility, community health or social service facility, doctors office building, administration building, research facility, maintenance, storage or utility facility or other structures or facilities related to any of the foregoing or required or useful for the operation of the project, or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of the health care facility or community health or social service facility. "Project" also includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, parking lots, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground that are used or usable in connection with the structures mentioned in this paragraph, and includes landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as food, fuel, supplies or other items that are customarily considered as a current operating charge. In the case of a hospital, as defined in subsection 4, paragraph B, a community health center or a community health or social service facility, "project" does not include any facilities, structures or appurtenances, the use of which is not directly related to the provision of patient care by its members; and [1995, c. 179, §3 (amd).]

B. In the case of a participating institution for higher education, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, any structure designed for use as a dormitory or other housing facility, dining facility, student union, academic building, administrative facility, library, classroom building, research facility, faculty facility, office facility, athletic facility, health care facility, laboratory, maintenance, storage or utility facility or other building or structure essential, necessary or useful for instruction in a program of education provided by an institution for higher education, or any multi-purpose structure designed to combine 2 or more of the functions performed by the types of structures enumerated in this paragraph. "Project" includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, machinery and equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with any of the structures mentioned in this paragraph, and also includes landscaping, site preparation, furniture, machinery, equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as books, fuel, supplies or other items which are customarily considered as a current operating charge. [1979, c. 680, §6 (new).]

[1995, c. 179, §3 (amd).]

7. **Refinancing of existing indebtedness.** "Refinancing of existing indebtedness" means liquidation, with the proceeds of bonds or notes issued by the authority, of an indebtedness of a health care facility or institution for higher education incurred to finance or aid in financing a lawful purpose of that health care facility or institution for higher education not financed pursuant to this chapter that would constitute a project had it been undertaken and financed by the authority, or consolidation of such indebtedness with indebtedness of the authority incurred for a project related to the purpose for which the indebtedness of the health care facility or institution for higher education was incurred.

[1993, c. 390, §9 (amd).]

PL 1971, Ch. 303, §1 (NEW).
PL 1973, Ch. 713, §2-5 (AMD).
PL 1979, Ch. 680, §3-7 (AMD).
PL 1983, Ch. 199, §1,2 (AMD).
PL 1991, Ch. 584, §1-3 (AMD).
RR 1991, Ch. 2, §78 (COR).
PL 1993, Ch. 390, §2-9 (AMD).
PL 1993, Ch. 661, §1 (AMD).
PL 1993, Ch. 706, §A5 (AMD).
PL 1995, Ch. 179, §1-3 (AMD).
PL 1995, Ch. 362, §1,2 (AMD).
PL 1995, Ch. 452, §1 (AMD).
PL 1995, Ch. 670, §C1-3 (AMD).
PL 1995, Ch. 670, §D5 (AFF).
PL 1997, Ch. 385, §1 (AMD).
PL 2001, Ch. 590, §4 (AMD).
PL 2001, Ch. 596, §B25 (AFF).
PL 2001, Ch. 596, §B7 (AMD).
PL 2003, Ch. 20, §OO2,DDD1 (AMD).
PL 2003, Ch. 20, §OO4 (AFF).
PL 2005, Ch. 407, §1 (AMD).

§2054. Health Facilities Authority; executive director

1. **Authority.** The Maine Health and Higher Educational Facilities Authority, established by Title 5, chapter 379, is constituted a public body corporate and politic and an instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter is deemed and held to be the performance of an essential public function. The authority consists of 12 members, one of whom must be the Superintendent of Financial Institutions, ex officio; one of whom must be the Commissioner of Health and Human Services, ex officio; one of whom must be the Commissioner of Education, ex officio; one of whom must be the Treasurer of State, ex officio; and 8 of whom must be residents of the State appointed by the Governor. Not more than 4 of the appointed members may be members of the same political party. Three of the appointed members must be trustees, directors, officers or employees of health care facilities and one of these appointed members must be a person having a favorable reputation for skill, knowledge and experience in state and municipal finance, either as a partner, officer or employee of an investment banking firm that originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio. Of the 3 members first appointed who are trustees, directors, officers or employees of hospitals, one shall serve for 2 years, one for 3 years and one for 4 years. Of the 5 remaining members initially appointed, one shall serve for one year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. For the 2 members whose terms expire in 1980 and 1981, the Governor shall appoint as successors, for terms of 5 years each, persons who are trustees, members of a corporation or board of governors, officers or employees of institutions for higher education. Annually, the Governor shall appoint, for a term of 5 years, a successor to the member whose term expires. Members shall continue in office until their successors have been appointed and qualified. The Governor shall fill any vacancy for the unexpired terms. A member of the authority is eligible for reappointment. Any non-ex officio member of the authority may be removed by the Governor, after hearing, for misfeasance, malfeasance or willful neglect of duty. Each member of the authority before entering upon the member's duties must take and subscribe the oath or affirmation required by the Constitution of Maine, Article IX. A record of each such oath must be filed in the office of the Secretary of State. The Superintendent of Financial Institutions, the Treasurer of State, the Commissioner of Health and Human Services

and the Commissioner of Education may designate their deputies to represent them with full authority and power to act and vote in their behalf or, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, any member of their staffs to represent them as members at meetings of the authority with full power to act and, in the case of the Superintendent of Financial Institutions, the Commissioner of Health and Human Services and the Commissioner of Education, to vote in their behalf.
[1993, c. 390, §10 (amd); 2001, c. 44, §11 (amd); §14 (aff); 2003, c. 689, Pt. B, §7 (rev).]

2. Chairman, vice-chairman; executive director. The authority shall annually elect one of its members as chairman and one as vice-chairman, and shall also appoint an executive director who shall not be a member of the authority and who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.
[1971, c. 303, §1 (new).]

3. Duties of executive director. The executive director shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority and of the minute book or journal of the authority and of its official seal. He may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.
[1971, c. 303, §1 (new).]

4. Powers of authority. The powers of the authority shall be vested in the members thereof in office from time to time and 5 members of the authority shall constitute a quorum at any meeting of the authority. No vacancy in the membership of the authority shall impair the right of such members to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under this chapter may be authorized by resolution approved by a majority of the members present at any regular or special meeting, which resolution shall take effect immediately or by a resolution circularized or sent to each member of the authority, which shall take effect at such time as a majority of the members shall have signed an assent to such resolution. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.
[1971, c. 303, §1 (new).]

5. Bond. Each member of the authority shall execute a surety bond in the penal sum of $50,000 and the executive director shall execute a surety bond in the penal sum of $100,000, or, in lieu thereof, the chairman of the authority shall execute a blanket position bond covering each member, the executive director and the employees of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. The cost of each bond shall be paid by the authority.
[1971, c. 303, §1 (new).]

6. Expenses. The members of the authority shall be compensated according to the provisions of Title 5, chapter 379.
[1983, c. 812, §125 (rpr).]

7. Conflict of interest. Notwithstanding any other law to the contrary, it does not constitute a conflict of interest for a trustee, director, officer or employee of a health care facility or for a trustee, member of a corporation or board of governors, officer or employee of an institution for higher education to serve as a member of the authority, if such trustee, director, member of a corporation or board of governors, officer or employee abstains from deliberation, action and vote by the authority under this chapter in specific respect to the health care facility or institution for higher education of which such member is a trustee, director, member of a corporation or board of governors, officer or employee.
[1993, c. 390, §11 (amd).]

PL 1971, Ch. 303, §1 (NEW).
PL 1973, Ch. 585, §11 (AMD).
PL 1973, Ch. 713, §6 (AMD).
PL 1973, Ch. 788, §84 (AMD).
PL 1975, Ch. 771, §217 (AMD).
PL 1979, Ch. 533, §11-13 (AMD).
PL 1979, Ch. 680, §8,9 (AMD).
PL 1983, Ch. 812, §124,125 (AMD).
PL 1987, Ch. 403, §4 (AMD).

Title 26, §61, Safety Education and Training Fund

§61. Safety Education and Training Fund

1. Fund established. To accomplish the objectives outlined in section 42-A, there is established in the State Treasury a special fund, known as the Safety Education and Training Fund. The safety fund shall be administered by the commissioner. The department shall have authority over the safety fund and may do all things necessary or convenient in the administration of the safety fund and shall formulate and adopt rules, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, governing its administration and maintenance, and perform all other functions which the laws of this State specifically authorize or which are necessary or appropriate. All money and securities in the safety fund shall be held in trust by the Treasurer of State for the purpose of funding the safety education and training program under section 42-A and shall not be money or property for the general use of the State. The fund shall not lapse. The Treasurer of State shall notify the commissioner and the Legislature of interest credited and the balance of the safety fund as of June 30th of each year.
[1985, c. 372, Pt. A, §7 (new).]

1-A. Bureau of Insurance report. On or before July 1st of each year, the Bureau of Insurance shall provide to the commissioner the amounts of actual losses, excluding medical payments, paid by each workers' compensation individual self-insurer and workers' compensation group self-insurer during the previous calendar year.
[1997, c. 126, §6 (new).]

2. Source of funds. The commissioner or the commissioner's designee shall annually assess a levy based on actual annual workers' compensation paid losses, excluding medical payments, paid in the most recent calendar year for which data is available by employers under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992. As soon as practicable after July 1st of each year, the commissioner or the commissioner's designee shall assess upon and collect from each insurance carrier licensed to do workers' compensation business in the State, and each group and individual self-insured employer authorized to make workers' compensation payments directly to their employees, a sum equal to that proportion of the current fiscal year's appropriation, exclusive of any federal funds, for the safety education and training program that the total workers' compensation benefits, exclusive of medical payments, paid by each licensed carrier or each group or individual self-insured employer, bear to the total of the benefits paid by all licensed carriers, and group and individual self-insured employers during the most recent calendar year for which data is available, except that the total amount levied annually may not exceed 1% of the total of the compensation benefits paid by all licensed carriers, and group and individual self-insured employers during the most recent calendar year for which data is available. A licensed carrier or group or individual self-insured must be assessed based on all benefits paid, exclusive of medical payments, during any year for which the carrier was licensed or the group or individual self-insured employer was authorized to make workers' compensation payments directly to their employers for any portion of the year.
[1999, c. 57, Pt. B, §5 (amd).]

3. Notice of assessments. The Commissioner of Labor or the commissioner's designee shall send notice of the assessments by certified mail to each licensed carrier and each group or individual self-insured employer. Payment of assessments must be received in an office of the Department of Labor designated by the commissioner before a date specified in the notice, but not more than 90 days after the date of the mailing. The department may, through the rules governing this section, assess penalties for late payment. Such penalties may not exceed 6% per year.
[1993, c. 52, §2 (amd).]

4. Assessments constitute element of loss. The levy assessment constitutes an element of loss for the purpose of establishing rates for workers' compensation insurance. Funds derived from this levy must be deposited in the safety fund and must be appropriated by the Legislature for the operation of this program.

[1993, c. 52, §2 (amd).]

5. Violations. Any insurance company, group self-insured association or self-insured employer subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than $500 may be adjudged for each day payment is not made following the due date.

[1993, c. 52, §3 (new).]

PL 1985, Ch. 372, §A7 (NEW).
PL 1985, Ch. 819, §C5 (AMD).
PL 1987, Ch. 559, §B8 (AMD).
PL 1987, Ch. 660, §2 (AMD).
PL 1991, Ch. 885, §E34 (AMD).
PL 1991, Ch. 885, §E47 (AFF).
PL 1993, Ch. 52, §1-3 (AMD).
PL 1997, Ch. 126, §6 (AMD).
PL 1999, Ch. 57, §B5 (AMD).

Title 26, §1411-F, Receipt and disbursement of funds

§1411-F. Receipt and disbursement of funds

The Treasurer of State is the appropriate officer of the State to receive and administer federal grants for rehabilitation programs, as contemplated by the Federal Rehabilitation Act and acts amendatory and additional to the Federal Rehabilitation Act, and the State Controller shall authorize expenditures as approved by the department. [1995, c. 560, Pt. F, §13 (new).]

PL 1995, Ch. 560, §F13 (NEW).

Title 27, §38, Compliance with federal law

§38. Compliance with federal law

The State Librarian, with the approval of the Governor, may make any regulations necessary to enable the State to comply with any law of the United States, heretofore or hereafter enacted, intended to promote public library services. The Maine State Library is the sole agency authorized to develop, submit and administer or supervise the administration of any state plan required under such law. The Treasurer of State shall be custodian of any money that may be allotted by the Federal Government for general public library services. [1989, c. 700, Pt. A, §108 (amd).]

PL 1975, Ch. 771, §291 (AMD).
PL 1981, Ch. 464, §28 (AMD).
PL 1989, Ch. 700, §A108 (AMD).

§2221-A. Forfeiture of liquor and property used in illegal manufacture, transportation and sale of liquor

1. Property forfeited. The following property shall be subject to forfeiture to the State and all property rights in the property shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, transporting or selling liquor in violation of this Title; and [1987, c. 342, §128 (new).]

B. All conveyances, including aircraft, watercraft, vehicles and vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacturing, transporting or selling of liquor in violation of this Title. [1987, c. 342, §128 (new).]

[1987, c. 342, §128 (new).]

2. Jurisdiction. Property subject to forfeiture under subsection 1, paragraph A, shall be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this chapter. [1987, c. 342, §128 (new).]

3. Exceptions. The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph B, except as follows.

A. No conveyance used by any person as a for-hire carrier in the transaction of business as a for-hire carrier shall be forfeited unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this Title. [1987, c. 342, §128 (new).]

B. No conveyance shall be forfeited by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was illegally in the possession of a person other than the owner in violation of the criminal laws of the United States, the State or of any State. [1987, c. 342, §128 (new).]

C. No conveyance shall be subject to forfeiture unless the owner knew or should have known that the conveyance was used in and for the illegal manufacturing, transporting or selling of liquor in violation of this Title. [1987, c. 342, §128 (new).]

[1987, c. 342, §128 (new).]

4. Forfeiture procedure. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of property subject to forfeiture under subsection 1, paragraph B. The petition must be filed in the court having jurisdiction over the property. [1987, c. 342, §128 (new).]

B. The proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence. The owner of the property, or other person claiming under the owner, shall have the burden of proving all the exceptions set forth in subsection 3 by a preponderance of the evidence. [1987, c. 342, §128 (new).]

C. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the property and to any other person who appears to have an interest in the property. [1987, c. 342, §128 (new).]

D. The court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [1987, c. 342, §128 (new).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order shall provide for disposition of the property by the State or any subdivision of the State in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, sale at public auction or by competitive bidding.

(1) The proceeds of any sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and to pay any bona fide mortgage on the property. The balance, if any, shall be deposited in the State Treasury, or the treasury of the county or municipality making the seizure.

[1987, c. 342, §128 (new).]

[1987, c. 342, §128 (new).]

5. Records. Any officer, department or agency having custody or property subject to forfeiture under subsection 1, or having disposed of the property, shall keep and maintain full and complete records concerning the property.

A. The records must show:

(1) From whom it received the property;

(2) Under what authority it held, received or disposed of the property;

(3) To whom it delivered the property;

(4) The date and manner of destruction or disposition of the property; and

(5) The exact kinds, quantities and forms of the property.

[1987, c. 342, §128 (new).]

B. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state liquor laws. [1987, c. 342, §128 (new).]

C. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition. [1987, c. 342, §128 (new).]

D. The Department of Public Safety is responsible for maintaining a centralized record of property seized, held by an order to the department. At least quarterly, the department shall provide a report of the disposition of property previously held by the department and ordered by the court to any governmental entity to the Commissioner of Administrative and Financial Services and the Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [1997, c. 373, §161 (amd).]

[1997, c. 373, §161 (amd).]

6. Preliminary order. At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law. [1987, c. 342, §128 (new).]

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

(1) The seizure is incident to:

(a) An arrest with probable cause;

(b) A search under a valid search warrant; or

(c) An inspection under a valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;

(3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title.

[1987, c. 342, §128 (new).]

[1987, c. 342, §128 (new).]

PL 1987, Ch. 342, §128 (NEW).
PL 1997, Ch. 373, §161 (AMD).

Chapter 201: HOUSING AUTHORITY (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

Subchapter 1: GENERAL PROVISIONS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

§4701. Title

This chapter shall be known and may be cited as the "Maine Housing Authorities Act." [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§4702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

1. Area of operation. "Area of operation" of a housing authority includes all of the municipality for which it is created and, except as provided in paragraphs A and B, the area within 10 miles outside its territorial boundaries. The "area of operation" of the Maine State Housing Authority is the entire State.

A. No authority may operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating in that area. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. The area of operation of the housing authority of a city does not include any area which lies within the territorial boundaries of any other city nor does it include any portion of a town for which a housing authority has been organized, without the consent by resolution of the legislative body of the other city or the selectmen of the town. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. The Maine State Housing Authority may not operate in any area in which a municipal authority already established under this chapter is operating without the consent by resolution of that authority.

(1) In the case of the Maine State Housing Authority, the requirements of coordination and local approval specified in sections 4741, subsection 10 and 4771 may be complied with by the local municipal legislative body's passage of the following resolution:

"The Maine State Housing Authority is authorized to seek and may contract for financial assistance from the Federal Government for the purpose of providing housing for low-income persons and families in (Name of Municipality)."

Passage of this resolution is conclusive evidence of compliance with sections 4741, subsection 10, and 4771. The local municipal legislative body may repeal the resolution, provided that:

(a) Any contract for federal assistance entered into between the Maine State Housing Authority and any person in or with respect to the municipality in question after the original resolution is passed and before it is repealed is not affected by the repeal; and

(b) The security of the authority's mortgage interest or the obligation or repayment of debt to bondholders is not affected by the repeal.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D.The authority shall meet and discuss with the local municipal legislative body concerning permissible and preferred developers, housing management entities and sites in anticipation of a preliminary designation of a proposed project. When the authority has received a proposed project for consideration, it shall so notify the municipality in question. When the authority has made a preliminary designation of a proposed project, it shall so notify the municipality within 30 days. If the municipal legislative body disapproves of the preliminary designation, it shall notify the authority of its disapproval within 45 days after the authority's notice of selection. The notice of disapproval has the effect of repealing the consent resolution for that proposed project.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]
[1999, c. 104, Â§1 (amd).]

2. Authority or housing authority. "Authority" or "housing authority" means any of the public corporations created or authorized to be created by this chapter.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

3. Bonds. "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an authority under this chapter.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

4. Construction loan. "Construction loan" means a loan:

A. For the purpose of developing, constructing, reconstructing or rehabilitating a housing unit or housing project; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. Which is secured in the same manner as a mortgage loan is secured. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

5. Conventional mortgage. "Conventional mortgage" means an interest-bearing obligation secured by a mortgage and note which are a first lien on land and improvements constituting one-family to 4-family housing units, which obligations are not insured or guaranteed in any manner, in part or in full, by the Federal Government, or by this State or any instrumentality of the State.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

6. Elderly. "Elderly" means a person or family as defined in the United States Housing Act of 1937, Public Law 412, 50 Stat 888, as amended.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

7. Financial institution. "Financial institution" means any bank or trust company, savings bank, savings and loan association, industrial bank, national banking association, federal savings and loan association, mortgage banker, credit union or other such institution authorized to do business in the State, or a government agency which customarily provides service or otherwise aids in the financing of mortgage loans.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

8. Home improvement note. "Home improvement note" means an interest bearing obligation, secured in whole or in part by a mortgage, insurance or otherwise as may be agreed upon by the Maine State Housing Authority from time to time, made to improve or rehabilitate single-family or multi-unit residential housing in the State, including, without limitation, the replacement, removal or rehabilitation of malfunctioning waste water treatment systems.
[1989, c. 6 (amd); c. 9, Â§2 (amd); c. 48, Â§Â§1, 31 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

9. Manufactured housing. "Manufactured housing" has the same meaning as found in Title 10, section 9002, subsection 7.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

10. Mortgage loan. "Mortgage loan" or "mortgage" means:

A. An interest-bearing obligation secured by a mortgage constituting a lien on single-family or multi-unit residential housing, including any mortgage loan made for the purpose of acquiring, developing, constructing or reconstructing single-family or multi-unit residential housing; [1991, c. 574, Â§1 (amd).]

B. An interest-bearing obligation which is fully insured under the Housing Mortgage Insurance Law, if the single-family or multi-unit residential housing is located on either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. A home improvement note; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. An interest-bearing obligation secured by an interest in manufactured housing; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

E. An interest-bearing obligation secured by a mortgage, pledge or collateral assignment of a lease of real property or a lease of air rights, provided that:

(1) The security includes a first lien upon the lease; and

(2) Except for mortgage loans secured by manufactured housing located on leased real property or air rights, the real property or air rights are not subject to any prior lien;

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

F. A participation interest in a mortgage loan; or [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

G. An interest-bearing obligation secured by a pledge or collateral assignment of a tenant-shareholder's interest in a consumer cooperative organized for housing purposes under Title 13, chapter 85. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

This definition does not preclude the requirement of security in addition to that specified in this subsection for any mortgage loan.
[1991, c. 574, Â§1 (amd).]

11. Obligee of the authority or obligee. "Obligee of the authority" or "obligee" includes:

A. Any bondholder, agents or trustees for any bondholders; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. Any lessor demising to the authority property used in connection with a project, or any assignee or assignees of the lessor's interest or any part of that interest; or [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. The Federal Government when it is a party to any contract with the authority. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

12. Persons of low income. "Persons of low income" means persons or families, elderly or otherwise, who lack the income which is necessary, as determined by a housing authority, to enable them, without financial assistance, to live in or purchase decent, safe and sanitary dwellings, without overcrowding. Financial assistance includes, but is not limited to, the following kinds of assistance:

A. Mortgage insurance; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. Interest subsidies; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. Rent subsidies; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. Public assistance payment or services; or [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

E. Any other assistance that may be provided by the Maine State Housing Authority through the sale of bonds. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

13. Privately insured mortgage. "Privately insured mortgage" means an interest-bearing obligation secured by a mortgage and note which are a first lien on land and improvements constituting one-family to 4-family units, which obligations are insured or guaranteed by a private mortgage insurer which is an "authorized insurer," as defined in Title 24-A, section 8, and qualified to provide insurance on mortgages purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

14. Project or housing project. "Project", "housing project" or "single-family or multi-unit residential housing" means any work or undertaking:

A. To demolish, clear or remove buildings from any slum area; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. To provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. A project may include dwellings, apartments or accommodations occupied by persons other than persons of low income, provided that in the opinion of the responsible authority, a reasonable number of the dwellings, apartments or accommodations in the project are reserved for occupancy by persons of low income. The work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances including private commercial activity subject to the restriction in subparagraph (1), streets, sewers, water service, utilities, parks, site preparation, landscaping, administrative, community, health, recreational, welfare or other purposes;

(1) The work or undertaking may include private commercial activity compatible with residential use as determined by an authority, provided that development costs related to that activity do not exceed 40% of the amount of debt financing provided by an authority; or

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. To accomplish a combination of the work or undertaking under paragraphs A and B. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

The terms "project" or "housing project" may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection with these activities. The term includes all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

15. Selectmen. "Selectmen" means the board of selectmen of the town or, if the town has no selectmen, the officers charged with the duties customarily imposed on the board of selectmen of a town.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

16. State public body. "State public body" means any city, town, district or other political subdivision of the State.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 48, §1,31 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1991, Ch. 574, §1 (AMD).
PL 1999, Ch. 104, §1 (AMD).

§4703. Declaration of necessity

1. Housing conditions. It is declared that:

A. There exists in urban and rural areas in the State unsuitable, unsafe and overcrowded dwelling accommodations; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. In these urban and rural areas within the State, there is a shortage of suitable dwelling accommodations available at rents, prices or financing terms which many residents of the State can afford and that the shortage forces some residents of the State to occupy unsuitable, unsafe and overcrowded dwelling accommodations; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. These conditions, and the existence of areas in need of revitalization and redevelopment, impair economic values and tax revenues; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. These conditions contribute to the poor health of the residents of these areas, cause an increase in and spread of crime and constitute a menace to the health, safety and welfare of the residents of the State; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

E. These conditions require excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

F. These areas in the State cannot be cleared, nor can the shortage of suitable dwellings available at affordable rents, prices or financing terms be relieved solely through the operation of private enterprise, and that the construction, rehabilitation or improvement of dwelling accommodations would therefore not be competitive with private enterprise; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

G. The construction, rehabilitation or improvement of dwelling accommodations would make housing available for veterans who are unable to provide themselves with decent housing on the basis of the benefits made available to them through certain government guarantees of loans to veterans for the purchase of residential property; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

H. The clearance, planning and preparation for rebuilding of these areas, the prevention or the reduction of the underutilization and abandonment of established commercial areas and existing dwelling accommodations within the State, and the providing of affordable, safe and suitable dwelling accommodations for residents of the State are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

I. Residential construction activity is closely correlated with general economic activity and that the undertakings authorized by this chapter to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction which will assist materially in achieving and maintaining full employment; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

J. Federal programs to assist housing have repeatedly changed and, in the early 1980's, the Federal Government substantially reduced its housing programs and other forms of housing assistance; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

K. By providing housing assistance to persons other than persons of low income, provision of housing assistance to persons of low income will be facilitated; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

L. It is in the public interest that advance preparations for these activities and for facilitating mortgage lending on affordable terms be made now, and that the necessity in the public interest for the provisions enacted is declared as a matter of legislative determination. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

2. Intent. It is further declared that:

A. There are serious problems relating to the occupants of existing substandard housing in the State in both urban and rural areas and much of the existing housing in the State is in immediate need of major repair or replacement; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. This chapter is intended to encourage all existing local, state and federal agencies, public and private agencies, to recognize the needs for rehabilitation and new housing and to adopt such action and practices as to promote a concerted effort to upgrade housing conditions and standards within the State; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. This chapter is intended to relieve those conditions which now exist and it is the policy of the State to assist in planning, coordinating and carrying out all existing programs that will encourage further participation by private investment, private enterprise and individual effort. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

3. Shortage of funds. It is further declared that:

A. In private banking channels there have been recurrent, cyclical shortages of funds available for loans to finance dwelling accommodations; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. These shortages have been exacerbated more recently by changes in the business of financial institutions, by the high cost of funds needed for loans for dwelling accommodations and by the related lack of liquidity of existing and new loans for dwelling accommodations; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. These shortages have contributed to the reduction of construction of new dwelling accommodations and have hampered the rehabilitation, improvement and purchase and sale of existing dwelling accommodations; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. These shortages can be expected to recur from time to time in varying degrees of severity with the adverse consequences described in this section; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

E. The powers and duties set forth in this chapter are to be carried out to assist in redressing these shortages. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

4. Objectives. It is further declared that it is the policy of the State to assist its residents in securing equal opportunity for the full enjoyment of the following objectives:

A. To reside in or purchase housing which is decent, safe, independently selected, designed and located with reference to their particular needs and available at costs which they can afford; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. To have available to them a wide range of privately planned, constructed and operated housing; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. To have available to them such additional publicly planned, constructed and operated housing as is needed to achieve the purposes of paragraph A; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. To have available from financial institutions, in addition to their usually loanable resources for home construction, mortgages and notes, additional resources and assistance as may be provided by the Maine State Housing Authority; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

E. To have available information and educational programs, and to conduct demonstrations of housing programs and techniques. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§4704. Planning, zoning and building laws

All projects of an authority are subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the area in which the project is located. In the planning and location of any project, an authority shall conform to any larger or long-range program for the development of the area in which the project is located. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§4704-A. Water conservation devices

Notwithstanding section 4704, the purchase and installation of any faucet, shower head, toilet or urinal in a residential building funded by the authority is subject to Title 5, section 1762-A. [1991, c. 246, §11 (new).]

PL 1991, Ch. 246, §11 (NEW).

§4705. Exemption of property from execution sale

All real property of an authority is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the authority's real property nor may any judgment against an authority be a charge or lien upon its real property. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

1. Exceptions. This section does not apply to or limit:

A. The right of obligees to foreclose or otherwise enforce any mortgage or other security of an authority; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. The right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues; or [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. The right of the Federal Government to pursue any remedies conferred upon it under this chapter. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§4706. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing; [1993, c. 175, Â§1 (amd).]

B. Any written or recorded financial statement, as determined by an authority, of an individual submitted to an authority or a member, officer, employee or agent of an authority, in connection with an application for a mortgage or mortgage insurance; [1993, c. 175, Â§1 (amd).]

C. Any information acquired by the Maine State Housing Authority or a state public body, private corporation, copartnership, association, fuel vendor, private contractor or individual, or an employee, officer or agent of any of those persons or entities, providing services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority, when that information was provided by the applicant for those services or by a 3rd person; and [1993, c. 175, Â§2 (new).]

D. Any statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph C in connection with an application for services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority. [1993, c. 175, Â§2 (new).]

[1993, c. 175, Â§Â§1, 2 (amd).]

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority may knowingly divulge or disclose information declared confidential by this section, except that:

A. An authority may make such full and complete reports concerning administration of its programs as required by the Federal Government, any agency or department of the Federal Government, or the Legislature; [1993, c. 175, Â§3 (amd).]

B. An authority may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner which preserves confidentiality; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. An authority may comply with a subpoena, request for production of documents, warrant or court order that appears on its face to have been issued or made upon lawful authority; [1993, c. 175, Â§3 (amd).]

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; and [1993, c. 175, Â§3 (amd).]

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D. [1993, c. 175, Â§4 (new).]

[1993, c. 175, Â§Â§3, 4 (amd).]

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

4. Penalty. A member, officer, employee or agent of an authority who violates subsection 2 commits a civil violation for which a forfeiture of not more than $200 may be adjudged against the member, officer, employee or agent of an authority for each violation. For the purpose of applying penalties under this subsection, a separate violation is deemed to have occurred with respect to each separate act of disclosure.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1993, Ch. 175, §1-4 (AMD).

Subchapter 2: ESTABLISHMENT AND ORGANIZATION (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

§4721. Creation of municipal authorities

1. Creation of housing authorities. In each municipality there is created a public body corporate and politic to be known as the "Housing Authority" of the municipality. This authority may not transact any business or exercise its powers unless the municipal legislative body declares by resolution that there is a need for an authority to function in that municipality.

A. Any housing authority created and existing under Public Law 1943, chapter 260, shall, notwithstanding the expiration of that chapter, continue in existence for the purposes of this chapter and have the powers granted by this chapter, if the legislative body of the municipality for which the housing authority was created declares by resolution that there is a need for that housing authority to exercise the powers granted by this chapter. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

2. Procedure. The municipal legislative body shall consider the need for an authority on its own motion or upon the filing of a petition with the mayor of the city or the selectmen of the town. This petition must be signed by 25 voters of the city or town and assert that there is a need for an authority to function in the municipality and request that the municipal legislative body declare that need. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

3. Standard. The municipal legislative body shall adopt a resolution declaring that there is a need for an authority in the municipality if it finds that:

A. Insanitary or unsafe inhabited dwelling accommodations or blighted areas exist in the municipality; or [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. There is a shortage of safe or sanitary dwelling accommodations in the municipality available to persons of low income at rentals or prices that they can afford. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

4. Appointment of commissioners. Upon the adoption of a resolution by the municipal legislative body, the mayor of the city or the selectmen of the town shall appoint the commissioners of the authority under section 4723, subsection 1.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§4722. Maine State Housing Authority established; powers, duties and restrictions

The Maine State Housing Authority is established and is a public body corporate and politic and an instrumentality of the State. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Powers and duties. In addition to the powers granted by section 4741, the Maine State Housing Authority shall have the powers and duties to:

A. Gather information and statistics on housing and housing-related socioeconomic conditions, using existing sources and data to the fullest extent possible and request reports and obtain information from all state departments, agencies, boards, commissions, authorities and instrumentalities about their respective expenditures for housing and housing-related services and facilities, and about their respective functions and activities related to the financing, construction, leasing or regulation of housing and housing-related

services and facilities; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. Develop plans, finance, conduct and encourage in cooperation with other public and private national, state, regional and local agencies, research and demonstration of model housing programs, dealing with, but not limited to, planning, styles of land use, types of building design, techniques of construction, finance techniques, municipal regulations and management procedures; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Provide or coordinate technical assistance and consultation about housing and housing-related activities for or on the behalf of the municipalities, private industry, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities and instrumentalities, the Judicial Department, other organizations and individuals; administer or operate housing or housing-related programs for or on the behalf of municipalities, municipal housing authorities, nonprofit housing corporations, state departments, agencies, boards, commissions, authorities, instrumentalities and the judicial branch and in so doing comply with the programmatic, regulatory or statutory standards as required by that entity, which may take precedence over the authority's eligibility requirements; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

D. Prepare, publish and disseminate educational materials dealing with, but not limited to, the topics listed in paragraph B; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

E. Encourage and coordinate effective use of existing and new resources and available services for housing; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

F. Act as the public agency of the State for the purpose of accepting federal funds or other assistance, or funds or other assistance from any other source, in relation to housing activity in those areas and for those projects authorized under section 4741, subsection 2 and other relevant provisions of this chapter; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

G. Carry out renewal projects and all other powers and duties of an authority under chapter 203; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

H. Issue revenue bonds as provided in this chapter. The authority for the issuance of bonds in any subchapter of this chapter constitutes a complete, additional and alternative method for the issuance of bonds authorized by that subchapter. Any limitation or restriction as to the use of proceeds, total authorized amount of obligations or interest rate, or any other limitation or restriction, applies solely to bonds issued under the subchapter in which the limitation or restriction appears; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

I. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on any terms and conditions that the Maine State Housing Authority specifies, any mortgage loan, any mortgage pass-through certificate, any pledge including any pledge or mortgage revenue, any mortgage participation certificate or any other mortgage-backed or mortgage-related security. In connection with the purchase or sale of a mortgage loan or of a beneficial interest or participation in a mortgage loan, the Maine State Housing Authority may enter into one or more agreements providing for the custody, control and administration of the mortgage loan. Any such agreement may provide that:

(1) The Maine State Housing Authority or a financial institution will act as trustor, trustee or custodian under the agreement; and

(2) With respect to mortgage loans governed by the agreement, title to a mortgage loan, or to a beneficial interest or participation in a mortgage loan, is deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a mortgage loan is the same as a sale of a mortgage loan;

[1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

J. Adopt bylaws for the regulation of its affairs and the conduct of its business; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

K. Perform other functions necessary to the powers and duties expressly stated in this chapter; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

L. Contract with any financial institution to make mortgage loans on behalf of the Maine State Housing Authority and to make mortgage loans without contracting with a financial institution. The mortgage loans must be made under one or more mortgage loan programs governed by standards established in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

The Maine State Housing Authority may also make construction loans, grants, noninterest-bearing loans, deferred payment loans, unsecured loans and other similar types of loans. Any mortgage loan made under this paragraph does not pledge the faith and credit of the State. Any bonds issued by the Maine State Housing Authority to finance mortgage loans authorized by this paragraph are subject to the limitations of sections 4905 and 4907; [1993, c. 175, §5 (amd).]

M. Formulate proposed affirmative housing action plans for submission to regional planning commissions and local planning boards for their consideration; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

N. With respect to any bonds which the Maine State Housing Authority is authorized to issue in accordance with the limitations and restrictions of this chapter, covenant and consent that the interest on the bonds will be includable, under the United States Internal Revenue Code of 1954, Title 26, Section 7701(a)(29), or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. The powers conferred by this paragraph are not subject to any limitations or restrictions of any law which may limit the Maine State Housing Authority's power to so covenant and consent.

(1) Notwithstanding any other provision of this chapter, proceeds of bonds issued under this subsection may be used for persons other than persons of low income.

(2) The income on any bonds issued by the Maine State Housing Authority shall be included in gross income under the Maine Income Tax Law if the income on those bonds is includable in the gross income of the holders of the bonds under the United States Internal Revenue Code of 1954, Title 26, Section 7701(a)(29), or any subsequent corresponding revenue law of the United States;

[1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

O. Issue or cause to be issued certificates or other instruments evidencing the holder's fractional undivided interest in a pool of mortgage loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 8, the certificates or instruments are deemed negotiable instruments within the meaning of and for all the purposes of Title 11, article 8, subject only to any registration requirements that the Maine State Housing Authority may establish; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

P. In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one or more nonprofit corporations organized and operated under Title 13-B; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

Q. Modify or waive the requirements of section 4902, subsections 1 and 2, and section 4903; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

R. Guarantee or ensure the timely payment in whole or part of principal on, premium on or interest of any bond or of any instrument or security identified in paragraph I or O; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

S. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral, administer or otherwise deal in, acquire or transfer, contract for benefits to recipients on behalf of the Federal Government or otherwise and do those things necessary to issue or cause to be issued federal mortgage credit certificates as authorized and created by the Federal Tax Reform Act of 1984, Public Law 98-369, Section 612(a); [1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd); c. 581, §7 (amd).]

T. Approve or disapprove, in accordance with rules adopted under the Maine Administrative Procedure Act, Title 5, chapter 375, a project that is multi-family or single-family residential property, when authorized or required by Title 10, chapter 110, subchapter IV; [1991, c. 528, Pt. E, §35 (amd); Pt. RRR (aff); c. 591, Pt. E, §35 (amd).]

U. Consult with the Statewide Homeless Council, established pursuant to Title 30-A, section 5046, with respect to the implementation of housing programs to make the best use of resources and make the greatest impact on the affordable housing crisis; [2005, c. 380, Pt. B, §3 (amd).]

V. Administer energy conservation programs; [1991, c. 9, Pt. I, §7 (new); §8 (aff).]

W. Pursuant to the purpose of the Act to provide housing assistance to persons of low income and in accordance with rules adopted under the Maine Administrative Procedure Act, operate programs to provide energy conservation and fuel assistance on behalf of persons of low income in connection with single-family or multi-unit residential housing and accept, obtain, distribute and administer federal and state funds, including block grants, for energy conservation and fuel assistance for the purpose of operating those programs.

(1) The Maine State Housing Authority shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on June 30, 1992 and annually thereafter on the low-income energy assistance program. The report must include, but is not limited to, program revenue and expenditures, number of individuals served and types of services provided;

[2003, c. 704, §4 (amd).]

X. Advise the Governor and other officials of State Government on matters relating to energy conservation; [2005, c. 261, §1 (amd).]

Y. Expand access to housing for young professionals and young families. The Maine State Housing Authority shall develop recommendations to create or modify programs with the goal of expanding access to housing for young professionals and young families. The Maine State Housing Authority shall specifically consider strategies to assist renters and first-time home buyers who are under 35 years of age and explore options for linking assistance levels to student loan obligations. The Maine State Housing Authority shall collaborate with the Maine Community College System, vocational high schools and community action programs to encourage the development of affordable housing in high-cost housing areas of the State.

(1) The Maine State Housing Authority shall report its findings and recommendations regarding expanded access to housing for young professionals and young families to the Future for Youth in Maine State Work Action Tactics Team established in Title 5, section 13161 and to the joint standing committee of the Legislature having jurisdiction over housing matters no later than January 15, 2005 and annually thereafter;

[2005, c. 644, §1 (amd).]

Z. Condition approval of funding of a housing project upon an applicant's compliance with municipal health, safety and sanitation standards. The Maine State Housing Authority may condition approval of funding for a housing project upon a municipality's representation that the applicant, an affiliate of the applicant or any owner controlled by the applicant has no record of a material municipal code violation of health, safety or sanitation standards; and [2005, c. 644, §2 (amd).]

AA. Certify transfers of multifamily affordable housing property that qualify for the deduction under Title 36, section 5122, subsection 2, paragraph W or Title 36, section 5200-A, subsection 2, paragraph Q. The affordability restrictions that apply under this paragraph must be contained in a declaration signed by the transferee and recorded in the appropriate registry of deeds at the time of the sale or transfer.

(1) For the purposes of this paragraph, "multifamily affordable housing property" means a decent, safe and sanitary dwelling, apartment building or other living accommodation that includes at least 6 units, that meets at least one of the following affordability restrictions and for which those affordability restrictions, as applicable, expire in 10 years or less from the date of the sale or transfer of the property:

(a) At least 20% of the units have restricted rents affordable to households earning no more than 80% of the area median income as determined by the United States Department of Housing and Urban Development;

(b) The property is assisted by the United States Department of Housing and Urban Development, the United States Department of Agriculture or the Maine State Housing Authority; or

(c) The property qualifies for low-income housing credits under the United States Internal Revenue Code of 1986, Section 42.

(2) For the purposes of this paragraph, property does not qualify as multifamily affordable housing property unless:

(a) The transferee agrees to maintain the property as multifamily affordable housing property for an additional 30 years from the scheduled expiration;

(b) If the existing federal, state or other assistance is not available to maintain the property as multifamily affordable housing property, the transferee agrees to ensure that 1/2 of the units are affordable to persons at 60% of the area median income as determined by the United States Department of Housing and Urban Development for 30 years from the expiration of the then-existing affordability restrictions; or

(c) The transferee agrees to an alternative affordability agreement approved by the Maine State Housing Authority.

[2005, c. 644, §3 (new).]
[2005, c. 644, §§1-3 (amd).]

2. Restrictions. Notwithstanding any other provision of this chapter, the Maine State Housing Authority may not provide funds for, finance, purchase the mortgage on or otherwise assist in the construction or management of:

A. Any housing owned, sponsored or assisted by an institution of higher education in the State; [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. Any housing, the mortgage on which is insured by any federal or state program of mortgage insurance, the primary purpose of which is to assist student housing; or [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. Any nursing home or related institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817, except intermediate care facilities for the mentally retarded and persons with related conditions or the construction, substantial rehabilitation or improvement of homeless shelter facilities that may be related to an institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817. [1991, c. 511, Pt. B, §1 (amd); 2003, c. 689, Pt. B, §6 (rev).]
[1991, c. 511, Pt. B, §1 (amd); 2003, c. 689, Pt. B, §6 (rev).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 48, §2,31 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1989, Ch. 581, §7,8 (AMD).
PL 1991, Ch. 9, §I7 (AMD).
PL 1991, Ch. 9, §I8 (AFF).
PL 1991, Ch. 511, §B1 (AMD).
PL 1991, Ch. 528, §E35,36 (AMD).
PL 1991, Ch. 528, §RRR (AFF).
PL 1991, Ch. 591, §E35,36 (AMD).
PL 1991, Ch. 610, §2 (AMD).
PL 1991, Ch. 622, §J20 (AMD).
PL 1991, Ch. 622, §J25 (AFF).
PL 1991, Ch. 780, §TT1 (AMD).
PL 1993, Ch. 175, §5 (AMD).
PL 1993, Ch. 359, §B2 (AMD).

PL 2003, Ch. 689, §B6 (REV).
PL 2003, Ch. 704, §4-6 (AMD).
PL 2005, Ch. 261, §1-3 (AMD).
PL 2005, Ch. 380, §B3 (AMD).
PL 2005, Ch. 644, §1-3 (AMD).

§4723. Appointment, qualifications, tenure and meetings of advisory board members, commissioners and directors

1. **Municipality.** The following provisions apply to municipal housing authorities.

A. Each authority shall appoint 7 commissioners. No commissioner may be appointed until the authority is authorized to function as provided in section 4721. In the case of a city having a mayor-council form of government, the mayor shall appoint the commissioners with the advice and consent of the council. In the case of a city having a manager-council form of government, the council shall appoint the commissioners. In the case of a town, the municipal officers shall appoint the commissioners.

Any person who resides within the authority's boundaries or area, and who is otherwise eligible for appointment under this chapter, may be appointed as a commissioner of the authority. This section does not prevent a commissioner from concurrently serving as a commissioner on a renewal authority established by any city with a population of 20,000 or more.

The commissioners who are initially appointed under this section serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment. Thereafter, the commissioners are appointed for terms of 5 years, except that all vacancies must be filled for the unexpired terms. All subsequent appointments and appointments to fill a vacancy must be made as provided in this subsection.

(1) In a municipality with housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development, at least 2 of the commissioners must be residents of that housing. When tenant associations exist in the housing, the appointing authority shall give priority consideration to nominations made by the associations. The first commissioner appointed to an authority, who is a resident of subsidized or assisted housing, serves for a 4-year term from the date of appointment. Thereafter, the commissioner must be appointed as provided in this subsection.

(2) A certificate of the appointment or reappointment of any commissioner must be filed with the authority. This certificate is conclusive evidence of the due and proper appointment of the commissioner.

[1993, c. 218, Â§1 (amd).]

B. A commissioner shall receive no compensation for services but is entitled to any necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until a successor has been appointed and has qualified. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. Each authority shall elect a chairman and vice-chairman from among the commissioners. An authority may employ a secretary, who shall be executive director, and technical experts and any other officers, agents and employees that it requires and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. It may delegate to its agents or employees any powers or duties that it considers proper. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. The powers of an authority are vested in its commissioners. Meetings of the commissioners may be held anywhere within the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Four commissioners constitute a quorum of an authority for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. The authority may take action upon the vote of a majority of the commissioners present, unless its bylaws require a larger number. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]
[1993, c. 218, Â§1 (amd).]

2. **State.** The following provisions apply to the state housing authority.

A. [1993, c. 359, Pt. D, Â§2 (rp).]

B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, shall have 7 commissioners, 5 of whom shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development, and to confirmation by the Legislature. The 6th commissioner is the Treasurer of State who shall serve ex officio. The Treasurer of State may designate the Deputy Treasurer of State to serve in place of the Treasurer of State. The 7th commissioner is the director of the Maine State Housing Authority who shall serve ex officio, and who is chairman of the commissioners. The 5 gubernatorial appointments must include, but are not limited to, representatives of bankers and of low-income or elderly people. One commissioner must be a resident of housing which is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority. In making this appointment, the Governor shall give priority consideration to nominations that may be made by tenant associations established in the State.

The commissioners shall elect a vice-chairman of the commissioners from among their number. The commissioners of the Maine State Housing Authority shall establish and revise from time to time policies of the Maine State Housing Authority relating to the following particular matters:

(1) Standards of issuing, servicing and redeeming bonds;

(2) Purchase, sale or commitment to purchase mortgages or notes;

(3) Initiating project construction and accepting properly completed facilities;

(4) Setting and establishing selection and evaluation standards, criteria and procedures under which it will purchase, sell or agree to purchase loans, notes or obligations, having regard among other things to:

(a) Property values;

(b) Local economic conditions and expectancy;

(c) Credit and employment; and

(d) Local housing conditions and needs and the availability of credit resources to meet those needs relative to similar or competing conditions and needs in other localities in the State;

(5) Setting and establishing procedures for the servicing of loans, notes and obligations acquired by it, including the allowance of servicing fees to participating lenders to whom the Maine State Housing Authority may entrust such servicing;

(6) Setting and establishing procedures for the collection of money due from persons liable for payment, as to any loan, note or obligation held by the Maine State Housing Authority, by subrogation or otherwise, and to initiate and maintain any action at law or in equity, including foreclosure proceedings, to enforce payment;

(7) Setting and establishing procedures for the orderly liquidation and disposition of any property acquired by the Maine State Housing Authority through foreclosure or otherwise in full or partial satisfaction of any debt or obligation held by it; and

(8) Establishing and maintaining out of income or otherwise any reserves that the Maine State Housing Authority from time to time determines to be necessary and prudent in addition to those specifically required.

Following reasonable notice to each commissioner, 4 commissioners of the Maine State Housing Authority constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the commissioners upon a vote of a majority of the commissioners present, unless its bylaws require a larger number. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. The Maine State Housing Authority shall have a director, who must be a person qualified by training and experience to perform the duties of the office. The Governor shall appoint the director of the Maine State Housing Authority, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development, and to confirmation by the Legislature.

(1) The director of the Maine State Housing Authority shall serve on a full-time basis for a 4-year term of office, and until a successor has been appointed and qualified. The Governor shall establish the rate and amount of compensation of the director.

(2) The powers and duties of the Maine State Housing Authority, except those listed in paragraph B, are vested solely in the director of the Maine State Housing Authority. The director of the Maine State Housing Authority or a representative shall attend all meetings of the advisory board or of the commissioners.

(3) The director of the Maine State Housing Authority may act in all personnel matters and may employ technical or legal experts and any other officers, agents and employees that the director requires, and shall determine their qualifications, duties

and compensation. The director may delegate to the employees and agents any powers and duties that the director considers proper.

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. Any person who, at the time of appointment, is a resident of the State, may serve as a commissioner, except that the director need not be a resident of the State before being appointed.

(1) Each commissioner, except for the director and the Treasurer of State, serves a 4-year term beginning with the expiration of the term of that person's predecessor, except that a vacancy occurring in a position before the normal expiration of the appointment must be filled as soon as practicable by a new gubernatorial appointee who serves for the remainder of the unexpired term. Each commissioner continues to hold office after the term expires until a successor is appointed. In any instance in which more than one commissioner is serving beyond the original term, any new appointee is deemed to succeed the commissioner whose term expired first.

(2) The Secretary of State shall prepare a certificate evidencing the appointment of each commissioner. An original of this certificate must be provided to the appointee. One authenticated copy must be retained by the Maine State Housing Authority and one by the Secretary of State. An authenticated certificate of appointment is conclusive evidence of the appointment.

[1993, c. 359, Pt. D, Â§3 (amd)]

E. The director is a full-time employee of the authority, but may receive fees or honoraria for services provided to others not in conflict with full-time duties and not performed during time for which the director is receiving compensation from the Maine State Housing Authority. In addition to any authorized compensation, the director is entitled to any employee benefits that are available to other employees of the Maine State Housing Authority, including, but not limited to, authority contributions to any retirement plan, insurance plan, deferred compensation plan or other similar benefits. Each commissioner and advisory board member is entitled to compensation according to the provisions of Title 5, chapter 379 except notwithstanding Title 5, section 12003-A, subsection 4, authorized expenses incurred by a state employee, or designee of that state employee, serving in an ex officio capacity as a commissioner must be paid from the budget of the authority. [1991, c. 574, Â§2 (amd).]

[1993, c. 359, Pt. D, Â§Â§2, 3 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1991, Ch. 574, §2 (AMD).
PL 1993, Ch. 218, §1 (AMD).
PL 1993, Ch. 359, §D2,3 (AMD).

§4724. Conflict of interest

The provisions of this section are in addition to the limitations of Title 5, section 18. Any violation of this section is a Class E crime. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

1. Present employee or commissioner; participation in decision. No employee or commissioner of the Maine State Housing Authority may participate in any decision on any contract or project entered into by the Maine State Housing Authority if that employee or commissioner has any interest, direct or indirect, in any firm, corporation, partnership, or association which may be party to the contract or financially interested in any such project.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

2. Acquisition of interest in project; accepting employment. No employee or commissioner of any authority may, within 2 years of that service, or in the case of employees of the authority, during tenure or within 2 years of that service, voluntarily acquire any interest, direct or indirect, in any contract, project or property included or planned to be included in any project of that housing authority over which the employee or commissioner has exercised responsibility, control or decisions during tenure with the authority; nor may any employee or commissioner of any authority, if employment is accepted with any person who has an interest in any contract, property

Title 30-A, §5683, Property tax relief

§5683. Property tax relief

1. Scope. This section establishes a revenue-sharing program that distributes surplus funds from the General Fund during times of prosperity to municipalities experiencing an inordinate amount of growth. The revenue-sharing funds are specifically dedicated to assisting these municipalities in meeting the unusually high costs associated with the capital construction and infrastructure necessary to accommodate growth and development.
[1989, c. 534, Pt. F (new).]

2. Definitions. For the purposes of computing the revenue distributions from the Property Tax Relief Fund, the following terms have the following meanings.

A. "Population" means the population as determined by the latest federal decennial census or the population as determined and certified by the Department of Health and Human Services, whichever is more recent. For the purposes of this section, the department is authorized and required to determine the population of each municipality at least once every year. [1989, c. 534, Pt. F (new); 2003, c. 689, Pt. B, §6 (rev).]
[1989, c. 534, Pt. F (new); 2003, c. 689, Pt. B, §6 (rev).]

3. Property Tax Relief Fund established. There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

After the close of each fiscal year, the Governor may request a General Fund appropriation to the Property Tax Relief Fund from the next session of the Legislature in an amount not to exceed 1/2 of the balance remaining after all other required transfers or appropriations from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions of appropriations, financial commitments, designated funds, transfers from the unappropriated surplus of the General Fund or transfers from the available balance remaining in the General Fund have been made.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The appropriation may not exceed $25,000,000 and may not lapse, but must remain a continuing carrying account to carry out the purpose of this section.
[1995, c. 464, §16 (amd).]

4. Distributions from Property Tax Relief Fund. Money credited to the Property Tax Relief Fund shall be distributed to each municipality in an amount equal to the ratio of the population in each municipality to the population in the State as a whole.
[1989, c. 534, Pt. F (new).]

5. Restrictions on use of funds. Funds distributed to municipalities pursuant to this section shall be expended only after the municipal legislative body has authorized the expenditure in the annual municipal budget. Funds shall be expended only for the following purposes:

A. For capital construction and improvements, land acquisitions, capital equipment acquisitions or other nonrecurring purposes; [1989, c. 534, Pt. F (new).]

B. For purposes for which bonds have been previously authorized but not yet issued, in order to eliminate the need to incur the indebtedness; and [1989, c. 534, Pt. F (new).]

C. For the local share of state, federal or privately financed capital construction and improvement projects. [1989, c. 534, Pt. F (new).]

[1989, c. 534, Pt. F (new).]

6. Treasurer of State. The Treasurer of State shall distribute the appropriation balance in the Property Tax Relief Fund no later than 30 days after the legislation appropriating funds for this purpose has been enacted by the Legislature and signed into law by the Governor. [1995, c. 464, §17 (amd).]

PL 1989, Ch. 534, §F (NEW).
PL 1993, Ch. 707, §N1 (AMD).
PL 1995, Ch. 464, §16,17 (AMD).
PL 2003, Ch. 689, §B6 (REV).

Chapter 225: MAINE MUNICIPAL BOND BANK (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

Subchapter 1: GENERAL PROVISIONS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

§5901. Title

This chapter shall be known and may be cited as the "Maine Municipal Bond Bank Act." [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

§5902. Declaration of necessity

1. Declaration of purpose. It is declared to be in the public interest and to be the policy of the State:

A. To foster and promote by all reasonable means the provision of adequate capital markets and facilities for borrowing money by counties, municipalities, School Administrative Districts, community school districts, quasi-municipal corporations and other governmental units and to finance their respective public improvements and other municipal purposes within the State from proceeds of bonds, notes, any other form of debt or leases issued by those governmental units; [1991, c. 605, Â§1 (amd).]

B. To assist those governmental units in fulfilling their needs for such purposes by use of creation of indebtedness; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

C. To the extent possible, to reduce the costs of indebtedness to taxpayers and residents of the State and to encourage continued investor interest in the purchase of bonds or notes of those governmental units as sound and preferred securities for investment; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

D. To encourage its governmental units to continue their independent undertakings of public improvements and other municipal purposes and the financing thereof and to assist them in those activities by making funds available at reduced interest costs for orderly financing of those purposes, especially during periods of restricted credit or money supply, particularly for those governmental units not otherwise able to borrow for those purposes. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).] [1991, c. 605, Â§1 (amd).]

2. Declaration of necessity. It is further declared that current credit and municipal bond market conditions require the exercise of state powers in the interest of its governmental units to further and implement these policies by:

A. Authorizing a state instrumentality to be created as a body corporate and politic to have full powers to borrow money and to issue its bonds and notes to make funds available through the facilities of the instrumentality at reduced rates and on more favorable

terms for borrowing by such governmental units through the instrumentality's purchase of the bonds or notes of the governmental units in fully marketable form; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. Granting broad powers to the instrumentality to accomplish and to carry out these policies of the State which are in the public interest of the State and of its taxpayers and residents. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1991, Ch. 605, §1 (AMD).

§5903. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Bank or bond bank. "Bank" or "bond bank" means the Maine Municipal Bond Bank created by section 5951.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Bondholder or holder or noteholder. "Bondholder" or "holder" or "noteholder" or any similar term when used with reference to a bond or note of the bank means any person who is the bearer of any outstanding bond or note of the bank registered to bearer or not registered, or the registered owner of any outstanding bond or note of the bank which at the time is registered other than to bearer.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3. Bonds. "Bonds" means bonds of the bank issued under this chapter.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

3-A. Capital reserve fund. "Capital reserve fund" means any capital reserve fund created or established as provided in section 6006, subsection 1-A.
[1989, c. 48, §§13, 31 (new).]

3-B. Downtown. "Downtown" means:

A. The central business district of a community that serves as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure; or [1999, c. 776, §12 (new).]

B. An area identified as a downtown in a comprehensive plan adopted pursuant to chapter 187, subchapter II. [1999, c. 776, §12 (new).]

[1999, c. 776, §12 (new).]

3-C. Downtown improvement. "Downtown improvement" includes facade, utility relocation or extension, historic preservation and parking and road improvement; elevator, sprinkler system and traffic control devices installation; purchase of development rights for a park or open space and construction of park and open space amenities; and public toilet, streetscape, sidewalk and curb installation or upgrade.
[1999, c. 776, §12 (new).]

4. Fully marketable form. "Fully marketable form" means a municipal security duly executed and accompanied by an approving legal opinion of a bond counsel of recognized standing in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, provided that the municipal security so executed need not be printed or lithographed nor be in more than one denomination.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

5. General fund. "General fund" means the fund created or established as provided in section 6007.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

6. Governmental unit. "Governmental unit" means any county, municipality, School Administrative District, community school district or other quasi-municipal corporation within the State, including any corporation owned entirely by a municipality and providing water, sewer or electric service or performing other essential governmental functions.
[2001, c. 484, §1 (amd).]

6-A. Median household income. "Median household income" means the income computed based on the most current census information available, as provided by the State Planning Office.
[1989, c. 48, §§14, 31 (new).]

6-B. Municipal bond. "Municipal bond" means a bond or note or evidence of debt issued by a municipality and payable from taxes or from rates, charges or assessments, but does not include any bond or note or evidence of debt issued under chapter 213 or Title 10, chapter 110, subchapter IV.
[1989, c. 48, §§14, 31 (new).]

6-C. Municipal bond insurance fund. "Municipal bond insurance fund" means any fund or funds established by the bank to provide reserves to insure payment of any state or municipal issuance of debt, pursuant to a bond insurance program established by the bank.
[1991, c. 605, §2 (new).]

7. Municipal security. "Municipal security" means a bond or note or evidence of debt issued by a governmental unit and payable from taxes or from rates, charges or assessments, but does not include any bond or note or evidence of debt issued under chapter 213 or Title 10, chapter 110, subchapter IV.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

7-A. Municipality. "Municipality" means:

A. Any city, town, special district, county, plantation or municipal village corporation within the State, including any corporation owned entirely by any entity specified in this paragraph and providing water, sewer or electric service or performing other essential governmental functions; [2005, c. 552, §1 (amd).]

B. For the purpose of section 5953, subsection 1, paragraph D only, any water utility as defined in subsection 13; or [1997, c. 555, §1 (amd).]

C. For the purpose of section 5953, subsection 1, paragraph D, section 5953-B and section 6006-B, any public water system as defined under Title 22, section 2601, subsection 8. [1997, c. 555, §2 (new).]
[2005, c. 552, §1 (amd).]

8. Notes. "Notes" means any notes of the bank issued under this chapter.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

8-A. Public service infrastructure. "Public service infrastructure" means those facilities that are essential for public health, welfare and safety. Those facilities include, without limitation, sewage treatment facilities, municipal water supply and treatment facilities, solid waste facilities, public safety equipment and facilities, roads, traffic control devices and other transportation facilities, sidewalks, trees, buried utility lines and other streetscape improvements, parks and other open space or recreational areas, public access to coastal and inland waters, geographic information systems, and any other public facility that benefits the public.

[2001, c. 90, §3 (amd).]

9. Required debt service reserve. "Required debt service reserve" means the amount required to be on deposit in the reserve fund as prescribed by section 6006, subsection 1.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 48, §§16, 31 (amd); c. 104, Pt. C, §§8, 10 (amd).]

9-A. Required minimum reserve. "Required minimum reserve" means the amount required to be on deposit in a capital reserve fund as prescribed by section 6006, subsection 1-A.
[1989, c. 48, §§17, 31 (new).]

10. Reserve fund. "Reserve fund" means the Maine Municipal Bond Bank Reserve Fund created or established as provided in section 6006.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

11. Revenues. "Revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal securities and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bank under this chapter.
[1987, c. 737, Pt. A, §2 (new); Pt. C. §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

12. Revolving loan fund. "Revolving loan fund" means that revolving loan fund created under section 6006-A.
[1989, c. 48, §§18, 31 (new).]

13. Water utility. "Water utility" means an entity as defined in Title 35-A, section 102, subsection 22.
[1991, c. 775, §1 (new).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 48, §13-18,31 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1991, Ch. 605, §2 (AMD).
PL 1991, Ch. 775, §1 (AMD).
PL 1993, Ch. 2, §5 (AMD).
PL 1993, Ch. 721, §D2 (AMD).
PL 1993, Ch. 721, §H1 (AFF).
PL 1997, Ch. 555, §1,2 (AMD).
PL 1999, Ch. 776, §12 (AMD).
PL 2001, Ch. 90, §3 (AMD).
PL 2001, Ch. 484, §1 (AMD).
PL 2005, Ch. 552, §1 (AMD).

§5904. Liberal construction of chapter

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter as complete and independent authority for the performance of each and every act and thing authorized in this chapter and all powers granted in this chapter shall be broadly interpreted to effectuate that intent and purposes and not as a limitation of powers. [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).

Subchapter 2: ESTABLISHMENT AND POWERS (HEADING: PL 1987, c. 737, Pt. A, §2 (new))

§5951. Creation of bank and membership

1. Bank established. There is established a public body corporate and politic to be known as the "Maine Municipal Bond Bank" in accordance with Title 5, chapter 379. The bank is constituted as an instrumentality of the State exercising public and essential governmental functions. The bank's exercise of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the State.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

2. Board of commissioners; oath. The bank shall consist of a board of 5 commissioners, including:

A. The Treasurer of State who serves as a commissioner ex officio;

(1) The Treasurer of State may designate the Deputy Treasurer of State to serve in place of the Treasurer of State;

[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. The Superintendent of Financial Institutions, who also serves as a commissioner ex officio; and [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd); 2001, c. 44, Â§11 (amd); Â§14 (aff).]

C. Three commissioners, who must be residents of the State, appointed by the Governor for terms of 3 years. [1987, c. 737, Pt. A, Â§2 (new); Pt. C,. Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

Before entering upon their duties all commissioners shall take and subscribe to an oath to perform the duties of office faithfully, impartially and justly to the best of their abilities. A record of these oaths shall be filed in the office of the Secretary of State.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd); 2001, c. 44, Â§11 (amd); Â§14 (aff).]

3. Terms; vacancy; removal. Each commissioner shall hold office for the term of appointment and until a successor has been appointed and has qualified. A commissioner may be reappointed. Any vacancy occurring other than by the expiration of a term shall be filled by appointment for the unexpired term. The Governor may remove a commissioner from office for cause after a public hearing. The Governor may suspend a commissioner pending the completion of this hearing.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

4. Officers of board; exercise of powers. The board of commissioners shall elect one of its members as chairman, one as vice-chairman and shall appoint an executive director who shall also serve as both secretary and treasurer. The powers of the bank are vested in the commissioners of the bank in office from time to time. Three commissioners of the bank constitutes a quorum at any meeting of the commissioners. Action may be taken and motions and resolutions adopted by the bank at any meeting by the affirmative vote of at least 3 commissioners of the bank. A vacancy in the office of commissioner of the bank does not impair the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the bank.
[1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

5. Surety bonds required. Before issuing any bonds or notes under this chapter, each commissioner of the bank must execute a surety bond in the penal sum of $25,000 and the executive director of the bank must execute a surety bond in the penal sum of $50,000. The surety bonds must be:

A. Conditioned upon the faithful performance of the duties of the office of the commissioner or executive director; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

B. Executed by a surety company authorized to transact business in the State as surety; [1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).]

§526. Fees, penalties (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 7/1/07)

A document required to be filed under this chapter is not effective until the applicable fee required by this section is paid. The following fees or penalties must be paid to and collected by the Secretary of State: [1991, c. 552, §2 (new); §4 (aff).]

1. Reservation. For filing of an application for reservation of name or a notice of transfer or cancellation of reservation pursuant to section 404-A, a fee in the amount of $20 for each limited partnership affected;
[2003, c. 344, Pt. C, §14 (amd).]

2. Assumed or fictitious name. For filing of an application for an assumed name under section 405-A, a fee in the amount of $125, and for filing of an application for a fictitious name under section 405-A, a fee in the amount of $40. The addition of the words "Limited Partnership," the abbreviation "L.P." or the designation "LP" to a foreign limited partnership's name for use in this State is not, for the purpose of this section, deemed an assumed name;
[2003, c. 673, Pt. WWW, §14 (amd); §37 (aff).]

3. Termination of assumed or fictitious name. For a termination of an assumed or fictitious name under section 405-A, a fee of $20;
[2003, c. 344, Pt. C, §15 (amd).]

4. Registered name. For filing of an application for a registered name of a foreign limited partnership under section 406-A, a fee of $20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, a fee of $155;
[2003, c. 344, Pt. C, §16 (amd).]

4-A. Termination of registered name.
[2003, c. 344, Pt. C, §17 (rp).]

5. Change of registered agent and registered office or registered office for domestic limited partnerships. For filing of a certificate by a registered agent under section 407, subsection 2, paragraph B to change the registered office or to change the name of the current registered agent or for filing of a certificate of amendment under section 422 to change the registered agent and registered office or for filing a notice of resignation of a registered agent under section 407, subsection 3, a fee in the amount of $35;
[2003, c. 673, Pt. WWW, §15 (amd); §37 (aff).]

6. Penalty.
[2003, c. 631, §42 (rp).]

6-A. Reinstatement fee after administrative dissolution. For failure to file an annual report, a fee of $150, to a maximum fee of $600, regardless of the number of delinquent reports or the period of delinquency; for failure to pay the annual report late filing penalty, a fee of $150; for failure to appoint or maintain a registered agent or registered office, a fee of $150; for failure to notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued, a fee of $150; for failure to file an amended application, a fee of $150; and for filing false information, a fee of $150;
[2005, c. 12, Pt. FF, §6 (amd).]

7. Certificate of limited partnership, amendment or cancellation. For filing of a certificate of limited partnership under section 421, a fee in the amount of $175, for a certificate of amendment under section 422, except as provided in subsection 5, a fee in the amount of $50, and for a certificate of cancellation under section 423, a fee in the amount of $75. For filing of a certificate of amendment under section 422, subsection 7, a fee in the amount of $20 and for filing a restated certificate of limited partnership under section 422, subsection 6, a fee of $80;
[2003, c. 673, Pt. WWW, §16 (amd); §37 (aff).]

7-A. Certificate of correction. For filing of a certificate of correction under section 422-A, a fee in the amount of $50;
[2003, c. 673, Pt. WWW, §17 (amd); §37 (aff).]

8. Foreign limited partnerships. For filing of an application for authority to do business as a foreign limited partnership under section 492, a fee in the amount of $250, and for a certificate of amendment under section 495, except as provided in subsection 9, or a certificate of cancellation under section 496, a fee in the amount of $90. For filing a certificate of amendment under section 495 to change the address of a general partner or to change the address of the registered or principal office, a fee in the amount of $35;
[2003, c. 673, Pt. WWW, §18 (amd); §37 (aff).]

8-A. Certificate of correction for foreign limited partnerships. For filing of a certificate of correction under section 495-A, a fee in the amount of $50;
[2003, c. 673, Pt. WWW, §19 (amd); §37 (aff).]

9. Change of registered agent and registered office or registered office for foreign limited partnerships. For filing of a certificate by a registered agent under section 494, subsection 3, paragraph B to change the registered office or to change the name of the current registered agent or for filing of a certificate of amendment under section 495 to change the registered agent and registered office or for filing a notice of resignation of a registered agent under section 494, subsection 4, a fee in the amount of $35;
[2003, c. 673, Pt. WWW, §20 (amd); §37 (aff).]

10. Photocopies. For all photocopies, whether certified or not, a fee in the amount of $2 per page. The Secretary of State may issue photocopies of instruments on file as well as other copies;
[1991, c. 552, §2 (new); §4 (aff).]

11. Certified copies. For providing certified copies of any paper on file as provided for by this chapter, a fee in the amount of $5 for each copy certified in addition to any fee due under subsection 10;
[1991, c. 552, §2 (new); §4 (aff).]

12. Issuing certificate. For issuing a certificate of existence, certificate of authority or certificate of fact as provided by section 416-A, a fee in the amount of $30.
[2003, c. 631, §44 (rpr).]

13. Preclearance of document. For preclearance of any document for filing, a fee in the amount of $100;
[1991, c. 780, Pt. U, §30 (amd).]

14. All other filings. For receiving and filing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of $20;
[1991, c. 780, Pt. U, §30 (amd).]

15. Annual report. For filing of an annual report under section 529, a fee of $85;
[2003, c. 673, Pt. XXX, §4 (amd); §10 (aff).]

(REALLOCATED TO T. 31, §526, sub-§15-B)

15-A. Amended annual report.
[2003, c. 631, §45 (new); RR 2003, c. 2, §95 (ral).]

15-A. Annual report. For filing of an annual report for a foreign limited partnership under section 529, a fee of $150;
[2003, c. 673, Pt. XXX, §5 (new); §10 (aff).]

(REALLOCATED FROM T. 31, §526, sub-§15-A)

15-B. Amended annual report. For filing an amended annual report under section 529-A, for a domestic limited partnership, a fee of $85; for a foreign limited partnership, a fee of $150;
[2005, c. 529, §5 (amd).]

16. Information request.
[2003, c. 631, §46 (rp).]

17. Service of process on Secretary of State as agent. For accepting service of process under sections 409, 410, 500 or 501, a fee in the amount of $20;
[1999, c. 638, §18 (amd).]

18. Report of name search.
[2003, c. 344, Pt. C, §18 (rp).]

19. Articles of merger or consolidation. Articles of merger or consolidation of a limited partnership with another type of business entity as provided by section 417, a fee in the amount of $150;
[2003, c. 631, §47 (amd).]

20. Certificate of conversion. Certificate of conversion of a limited partnership to another type of business entity as provided by section 418, a fee in the amount of $145; and
[2005, c. 397, Pt. A, §34 (rpr); §35 (aff).]

21. Late filing penalty. For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of $50.
[2005, c. 12, Pt. FF, §8 (amd).]

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service. [1991, c. 552, §2 (new); §4 (aff).]

31 §00526

Fees, penalties

(WHOLE SECTION TEXT REPEALED 7/1/07 by PL 2005, c. 543, Pt. C, §1 (rp); §3 (aff))

PL 1991, Ch. 552, §2 (NEW).
PL 1991, Ch. 552, §4 (AFF).
PL 1991, Ch. 780, §U29-31 (AMD).
PL 1993, Ch. 316, §65-73 (AMD).
PL 1995, Ch. 458, §16,17 (AMD).
PL 1997, Ch. 376, §42-46 (AMD).
PL 1999, Ch. 594, §22,23 (AMD).
PL 1999, Ch. 638, §16-20 (AMD).
PL 2003, Ch. 344, §C14-18 (AMD).
PL 2003, Ch. 631, §42-48 (AMD).
PL 2003, Ch. 673, §WWW14-21,XXX4,5 (AMD).
PL 2003, Ch. 673, §WWW37,XXX10 (AFF).
RR 2003, Ch. 2, §95 (COR).
PL 2005, Ch. 12, §FF6-8 (AMD).
PL 2005, Ch. 397, §A34 (AMD).
PL 2005, Ch. 397, §A35 (AFF).
PL 2005, Ch. 529, §5 (AMD).
PL 2005, Ch. 543, §C1 (RP).
PL 2005, Ch. 543, §C3 (AFF).

Title 32, §13069, Director

§13069. Director

1. Appointment. The Commissioner of Professional and Financial Regulation, with the advice of the Real Estate Commission and subject to the Civil Service Law, shall appoint a director of the commission.
[1987, c. 395, Pt. A, §212 (new).]

2. Duties. The director is responsible for the management of the commission's affairs, within the guidelines, policies and rules established by the commission and for carrying out the duties allocated to the director under this chapter. Duties of the director may be carried out by the director's designee, other than a member of the commission.
[1987, c. 395, Pt. A, §212 (new).]

3. Employees.
[1999, c. 687, Pt. F, §8 (rp).]

4. Disposal of fees; expenses.
[1995, c. 502, Pt. H, §44 (rp).]

4-A. Real estate account. All funds received by the commission must be paid to the Treasurer of State and must be credited to the commission's account in accordance with Title 10, section 8003-F.
[1999, c. 687, Pt. F, §9 (amd).]

5. Advocate. The director shall seek to protect the interests of the public and the industry in the administration of this chapter. In this capacity, the director may serve as an advocate in any proceeding before the commission, presenting evidence and argument in support of a recommended disposition.
[1987, c. 395, Pt. A, § 212 (new).]

6. Investigations. The director shall investigate the actions of any licensee under this chapter, or any person or entity who assumes to act in a capacity requiring a license under this chapter, upon receipt of a verified written complaint or in accordance with the guidelines prescribed by commission rule. Upon completion of the investigation, the director shall take one of the following actions:

A. With the commission's approval, dismiss the complaint; [1999, c. 129, §6 (amd); §16 (aff).]

B. With the consent of the parties and subject to approval of the commission and commission counsel, execute a consent agreement; or [1987, c. 395, Pt. A, §212 (new).]

C. Issue a staff petition for hearing before the commission, which may include a recommended disposition. [1987, c. 395, Pt. A, §212 (new).]
[1999, c. 129, §6 (amd); §16 (aff).]

7. Subpoenas. The director may issue subpoenas to compel the attendance of witnesses at hearings and to compel the production of documents and other records deemed necessary in connection with the administration of this chapter. Whenever a person refuses to obey a subpocna duly issued by the director, the Superior Court for Kennebec County or any court of this State, within the jurisdiction of which the person resides or transacts business, shall have jurisdiction to issue to that person an order requiring him to comply with the subpoena

and any failure to obey that order may be punished by the court as contempt. Refusal to obey the director's subpoena also constitutes a violation of this chapter.

[1987, c. 395, Pt. A, §212 (new).]

8. Denial of licenses. The director may only issue a license to persons or entities meeting the requirements of this chapter. If it appears to the director that grounds for denial of a license or renewal exists, the director shall deny the license or renewal and notify the applicant in writing of the basis for denial together with notice of the applicant's right to a hearing before the commission, if requested in accordance with commission rules within a 30-day period. The director shall not issue a license to any applicant for renewal if the license has been expired for more than 90 days, unless the applicant passes the license examination designated by commission rule for this purpose.

[1987, c. 395, Pt. A, §212 (new).]

PL 1987, Ch. 395, §A212 (NEW).
PL 1995, Ch. 502, §H43-45 (AMD).
PL 1999, Ch. 129, §16 (AFF).
PL 1999, Ch. 129, §6 (AMD).
PL 1999, Ch. 687, §F8,9 (AMD).

Title 32, §14054, Fees

§14054. Fees

1. Amount. The following are the registration fees under this chapter.

A. Upon filing a registration statement under section 14053, subsection 1, each employee leasing company shall pay an initial registration fee of $500. [1991, c. 468, §4 (new).]

B. Upon renewing its registration statement under section 14053, subsection 2, each employee leasing company shall pay an annual renewal fee of $100. [1991, c. 468, §4 (new).]

[1991, c. 468, §4 (new).]

2. Treatment of fees. All fees must be paid to the Treasurer of State and credited to the Insurance Regulatory Fund pursuant to Title 24-A, section 604.

[1991, c. 468, §4 (new).]

PL 1991, Ch. 468, §4 (NEW).

Title 34-B, §1231, Self-sufficiency trust fund

§1231. Self-sufficiency trust fund

1. Trust established. There is created the Self-sufficiency Trust Fund. The State Treasurer, ex officio, is the custodian of the trust fund and the comptroller shall direct payments from the trust fund upon vouchers properly certified by the Commissioner of Health and Human Services. The treasurer shall credit interest on the trust fund to the trust fund and the commissioner shall allocate that interest pro rata to the respective accounts of the named beneficiaries of the trust fund.

A. For the purposes of this section, the term "self-sufficiency trust" means a trust created by a nonprofit corporation which is a 501-C-3 organization under the United States Internal Revenue Code of 1954 and which was organized under the Nonprofit Corporation Act, Title 13-B, for the purpose of providing for the care or treatment of one or more developmentally disabled persons or persons otherwise eligible for department services. [1987, c. 176 (new).]

[RR 1995, c. 2, §86 (cor); 2001, c. 354, §3 (amd); 2003, c. 689, Pt. B, §7 (rev).]

2. Rules. The department shall adopt these rules and procedures under the Maine Administrative Procedure Act, Title 5, chapter 375, as may be necessary or useful for the administration of the trust fund.

[1987, c. 176 (new).]

PL 1987, Ch. 176, § (NEW).
RR 1995, Ch. 2, §86 (COR).
PL 2001, Ch. 354, §3 (AMD).
PL 2003, Ch. 689, §B7 (REV).

Title 30-A, §5681, State-municipal revenue sharing

§5681. State-municipal revenue sharing

1. Findings and purpose. The Legislature finds that:

A. The principal problem of financing municipal services is the burden on the property tax; and [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. To stabilize the municipal property tax burden and to aid in financing all municipal services, it is necessary to provide funds from the broad-based taxes of State Government. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

[1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Population" means the population as determined by the latest Federal Decennial Census or the population as determined and certified by the Department of Health and Human Services, whichever is later. For the purposes of this section, the Department of Health and Human Services shall determine the population of each municipality at least once every 2 years. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd); 2003, c. 689, Pt. B, §6 (rev).]

B. "Property tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State. [1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

C. "Annual growth ceiling" for fiscal year 2005-06 means $100,000,000. For subsequent fiscal years, "annual growth ceiling" must be determined by the State Tax Assessor by September 1st annually and means the annual growth ceiling adjusted by the lower of the increase for the previous fiscal year in the Consumer Price Index or the increase in receipts from the taxes imposed under Title 36, Parts 3 and 8. The annual growth ceiling may not be less than the annual growth ceiling for the previous year. [2005, c. 2, Pt. G, §1 (amd); §2 (aff).]

D. "Consumer Price Index" means the average over a 12-month period ending June 30th annually of the National Consumer Price Index, not seasonally adjusted, published monthly by the United States Department of Labor, Bureau of Labor Statistics designated as the "National Consumer Price Index for All Urban Consumers - United States City Average." [1999, c. 731, Pt. U, §1 (new).]

E. "Disproportionate tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by .01. [1999, c. 731, Pt. U, §1 (new).]

[2005, c. 2, Pt. G, §1 (amd); §2 (aff).]

Title 30-A, §5681, State-municipal revenue sharing

3. Revenue-sharing funds. To strengthen the state-municipal fiscal relationship pursuant to the findings and objectives of subsection 1, there is established the Local Government Fund. To provide additional support for municipalities experiencing a higher-than-average property tax burden, there is established the Disproportionate Tax Burden Fund. To assist those municipalities that collaborate with other municipalities, counties or state agencies to obtain savings in the cost of delivering local and regional governmental services there is established the Fund for the Efficient Delivery of Local and Regional Services, which is administered pursuant to chapter 231.
[2005, c. 266, §1 (amd).]

4. Sharing the Local Government Fund.
[1999, c. 731, Pt. U, §3 (rp).]

4-A. Distribution of Local Government Fund. The Treasurer of State shall transfer the balance in the Local Government Fund on the 20th day of each month. Money in the Local Government Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the property tax burden of the municipality.
[1999, c. 731, Pt. U, §4 (new).]

4-B. Distribution of Disproportionate Tax Burden Fund. The Treasurer of State shall transfer the balance in the Disproportionate Tax Burden Fund on the 20th day of each month. Money in the Disproportionate Tax Burden Fund must be distributed to each municipality in proportion to the product of the population of the municipality multiplied by the disproportionate tax burden of the municipality.
[1999, c. 731, Pt. U, §4 (new).]

5. Transfers to funds. On the last day of each month, the Treasurer of State shall transfer to the Local Government Fund a percentage, as provided in this subsection, of the receipts from the taxes imposed under Title 36, Parts 3 and 8, and Title 36, section 2552, subsection 1, paragraphs A to F, and credited to the General Fund without any reduction, except that the postage, state cost allocation program and programming costs of administering state-municipal revenue sharing may be paid by the Local Government Fund. Any amounts transferred to the Local Government Fund in excess of the annual growth ceiling must be transferred to the Disproportionate Tax Burden Fund. The percentage transferred to the Local Government Fund on the last day of each month is:

A. For months beginning before July 1, 2007, 5.1%; and [2005, c. 12, Pt. E, §1 (amd).]

B. For months beginning on or after July 1, 2007, 5.2%. [2005, c. 12, Pt. E, §1 (amd).]
[2005, c. 12, Pt. E, §1 (amd).]

5-A. Temporary exception.
[1995, c. 665, Pt. E, §1 (new); T. 30-A, §5681, sub-§5-A (rp).]

5-B. Fund for the Efficient Delivery of Local and Regional Services. For the months beginning on or after July 1, 2004 and before the distributions required by subsections 4-A and 4-B, 2% of all receipts transferred each month pursuant to subsection 5 must be deposited in the Fund for the Efficient Delivery of Local and Regional Services, as established in subsection 3, and distributed to those municipalities and counties that can demonstrate significant and sustainable savings in the cost of delivering local and regional governmental services through collaborative approaches to service delivery, enhanced regional delivery systems, the consolidation of administrative services, the creation of broad-based purchasing alliances or the execution of interlocal agreements.
[2005, c. 2, Pt. H, §1 (amd).]

6. Plantations and unorganized territory. For purposes of state-municipal revenue sharing, plantations and the unorganized territory shall be treated as if they were municipalities.
[1987, c. 737, Pt. A, §2 (new); Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

7. Indian territory. For purposes of state-municipal revenue sharing, the Passamaquoddy Tribe and the Penobscot Nation Indian Territories shall be treated as if they were municipalities. In the absence of a levy of real and personal property taxes in either or both Indian territories, the property tax assessment is computed by multiplying the state valuation for the Indian territory for the period for which revenue sharing is being determined by the most current average equalized property tax rate of all municipalities in the State at that time as determined by the State Tax Assessor.
[1989, c. 871, §1 (new); §22 (aff).]

MRSA , §T.30A SEC.5681/5A (AMD).

Title 30-A, §5681, State-municipal revenue sharing

PL 1987, Ch. 737, §A2,C106 (NEW).
PL 1989, Ch. 6, § (AMD).
PL 1989, Ch. 9, §2 (AMD).
PL 1989, Ch. 104, §C8,10 (AMD).
PL 1989, Ch. 871, §1,22 (AMD).
PL 1991, Ch. 780, §Q1 (AMD).
PL 1995, Ch. 665, §E1 (AMD).
PL 1995, Ch. 665, §E4 (AFF).
PL 1999, Ch. 528, §1 (AMD).
PL 1999, Ch. 731, §U1-5 (AMD).
PL 2001, Ch. 439, §OO1 (AMD).
PL 2001, Ch. 559, §G1 (AMD).
PL 2001, Ch. 714, §Y1 (AMD).
IB 2003, Ch. 2, §2,3 (AMD).
PL 2003, Ch. 20, §W1 (AMD).
PL 2003, Ch. 174, §1 (AMD).
PL 2003, Ch. 673, §V29 (AFF).
PL 2003, Ch. 673, §V5 (AMD).
PL 2003, Ch. 689, §B6 (REV).
PL 2005, Ch. 2, §G1,H1 (AMD).
PL 2005, Ch. 2, §G2 (AFF).
PL 2005, Ch. 12, §E1 (AMD).
PL 2005, Ch. 266, §1 (AMD).

Title 35-A, §117, Reimbursement fund

§117. Reimbursement fund

1. Filing fees expense; reimbursements and payment for services. All money collected by the commission in the form of filing fees, expense reimbursements ordered by the commission or payment for services shall be deposited with the Treasurer of State in an account to be known as the Public Utilities Commission Reimbursement Fund. Services for which the commission receives payment include the reproduction and distribution of copies of commission decisions, agenda and dockets, photocopying and the use of facilities. This account is a continuous carrying account, with appropriate subaccounts, for reimbursement of commission expenses incurred in processing the associated matters or providing the associated services or facilities which generated the filing fee, expense reimbursement or payment. So much of the filing fee, expense reimbursement or payment as may be required by the commission is allocated for these purposes and for the refund of the unexpended portion of the filing fee.
[1989, c. 159, §1 (amd).]

2. State Controller's approval. All payments under this section shall be made to the commission after approval of the State Controller. In no event may the payments exceed the amounts received by the Treasurer of State from the Public Utilities Commission. Upon certification by the administrative director of the commission that certain amounts in the Public Utilities Commission Reimbursement Fund are not required by the commission, the Treasurer of State shall transfer the amounts to the General Fund.
[1987, c. 141, Pt. A, §6 (new).]

3. Administrative penalties. Except as provided in this subsection, all administrative penalties collected by the commission must be deposited into the Public Utilities Commission Reimbursement Fund.

A. The commission may use amounts collected as administrative penalties and deposited in the Public Utilities Commission Reimbursement Fund to reimburse the commission for additional expenses associated with the enforcement activities that resulted in the collection of the penalty. [2005, c. 432, §1 (new).]

B. After deducting any amount used pursuant to paragraph A, the commission may, to the extent practicable and in as equitable and fair a manner as possible, apply administrative penalties, along with any accrued interest, in accordance with this paragraph. The commission shall seek to apply the amount in a manner that benefits those customers affected or potentially affected by the violation, if they can reasonably be identified or, if the commission determines this application of the amount to be impractical or unreasonable, in a manner that benefits the class or group of customers affected or potentially affected by the violation. In order to achieve the purposes of this paragraph, the commission may apply the funds:

(1) In the form of a direct payment or credit to the customers or group or class of customers affected or potentially affected by the violation resulting in the administrative penalty;

(2) To supplement a low-income assistance or outreach program that the commission determines would benefit customers affected or potentially affected by the violation resulting in the administrative penalty;

(3) To supplement the conservation program fund established pursuant to section 3211-A, subsection 5;

(4) To supplement the telecommunications education access fund established pursuant to section 7104-B; or

(5) To supplement any other program or fund that the commission determines would benefit customers affected or potentially affected by the violation.

Amounts applied pursuant to this paragraph to supplement an existing program or fund may not result in a reduction in other funding provided for the program or fund unless the reduction is outside the commission's control and the commission finds that application of the penalty amount to the fund or program is the most appropriate use of the penalty and the net effect will be an increase in total funding available to the program or fund. [2005, c. 432, §1 (new).]

[2005, c. 432, §1 (amd).]

4. Budget approval. The commission shall submit its budget recommendations for the Public Utilities Commission Reimbursement Fund as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666.

[1997, c. 424, Pt. B, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).
PL 1989, Ch. 159, §1 (AMD).
PL 1997, Ch. 424, §B6 (AMD).
PL 2003, Ch. 505, §13 (AMD).
PL 2005, Ch. 432, §1 (AMD).

Chapter 29: MAINE PUBLIC UTILITY FINANCING BANK ACT (HEADING: PL 1987, c. 141, Pt. A, §6 (new))

§2901. Title

This chapter shall be known and may be cited as the "Maine Public Utility Financing Bank Act." [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2902. Findings and declaration of purpose

It is declared to be in the public interest and to be the policy of the State: [1987, c. 141, Pt. A, § 6 (new).]

1. To promote markets for borrowing. To foster and promote by all reasonable means the provision of adequate markets and costs for borrowing money by public utilities, for the financing of the provision, manufacture, transmission and distribution of electricity, gas and water and for the financing of energy conservation measures and renewable energy resources designed to reduce the use of electricity and gas;
[1999, c. 398, Pt. A, §40 (amd); §§104, 105 (aff).]

2. Creation of indebtedness. To assist those public utilities in fulfilling their needs for these purposes by creation of indebtedness and to the extent possible to encourage continued investor interest in the bonds of those public utilities as sound and preferred securities for investment; and
[1987, c. 141, Pt. A, § 6 (new).]

3. Encourage independent undertakings. To encourage its public utilities to continue independently the undertakings of subsection 1 and to assist them therein by making funds available at reduced interest costs for orderly financing of those undertakings particularly for those public utilities not otherwise able readily to borrow for those purposes at reasonable rates of interest.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).
PL 1999, Ch. 398, §A104,105 (AFF).
PL 1999, Ch. 398, §A40 (AMD).

§2903. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 141, Pt. A, §6 (new).]

1. Bank. "Bank" means the Maine Public Utility Financing Bank created by this chapter.
[1987, c. 141, Pt. A, § 6 (new).]

2. Bondholder or holder or noteholder. "Bondholder," "holder" or "noteholder" or any similar term when used with reference to a bond or note of the bank means any person who is the bearer of any outstanding bond or note of the bank registered to bearer or

not registered, or the registered owner of any outstanding bond or note of the bank which is, at the time, registered to one other than the bearer.
[1987, c. 141, Pt. A, §6 (new).]

3. Bonds. "Bonds" means bonds of the bank issued pursuant to this chapter.
[1987, c. 141, Pt. A, § 6 (new).]

4. Chapter. "Chapter" means the Maine Public Utility Financing Bank Act.
[1987, c. 141, Pt. A, § 6 (new).]

5. Fully marketable form. "Fully marketable form" means a public utility security duly executed and accompanied by an approving legal opinion of counsel of recognized standing in the field of public utility financing, whose opinions have been and are accepted by purchasers of like public utility bonds, provided that the public utility security so executed need not be printed or lithographed nor be in more than one denomination.
[1987, c. 141, Pt. A, § 6 (new).]

6. Notes. "Notes" means any notes of the bank issued pursuant to this chapter.
[1987, c. 141, Pt. A, § 6 (new).]

7. Public utility. "Public utility" means any transmission and distribution utility, water utility or gas utility that is subject to the jurisdiction of the commission.
[1999, c. 398, Pt. A, §41 (amd); §§104, 105 (aff).]

8. Public utility bond or utility bond. "Public utility bond" or "utility bond" means a bond, note or evidence of debt issued by a public utility located in or serving any inhabitants of the State and payable from rates, charges or other revenues.
[1987, c. 141, Pt. A, § 6 (new).]

9. Revenues. "Revenues" means all fees, charges, money, profits, payments of principal of or interest on utility bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bank under this chapter.
[1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).
PL 1999, Ch. 398, §A104,105 (AFF).
PL 1999, Ch. 398, §A41 (AMD).

§2904. Creation of bank and membership

1. Creation of bank. There is established a public body corporate and politic to be known as the "Maine Public Utility Financing Bank." The bank is an instrumentality of the State exercising public and essential governmental functions and which has perpetual succession. The exercise by the bank of the powers conferred by this Act is an essential governmental function of the State.
[1987, c. 141, Pt. A, § 6 (new).]

2. Commissioners. The bank shall be under the direction of a board of 5 commissioners comprised of the commissioners of the Maine Municipal Bond Bank who shall be commissioners ex officio.
[1987, c. 141, Pt. A, § 6 (new).]

3. Election and appointment of officers. The board of commissioners shall:

A. Elect one of its members as chairman and one as vice-chairman; and [1987, c. 141, Pt. A, § 6 (new).]

B. Appoint an executive director who shall also serve as both secretary and treasurer. [1987, c. 141, Pt. A, § 6 (new).] [1987, c. 141, Pt. A, § 6 (new).]

4. Powers and quorum. The powers of the bank are vested in the commissioners in office from time to time and 3 commissioners of the bank constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the bank at any meeting by the affirmative vote of at least 3 commissioners of the bank. No vacancy in the office of commissioner of the bank impairs the right of a quorum of the commissioners to exercise all the powers and perform all the duties of the bank.
[1987, c. 141, Pt. A, § 6 (new).]

5. Security bonds. Before the issuance of any bonds or notes under this Act, each commissioner of the bank shall execute a surety bond in the penal sum of $25,000 and the executive director of the bank shall execute a surety bond in the penal sum of $50,000, each such surety bond to be conditioned upon the faithful performance of the duties of the office of the commissioner or executive director to be executed by a surety company authorized to transact business in the State as surety and to be approved by the Attorney General and filed in the office of the Secretary of State. At all times after the issuance of any bonds or notes by the bank, each commissioner of the bank and the executive director shall maintain those surety bonds in full force and effect. All costs of those surety bonds shall be borne by the bank.
[1987, c. 141, Pt. A, § 6 (new).]

6. Compensation and expenses. Each member of the board of commissioners shall receive $50 per day for the time actually spent in the discharge or performance of his duties as a commissioner in addition to other compensation he may receive as a Commissioner of the Maine Municipal Bond Bank.

Each commissioner shall be reimbursed for his reasonable expenses incurred in carrying out his duties under this chapter. No officer or employee of the State forfeits his office or employment or any benefits or emoluments of that office or employment by accepting the office of commissioner of the bank or his services in the bank.
[1987, c. 141, Pt. A, § 6 (new).]

7. Executive director. The board of commissioners shall fix the duties and compensation of the executive director. The executive director may:

A. Employ, upon approval of the board of commissioners, a general counsel, architects, engineers, accountants, attorneys, financial advisors or experts and such other or different officers, agents and employees as may be required; and [1987, c. 141, Pt. A, § 6 (new).]

B. Determine their qualifications, terms of office, duties and compensation. [1987, c. 141, Pt. A, § 6 (new).]
[1987, c. 141, Pt. A, § 6 (new).]

8. Subordinate staff. To the maximum extent feasible and consistent with the other obligations of the Maine Municipal Bond Bank, the executive director and all subordinate staff shall be drawn from the staff of the Maine Municipal Bond Bank and the facilities of the Maine Municipal Bond Bank shall be used or shared by the bank.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2905. Lending and borrowing powers generally

1. Purchase of utility bonds. The bank, for the purposes authorized by this chapter, may lend money to public utilities by purchasing public utility bonds in full marketable form.
[1987, c. 141, Pt. A, § 6 (new).]

2. Purpose of loans. Loans to public utilities may be made for any purpose for which those public utilities may issue bonds and also may be made in connection with the financing of facilities, or any interest in facilities, located outside of the State if the facilities or the interest is reasonably related to the provision of public utility services to inhabitants of the State.
[1987, c. 141, Pt. A, § 6 (new).]

3. Bank may issue bonds and notes. The bank, for the purposes authorized by this chapter, may authorize and issue its bonds and notes payable solely from the revenues or funds available to the bank for those purposes, and to otherwise assist public utilities as provided in this chapter.
[1987, c. 141, Pt. A, § 6 (new).]

4. Bonds and notes issued not debt of state. Bonds and notes of the bank issued under this chapter are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debts or liabilities on behalf of the State but all such bonds and notes, unless funded or refunded by bonds or notes of the bank, are payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond and note shall contain on its face a statement to the effect that the bank is obligated to pay the principal or interest and redemption premium, if any, only from the revenues or funds pledged or available for those purposes and that neither the faith and credit nor the taxing power of the State is pledged for the payment of the principal of or the interest on those bonds or notes.

[1987, c. 141, Pt. A, § 6 (new).]

5. Expenses. All expenses incurred in carrying out the purposes of this chapter are payable solely from revenues or funds provided or to be provided under this chapter. Nothing in this chapter may be construed to authorize the bank to incur any indebtedness or liability on behalf of or payable by the State.

[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2906. Corporate powers

1. Powers. The bank, for carrying out the purposes of this chapter, has the following powers:

A. To sue and be sued; [1987, c. 141, Pt. A, § 6 (new).]

B. To adopt and have an official seal and alter that seal at pleasure; [1987, c. 141, Pt. A, § 6 (new).]

C. To make and enforce bylaws and rules for the conduct of its affairs and business and for use of its services and facilities; [1987, c. 141, Pt. A, § 6 (new).]

D. To maintain an office at such place or places inside the State as it may determine; [1987, c. 141, Pt. A, § 6 (new).]

E. To acquire, hold, use and dispose of its income, revenue, funds and money; [1987, c. 141, Pt. A, § 6 (new).]

F. To acquire, rent, lease, hold, use and dispose of other personal and real property for its purposes; [1989, c. 374, §2 (amd).]

G. To borrow money; to issue its negotiable bonds or notes; to provide for and secure the payment of its bonds and notes; to provide for the rights of the holders of them; and to purchase, hold and dispose of any of its bonds or notes; [1987, c. 141, Pt. A, § 6 (new).]

H. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities; [1987, c. 141, Pt. A, § 6 (new).]

I. To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the United States, this State or any other state, agencies or departments of the State, or from any political subdivision or any person to carry out the terms or provisions or make agreements with respect to any gifts or grants and to perform any acts necessary, useful, desirable or convenient in connection with procurement, acceptance or disposition of those gifts or grants; [1987, c. 141, Pt. A, § 6 (new).]

J. To perform any acts and things authorized by this chapter under, through or by means of its officers, agents or employees or by contracts with any person; [1987, c. 141, Pt. A, § 6 (new).]

K. To make, enter into and enforce all contracts or agreements necessary or desirable for the purposes of the bank or pertaining to any loan to a public utility or any purchase or sale of public utility bonds or other investments or to the performance of its duties and execution or carrying out of any of its powers under this chapter; [1987, c. 141, Pt. A, §6 (new).]

L. To purchase or hold public utility bonds at such prices and in such manner as the bank determines advisable and to sell public utility bonds acquired or held by it at such prices without relation to cost and in such manner as the bank determines advisable; [1987, c. 141, Pt. A, §6 (new).]

M. To invest any funds or money of the bank not then required for loan to public utilities and for the purchase of public utility bonds in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by this chapter; [1987, c. 141, Pt. A, § 6 (new).]

N. To fix and prescribe any form of application or procedure to be required of a public utility for the purpose of any loan or the purchase of its public utility bonds and to fix the terms and conditions of any such loan or purchase and to enter into agreements with public utilities with respect to any such loan or purchase; [1987, c. 141, Pt. A, § 6 (new).]

O. To contract with the Maine Municipal Bond Bank for the use of its staff, facilities or consultants, for temporary advances of funds or for any other matter, which contracts may provide for payment to the Maine Municipal Bond Bank for any goods or services received and for repayment of any temporary advances of funds made; and [1987, c. 141, Pt. A, § 6 (new).]

P. To do all acts necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter. [1987, c. 141, Pt. A, § 6 (new).]
[1989, c. 374, §2 (amd).]

2. Allocation of state ceiling. The bank may establish a process for allocation and carry-forward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank under Title 10, chapter 9. The executive director is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to the bank pursuant to Title 10, chapter 9.
[1989, c. 224, §4 (new).]

PL 1987, Ch. 141, §A6 (NEW).
PL 1989, Ch. 224, §4 (AMD).
PL 1989, Ch. 374, §2 (AMD).

§2907. Prohibited acts and limitation of powers

Nothing in this chapter permits or authorizes the bank to: [1987, c. 141, Pt. A, §6 (new).]

1. Loans. Make loans of money to any person other than a public utility or purchase securities issued by any person other than a public utility or for investment, except as provided in this chapter;
[1987, c. 141, Pt. A, §6 (new).]

2. Banking business. Issue bills of credit; accept deposits of money for time or demand deposit; administer trusts; engage in any manner in, or in the conduct of, any private or commercial banking business; or act as a savings bank or savings and loan association;
[1987, c. 141, Pt. A, §6 (new).]

3. Bank and trust company. Be or constitute a bank or trust company within the jurisdiction or under the control of the Bureau of Financial Institutions, the Superintendent of Financial Institutions, the Comptroller of the Currency of the United States or the United States Department of the Treasury;
[1987, c. 141, Pt. A, §6 (new); 2001, c. 44, §11 (amd); §14 (aff).]

4. Security business. Be or constitute a dealer in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States, of this State or of any other state or jurisdiction; or
[1987, c. 141, Pt. A, §6 (new).]

5. Public utility. Be a public utility or own and operate for its own account, and not as part of a financing undertaken pursuant to this chapter, any public utility plant, system or facility.
[1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).
PL 2001, Ch. 44, §11 (AMD).
PL 2001, Ch. 44, §14 (AFF).

§2908. Bonds and notes of the bank

1. Issuance of bonds; purposes. The bank may, from time to time, issue its bonds in such principal amounts as it determines necessary to provide funds for any purposes authorized by this chapter, including:

A. The making of loans; [1987, c. 141, Pt. A, § 6 (new).]

B. The payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it whether the bonds or interest to be funded or refunded have or have not become due or subject to redemption prior to maturity in accordance with their terms; [1987, c. 141, Pt. A, § 6 (new).]

C. The establishment or increase of the reserves to secure or to pay the bonds or interest on them; and [1987, c. 141, Pt. A, § 6 (new).]

D. All other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers. [1987, c. 141, Pt. A, § 6 (new).] [1987, c. 141, Pt. A, § 6 (new).]

2. Bonds are special obligations of the bank. Except as otherwise expressly provided in this chapter or by the bank, every issue of bonds shall be special obligations of the bank payable solely from the revenues or funds of the bank made available for the purpose and subject to any agreements with the holders of particular bonds pledging any particular revenues or funds. The bonds may be additionally secured by a pledge of any grants, subsidies, contributions, funds or money from the United States, this State or any political subdivision of the State, any person or a pledge of any income or revenues, funds or money of the bank from any source.
[1987, c. 141, Pt. A, § 6 (new).]

3. Issuance of notes. The bank may issue its notes for any corporate purpose of the bank from time to time, in such principal amounts as it determines necessary, and may renew or pay and retire or refund the notes from the proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for that purpose, in accordance with any contract between the bank and the holder of the notes and not otherwise pledged. The notes shall be issued in the same manner as bonds and the notes and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which the bonds or a bond resolution of the bank may contain. Unless provided otherwise in any contract between the bank and the holders of notes and unless the notes have been otherwise paid, funded or refunded, the proceeds of any bonds of the bank issued, among other things, to fund the outstanding notes, shall be held, used and applied by the bank to the payment and retirement of the principal of those notes and the interest due and payable. The bank may make contracts for the future sale from time to time of the notes, pursuant to which the purchaser shall be committed to purchase the notes from time to time on terms and conditions stated in the contracts, and the bank may pay such consideration as it determines proper for the commitments.
[1987, c. 141, Pt. A, § 6 (new).]

4. Bonds and notes are negotiable instruments. Whether or not the bonds or notes of the bank are of such form and character as to be negotiable instruments under the Uniform Commercial Code, Title 11, Article 8, the bonds and notes are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, Title 11, Article 8, subject only to the provisions of the bonds and notes for registration.
[1987, c. 141, Pt. A, § 6 (new).]

5. Bonds or notes authorized by resolution. Bonds or notes of the bank shall be authorized by resolution of the bank and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such coupon or registered form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places inside or outside the State and be subject to such terms of redemption, with or without premium, as the resolution or resolutions may provide.
[1987, c. 141, Pt. A, § 6 (new).]

6. Signature of officers. If any officer whose signature appears on the bonds, notes or bond coupons ceases to be an officer before the delivery of the bonds, notes or bond coupons, his signature is valid for all purposes as if he had remained in office.
[1987, c. 141, Pt. A, § 6 (new).]

7. Sale of bonds or notes. Bonds or notes of the bank may be sold at a public or private sale at a time and at a price determined by the bank.
[1987, c. 141, Pt. A, § 6 (new).]

8. No consent required for issuance. Bonds or notes of the bank may be issued under this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or acts than those proceedings, conditions or acts which are specifically required by this chapter.
[1987, c. 141, Pt. A, § 6 (new).]

9. Notes refunded or retired. The bank may from time to time issue its notes as provided under this chapter and pay and retire or fund or refund its notes from proceeds of bonds or of other notes, or from any other funds or money of the bank available or to be made available for this purpose in accordance with any contract between the bank and the holders of the notes. Unless provided otherwise in any contract between the bank and the holders of notes and unless the notes have been otherwise paid, funded or refunded, the proceeds of any

bonds of the bank issued, among other things to fund outstanding notes, shall be held, used and applied by the bank to the payments and retirement of the principal of the notes and the interest due and payable on the notes.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2909. Resolutions and indentures

In any resolution of the bank authorizing or relating to the issuance of any bonds or notes, the bank, in order to secure the payment of the bonds or notes and in addition to its other powers, shall have power by provisions in the resolution which constitute covenants by the bank and contracts with the holders of the bonds or notes to enter into any trust agreement or trust indenture with a corporate trustee, which may be any trust company or national banking association or state bank having the powers of a trust company inside or outside the State. The trust agreement, indenture or the resolution providing for the issuance of the bonds or notes may pledge or assign the revenues of the bank, and may contain provisions for protecting and enforcing the rights and remedies of the holder of such bonds and notes as may be reasonable and proper and not in violation of law, including the custody, safeguarding and application of all money. A trust agreement may set forth the rights and remedies of the holders of the bonds and notes and of the trustee, and may restrict the individual right of action by those holders. The bank may provide by the trust indenture for the payment of the proceeds of the bonds and notes and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement of those payments, with safeguards and restrictions as it may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the bank. If the bonds are secured by a trust indenture, the bondholder has no authority to appoint a separate trustee to represent them. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2910. Intent of pledge

Any pledge of revenue or other money made by the bank is valid and binding from time to time when the pledge is made. The revenue or other money pledged and received by the bank is immediately subject to the lien of the pledge without any physical delivery of the revenue or other money or further act and the lien of any pledge is valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the bank, irrespective of whether those persons have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the bank. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2911. Reserves and funds

1. Establishment. The bank may establish such reserves and such other funds or accounts as may be, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank or to comply with the provisions of any agreement made by or any resolution of the bank.
[1987, c. 141, Pt. A, § 6 (new).]

2. Investment. Money at any time in the reserve fund may be invested in the same manner as permitted for investment of funds belonging to the State or held in the treasury.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2912. Personal liability

Neither the commissioners of the bank nor any person executing bonds or notes issued pursuant to this chapter is liable personally on the bonds or notes by reason of the issuance of the bonds or notes. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2913. Purchase of bonds and notes of bank

The bank may purchase bonds or notes of the bank out of any funds or money of the bank available for that purpose. The bank may hold, cancel or resell the bonds or notes subject to and in accordance with agreements with holders of its bonds or notes. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2914. Bonds as legal investments and security

Notwithstanding any restrictions contained in any other law, the State and all public officers, governmental units and agencies; all national banking associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business; all insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or notes issued by the bank pursuant to this chapter and the bonds or notes shall be authorized security for any and all public deposits. [1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2915. Tax exemptions

All bonds and notes issued under this chapter are deemed to be held or issued in connection with essential public and governmental purposes and those bonds and notes so issued, their transfer and the income from them, including any profits made on their sale, are at all times exempt from taxation within the State. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2916. Exemption of property from execution sale; actions to set aside resolutions

1. Bank property exempt. All property of the bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the bank's property nor may any judgment against the bank be a charge or lien upon its property; provided that nothing contained in this chapter applies to or limits the rights of the holder of any bonds or notes to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other money.
[1987, c. 141, Pt. A, § 6 (new).]

2. Action to set aside resolution. An action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the bank under this chapter or to obtain any relief upon the ground that the resolution is invalid must be commenced within 30 days after the adoption of the resolution by the bank. After the expiration of the period of limitation, no right of action or defense founded upon the invalidity of the resolution or any of its provisions may be asserted nor may the validity of the resolution or any of its provisions be open to question in any court on any ground.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2917. Insurance or guaranty

The bank may obtain from any department or agency of the United States or the State or nongovernmental insurer any insurance or guaranty, to the extent available, as to the payment or repayment of interest or principal, or both, or any part of the interest or principal, on any bonds or notes issued by the bank, or on any public utility bonds purchased or held by the bank, pursuant to this chapter; and may enter into any agreement or contract with respect to any insurance or guaranty, except to the extent that the agreement or contract would in any way impair or interfere with the ability of the bank to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the bank. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2918. Annual report

No later than the last day of December, the bank shall make an annual report of its activities for the preceding fiscal year to the Governor. Each report shall set forth a complete operating and financial statement covering its operations during the year. The bank shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The cost of the audit shall be considered an expense of the bank. The bank shall file a copy of the audit with the Treasurer of State. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2919. Additional powers

In order to carry out the purposes and provisions of this chapter, the bank, in addition to any powers granted to it elsewhere in this chapter, may: [1987, c. 141, Pt. A, § 6 (new).]

1. Loans. In connection with any loan to a public utility, consider the need, desirability or eligibility of the loan, the ability of the public utility to secure borrowed money from other sources and the costs of the loan and the particular public improvement or purpose to be financed;
[1987, c. 141, Pt. A, § 6 (new).]

2. Charges. Impose and collect charges for its costs and services in review or consideration of any proposed loan to a public utility or purchase of public utility bonds whether or not the loan has been made or the public utility bonds have been purchased;
[1987, c. 141, Pt. A, § 6 (new).]

3. Purchase. Fix and establish terms and provisions with respect to any purchase of public utility bonds by the bank, including dates and maturities of the bonds, provisions as to redemption or payment prior to maturity and other matters which in connection with such a purchase are necessary, desirable or advisable in the judgment of the bank;
[1987, c. 141, Pt. A, § 6 (new).]

4. Hearings. Conduct examinations and hearings and hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out this chapter;
[1987, c. 141, Pt. A, § 6 (new).]

5. Insurance. Procure insurance against any losses in connection with its property, operations or assets in and from such amounts and from such insurers as it determines desirable; and
[1987, c. 141, Pt. A, §6 (new).]

6. Modification. To the extent permitted under its contracts with the holders of bonds or notes of the bank, consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2920. Undertakings of depositories

All national banking associations or state banks, trust companies, savings banks, investment companies and other persons carrying on a banking business may give the bank a good and sufficient undertaking with sureties that are approved by the bank to the effect that the national banking association or state bank or banking institution as described faithfully keeps and pays over to the order of or upon the warrant of the bank or its authorized agent all funds that may be deposited with it by the bank and agreed interest on the funds under this chapter, at such times or upon such demands as are agreed with the bank or in lieu of such sureties, deposit with the bank or its authorized agent or any trustee or for the holders of any bonds, as collateral, such securities as the bank approves. The deposits of the bank may be evidenced by an agreement in such form and upon such terms and conditions as are agreed upon by the bank and the national banking association or state bank or banking institution. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2921. Purchase of public utility securities

1. Authorizations of public utilities. Every public utility may:

A. Contract to pay interest on, or an interest cost per year for, money borrowed from the bank and evidenced by its public utility bond purchased by the bank; [1987, c. 141, Pt. A, § 6 (new).]

B. Contract with the bank with respect to that loan or purchase and the contract shall contain the terms and conditions of the loan or purchase; [1987, c. 141, Pt. A, § 6 (new).]

C. Pay fees and charges required to be paid to the bank for its services; and [1987, c. 141, Pt. A, § 6 (new).]

D. Sell bonds to the bank on such terms and conditions as may be agreed to by it and the bank and approved by the commission. [1987, c. 141, Pt. A, § 6 (new).] [1987, c. 141, Pt. A, § 6 (new).]

2. Officers' signatures on bonds. If any officer whose signature appears on the public utility bonds ceases to be an officer before the delivery of those bonds, his signature is valid for all purposes, as if he had remained in office. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2922. Remedies on default of public utility securities

In the event of default by a public utility in the payment of interest on, or principal of, any public utility bond owned or held by the bank as and when due and payable the bank shall proceed to enforce or cause to be enforced payment pursuant to applicable provisions of law of that interest or principal or other amounts then due and payable. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2923. Purchase of anticipation notes

The bank may purchase notes of any public utility issued in anticipation of the sale of public utility bonds in an amount not exceeding at any one time the outstanding authorized amount of the public utility bonds. In connection with any such purchase of anticipation notes, the bank may by agreement with the public utility impose such terms, conditions and limitations as in its opinion are proper in the circumstances and for the purposes and security of the bank and the holders of its bonds or notes. The bank shall enforce all such rights, remedies and provisions of law as it has under this section or this chapter or as otherwise provided by law. [1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2924. Budget

No later than June 1st each year, the bank shall prepare and file in the office of the Bureau of the Budget a budget of its operating expenses for the ensuing fiscal year. The budget shall be prepared on the basis of quarterly requirements so that it is possible to determine from the budget the operating expenses for each quarter of the year, and shall set forth the general categories of anticipated expenditures and the amount on account of each and shall include provision for reserve for contingencies and for over-expenditures. The budget may set forth such additional material as the bank may determine. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2925. State services

1. State may render services to bank. All officers, departments, boards, agencies, divisions and commissions of the State, including, without limitation, the Maine Municipal Bond Bank, may render any services to the bank which are within the area of their respective governmental functions as established by law and which are requested by the bank. [1987, c. 141, Pt. A, § 6 (new).]

2. State to comply with bank requests. All of the officers, departments, boards, agencies, divisions and commissions shall comply promptly with any reasonable request by the bank as to the making of any study or review as to desirability, need, cost or expense with respect to any public project, purpose or improvement or the financial feasibility of any project, purpose or improvement or the financial or fiscal responsibility or ability in connection with any project, purpose or improvement of any public utility making application for loan to the bank and for the purchase by the bank of public utility bonds. [1987, c. 141, Pt. A, § 6 (new).]

3. Cost and expense of state services. At the request of the officer, department, board, agency, division or commission rendering the service, the bank shall pay for the cost and expense of services it has requested. The Maine Municipal Bond Bank may make temporary advances of funds to the bank from such funds as it determines are available and on such terms and conditions as it determines. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2926. Agreements with financial institutions

1. Public utility bonds. The bank may enter into such agreements or contracts with any commercial banks, trust companies, banking or other financial institutions inside or outside the State as are necessary, desirable or convenient as determined by the bank, for rendering services to the bank in connection with:

A. The care, custody or safekeeping of public utility bonds or other investments held or owned by the bank; [1987, c. 141, Pt. A, § 6 (new).]

B. The payment or collection of amounts due and payable as to principal or interest; and [1987, c. 141, Pt. A, § 6 (new).]

C. The delivery to the bank of public utility bonds or other investments purchased by it or sold by it and may pay the cost of these services. [1987, c. 141, Pt. A, § 6 (new).] [1987, c. 141, Pt. A, § 6 (new).]

2. Bank may require security. The bank may also, in connection with services to be rendered by commercial banks, trust companies or banking or other financial institutions, as to the custody and safekeeping of any of its public utility bonds or investments, require security in the way of collateral bonds, surety agreements or security agreements in such form and in such amount as are necessary or desirable for the purpose of the bank, as determined by the bank.
[1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2927. Form of public utility securities and investments

All public utility or other investments of money of the bank permitted or provided for under this chapter shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bank. All public utility bonds at any time purchased, held or owned by the bank shall upon delivery to the bank be accompanied by documentation, including approving legal opinion, certification and guaranty as to signatures, certification as to absence of litigation and such other or further documentation as shall from time to time be required in the municipal bond market. [1987, c. 141, Pt. A, § 6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2928. Presumption of validity

After issuance, all bonds or notes of the bank are conclusively presumed to be fully authorized and issued under the laws of the State and any person or public utility is estopped from questioning their authorization, sale, issuance, execution or delivery by the bank. [1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2929. Other laws

To the extent that this chapter is inconsistent with or in conflict with any private or special law, this chapter shall be effective and such other private or special law is of no effect. [1987, c. 141, Pt. A, §6 (new).]

It is not intended that the general laws relating to public utilities shall be in any way affected by this chapter. [1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

§2930. Liberal construction of chapter

This chapter shall be construed liberally to effectuate the legislative intent and the purposes of this chapter. [1987, c. 141, Pt. A, §6 (new).]

PL 1987, Ch. 141, §A6 (NEW).

Title 36, §251, Warrants for town assessment of state tax

§251. Warrants for town assessment of state tax

When a state tax is imposed and required to be assessed by the proper officers of towns, the Treasurer of State shall send such warrants as he is, from time to time, ordered to issue for the assessment thereof to the assessors, requiring them forthwith to assess the sum apportioned to their town or place, and to commit their assessment to the constable or collector for collection.

Title 36, Chapter 703, CIGARETTE TAX

Chapter 703: CIGARETTE TAX

§4361. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 458, §1 (amd).]

1. Dealer. "Dealer" means any person other than a distributor who is engaged in this State in the business of selling cigarettes.
[1997, c. 458, §1 (amd).]

1-A. Cigarette. "Cigarette" means a cigarette, as defined in Section 5702 of the Code.
[1997, c. 458, §1 (amd).]

2. Distributor. "Distributor" means any person engaged in this State in the business of producing or manufacturing cigarettes in this State, importing cigarettes into this State or making wholesale purchases or sales of cigarettes in this State on which the tax imposed by this chapter has not been paid.
[1997, c. 458, §1 (amd).]

3. Licensed dealer.
[1983, c. 838, § 12 (rp).]

4. Licensed distributor. "Licensed distributor" means a distributor licensed under this chapter.
[1983, c. 828, § 12 (amd).]

4-A. Licensed wholesale dealer.
[1997, c. 458, §1 (rp).]

5. Person.
[1997, c. 458, §1 (rp).]

6. Sale or sell. "Sale" or "sell" includes or applies to gifts, exchanges and barter.
[1997, c. 458, §1 (amd).]

7. Sub-jobber.
[1997, c. 458, §1 (rp).]

8. Tax Assessor.
[1979, c. 378, § 29 (rp).]

9. Unclassified importer.
[1997, c. 458, §1 (rp).]

10. Unstamped cigarettes. "Unstamped cigarettes" means cigarettes to which stamps issued by the State Tax Assessor pursuant to section 4366-A are not affixed.
[1997, c. 458, §1 (new).]

PL 1979, Ch. 378, §29 (AMD).
PL 1983, Ch. 828, §12 (AMD).
PL 1997, Ch. 458, §1 (AMD).

§4362. Licenses (REPEALED)

PL 1977, Ch. 696, §287 (AMD).
PL 1979, Ch. 508, §1 (AMD).
PL 1983, Ch. 828, §13 (AMD).
PL 1997, Ch. 458, §2 (RP).

§4362-A. Licenses

1. Generally. A distributor doing business in this State shall obtain a license from the assessor. A license must be obtained for each wholesale outlet maintained by the distributor. A distributor's license must be prominently displayed on the premises covered by the license.
[1997, c. 458, §3 (new).]

2. Applications; forms. An application for a distributor's license must be made on a form prescribed and issued by the assessor. Licenses are issued in the form prescribed by the assessor and must contain the name and address of the license holder, the address of the place of business and such other information as the assessor may require for the proper administration of this chapter.
[2001, c. 526, §3 (amd).]

3. Expiration and reissuance. A distributor's license expires one year from the 30th day of June next succeeding the date of issuance unless sooner revoked by the assessor pursuant to subsection 5 or unless the business with respect to which the license was issued is sold, in either of which cases the holder of the license shall immediately surrender it to the assessor.

A person may not be issued a distributor's license or granted a renewal of a license unless the person certifies in writing to the Attorney General that the person is in compliance with Title 22, section 1580-L.
[2003, c. 439, §2 (amd).]

4. Penalties. The following penalties apply to violations of this section.

A. A distributor who imports into this State any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than $250 and not more than $500 must be adjudged. [2003, c. 452, Pt. U, §9 (new); Pt. X, §2 (aff).]

B. A distributor who violates paragraph A after having been previously adjudicated as violating paragraph A commits a civil violation for which a fine of not less than $500 and not more than $1,000 must be adjudged for each subsequent violation. [2003, c. 452, Pt. U, §9 (new); Pt. X, §2 (aff).]

C. A distributor who sells at wholesale, offers for sale at wholesale or possesses with intent to sell at wholesale any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than $250 and not more than $500 must be adjudged. [2003, c. 452, Pt. U, §9 (new); Pt. X, §2 (aff).]

D. A distributor who violates paragraph C after having been previously adjudicated as violating paragraph C commits a civil violation for which a fine of not less than $500 and not more than $1,000 must be adjudged for each subsequent violation. [2003, c. 452, Pt. U, §9 (new); Pt. X, §2 (aff).]
[2003, c. 452, Pt. U, §9 (rpr); Pt. X, §2 (aff).]

5. Revocation or suspension. The assessor may revoke or suspend the license of a license holder for failure to comply with any provision of this chapter or if the license holder no longer imports or sells cigarettes. Any person aggrieved by a revocation or suspension may apply to the assessor for a hearing as provided in section 151.
[1997, c. 458, §3 (new).]

PL 1997, Ch. 458, §3 (NEW).
PL 2001, Ch. 526, §3 (AMD).

PL 2003, Ch. 439, §2 (AMD).
PL 2003, Ch. 452, §U9 (AMD).
PL 2003, Ch. 452, §X2 (AFF).

§4363. -- expiration; reissuance (REPEALED)

PL 1979, Ch. 508, §2 (AMD).
PL 1997, Ch. 458, §4 (RP).

§4364. -- revocation (REPEALED)

PL 1983, Ch. 828, §14 (AMD).
PL 1997, Ch. 458, §5 (RP).

§4365. Rate of tax

A tax is imposed on all cigarettes imported into this State or held in this State by any person for sale at the rate of 100 mills for each cigarette. Payment of the tax is evidenced by the affixing of stamps to the packages containing the cigarettes. [2005, c. 457, Pt. AA, §1 (amd); §8 (aff).]

PL 1965, Ch. 343, §1,2 (AMD).
P&SL 1967, Ch. 154, §G (AMD).
P&SL 1967, Ch. 191, §E1,E2 (AMD).
PL 1967, Ch. 544, §110,113 (RP).
PL 1967, Ch. 544, §96,97 (AMD).
PL 1969, Ch. 295, §6,7 (AMD).
P&SL 1971, Ch. 117, §E1,2 (AMD).
PL 1973, Ch. 768, §2,3 (AMD).
PL 1975, Ch. 623, §60 (AMD).
PL 1977, Ch. 477, §13,14 (AMD).
PL 1977, Ch. 696, §288 (AMD).
PL 1979, Ch. 127, §198 (AMD).
PL 1983, Ch. 477, §F2 (AMD).
PL 1983, Ch. 859, §M8,M13 (AMD).
PL 1985, Ch. 1, § (AMD).
PL 1985, Ch. 535, §9 (AMD).
PL 1989, Ch. 588, §D1 (AMD).
PL 1997, Ch. 458, §6 (RPR).
PL 1997, Ch. 560, §A2 (AMD).
PL 1997, Ch. 560, §A5 (AFF).
PL 1997, Ch. 643, §T3 (AMD).
PL 1997, Ch. 643, §T6 (AFF).
PL 1997, Ch. 750, §D1 (AFF).
PL 1999, Ch. 414, §37 (AMD).
PL 2001, Ch. 396, §31 (AMD).
PL 2001, Ch. 439, §SSSS1 (AMD).
PL 2001, Ch. 439, §SSSS4 (AFF).
PL 2003, Ch. 705, §6 (AMD).
PL 2005, Ch. 218, §44 (AMD).
PL 2005, Ch. 457, §AA1 (AMD).
PL 2005, Ch. 457, §AA8 (AFF).

§4365-A. Rate of tax after September 30, 1989 (REPEALED)

PL 1985, Ch. 535, §10 (NEW).
PL 1989, Ch. 588, §D2 (AMD).
PL 1997, Ch. 458, §7 (RP).

§4365-B. Rate of tax after December 31, 1990 (REPEALED)

PL 1989, Ch. 588, §D3 (NEW).
PL 1997, Ch. 458, §8 (RP).

§4365-C. Rate of tax after June 30, 1991 (REPEALED)

PL 1989, Ch. 588, §D3 (NEW).
PL 1997, Ch. 458, §8 (RP).

§4365-D. Rate of tax beginning November 1, 1997 (REPEALED)

PL 1997, Ch. 560, §A3 (NEW).
PL 1997, Ch. 560, §A5 (AFF).
PL 1997, Ch. 643, §T4 (AMD).
PL 1997, Ch. 643, §T6 (AFF).
PL 1997, Ch. 750, §D1 (AFF).
PL 1999, Ch. 414, §38 (RP).

§4365-E. Application of cigarette tax rate increase effective October 1, 2001 (REPEALED)

PL 2001, Ch. 439, §SSSS2 (NEW).
PL 2005, Ch. 218, §45 (AMD).
PL 2005, Ch. 457, §AA2 (RP).
PL 2005, Ch. 457, §AA8 (AFF).

§4365-F. Application of cigarette tax rate increase effective September 19, 2005

The following provisions apply to cigarettes held for resale on September 19, 2005. [2005, c. 457, Pt. AA, §3 (new); §8 (aff).]

1. Stamped rate. Cigarettes stamped at the rate of 50 mills per cigarette and held for resale after September 18, 2005 are subject to tax at the rate of 100 mills per cigarette.
[2005, c. 457, Pt. AA, §3 (new); §8 (aff).]

2. Liability. A person possessing cigarettes for resale is liable for the difference between the tax rate of 100 mills per cigarette and the tax rate of 50 mills per cigarette in effect before September 19, 2005. Stamps indicating payment of the tax imposed by this section must be affixed to all packages of cigarettes held for resale as of September 19, 2005, except that cigarettes held in vending machines as of that date do not require that stamp.
[2005, c. 457, Pt. AA, §3 (new); §8 (aff).]

3. Vending machines. Notwithstanding any other provision of this chapter, it is presumed that all cigarette vending machines are filled to capacity on September 19, 2005 and that the tax imposed by this section must be reported on that basis. A credit against this

inventory tax must be allowed for cigarettes stamped at the rate of 100 mills per cigarette placed in vending machines before September 19, 2005.
[2005, c. 457, Pt. AA, §3 (new); §8 (aff).]

4. Payment. Payment of the tax imposed by this section must be made to the assessor by December 19, 2005, accompanied by forms prescribed by the assessor.
[2005, c. 457, Pt. AA, §3 (new); §8 (aff).]

PL 2005, Ch. 457, §AA3 (NEW).
PL 2005, Ch. 457, §AA8 (AFF).

§4366. Stamps provided by State Tax Assessor (REPEALED)

PL 1965, Ch. 343, §3 (AMD).
P&SL 1967, Ch. 191, §E3 (AMD).
PL 1969, Ch. 504, §50 (AMD).
PL 1973, Ch. 768, §5 (AMD).
PL 1981, Ch. 364, §47 (AMD).
PL 1983, Ch. 828, §15 (AMD).
PL 1997, Ch. 458, §9 (RP).

§4366-A. Cigarette tax stamps

1. Generally. A distributor may not:

A. Sell, offer for sale or display for sale any cigarettes within this State that do not bear stamps evidencing the payment of the tax imposed by this chapter; or [2003, c. 452, Pt. U, §10 (new); Pt. X, §2 (aff).]

B. Violate paragraph A when the distributor has 2 prior convictions for violation of this chapter. [2003, c. 452, Pt. U, §10 (new); Pt. X, §2 (aff).]

The face value of the stamps must be considered as part of the retail cost of the cigarettes.
[2003, c. 452, Pt. U, §10 (rpr); Pt. X, §2 (aff).]

2. Provided to sellers. The State Tax Assessor shall provide stamps suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The assessor may permit a licensed distributor to pay for the stamps within 30 days after the date of purchase, if a bond satisfactory to the assessor in an amount not less than 50% of the sale price of the stamps has been filed with the assessor conditioned upon payment for the stamps. Such a distributor may continue to purchase stamps on a 30-day deferral basis only if it remains current with its cigarette tax obligations. The assessor may not sell additional stamps to a distributor that has failed to pay in full within 30 days for stamps previously purchased until such time as the overdue payment is received. The assessor shall sell cigarette stamps to licensed distributors at the following discounts from their face value:

A. For stamps at the face value of 37 mills sold through September 30, 2001, 2.5%; [2001, c. 439, Pt. SSSS, §3 (new).]

B. For stamps at the face value of 50 mills sold prior to July 1, 2002, 2.16%; [2005, c. 457, Pt. AA, §4 (amd); §8 (aff).]

C. For stamps at the face value of 50 mills sold on or after July 1, 2002, 2.03%; and [2005, c. 457, Pt. AA, §4 (amd); §8 (aff).]

D. For stamps at the face value of 100 mills, 1.15%. [2005, c. 457, Pt. AA, §5 (new); §8 (aff).]
[2005, c. 622, §25 (amd); §34 (aff).]

3. Affixed to cigarettes. A distributor shall affix, or cause to be affixed, in such manner as the assessor may specify, stamps of the proper denominations to individual packages of cigarettes sold or distributed by the distributor in this State. The distributor shall affix the stamps prior to the time the cigarettes are transferred out of the possession of the distributor.

[1997, c. 458, §10 (new).]

4. Resale and reuse of stamps prohibited. A distributor may not:

A. Sell, transfer or use more than once cigarette stamps issued by the assessor pursuant to this chapter; or [2003, c. 452, Pt. U, §11 (new); Pt. X, §2 (aff).]

B. Violate paragraph A when the distributor has 2 prior convictions for violation of this chapter. [2003, c. 452, Pt. U, §11 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. U, §11 (rpr); Pt. X, §2 (aff).]

4-A. Redemption of stamps. The assessor shall redeem any unused, uncancelled stamps presented within one year of the date of purchase by a licensed distributor at a price equal to the amount paid for them. The assessor may also redeem, at face value, cigarette tax stamps affixed to packages of cigarettes that have become unsalable if application is made within 90 days of the return of the unsalable cigarettes to the manufacturer. The Treasurer of State shall provide out of money collected pursuant to this chapter, the funds necessary for the redemption.

[2003, c. 452, Pt. U, §12 (new); Pt. X, §2 (aff).]

5. Possession of unstamped cigarettes; presumption of intent for sale. The possession in this State by any person other than a licensed distributor of unstamped cigarettes is prima facie evidence that the cigarettes have been imported and that they are intended for sale in this State.

[1997, c. 458, §10 (new).]

6. Penalties. The following penalties apply to violations of this section.

A. A person who sells, offers for sale, displays for sale or possesses with intent to sell unstamped cigarettes in violation of this section commits a Class D crime. [2003, c. 452, Pt. U, §13 (new); Pt. X, §2 (aff).]

B. A person who violates paragraph A when the person has 2 or more prior convictions for violation of this chapter commits a Class C crime. [2003, c. 452, Pt. U, §13 (new); Pt. X, §2 (aff).]

C. A person who sells or transfers cigarette stamps or uses stamps more than once in violation of this section commits a Class D crime. [2003, c. 452, Pt. U, §13 (new); Pt. X, §2 (aff).]

D. A person who violates paragraph C when the person has one or more prior convictions for violation of this chapter commits a Class C crime. [2003, c. 452, Pt. U, §13 (new); Pt. X, §2 (aff).]

Except as otherwise specifically provided, violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

[2003, c. 452, Pt. U, §13 (rpr); Pt. X, §2 (aff).]

PL 1997, Ch. 458, §10 (NEW).
PL 2001, Ch. 439, §SSSS3 (AMD).
PL 2003, Ch. 452, §U10-13 (AMD).
PL 2003, Ch. 452, §X2 (AFF).
PL 2005, Ch. 218, §46 (AMD).
PL 2005, Ch. 457, §AA4,5 (AMD).
PL 2005, Ch. 457, §AA8 (AFF).
PL 2005, Ch. 622, §25 (AMD).
PL 2005, Ch. 622, §34 (AFF).

§4366-B. Importation of cigarettes

1. Generally. Except as provided in subsection 2, only a licensed distributor or a dealer may import cigarettes into this State.

[1997, c. 458, §10 (new).]

2. Exception for personal use. An individual who is not a licensed distributor or a dealer may transport cigarettes into this State and may transport cigarettes from place to place within this State for the individual's personal use in a quantity not greater than 2 cartons. [1997, c. 668, §27 (amd).]

3. Evidence. The possession of more than 2 cartons of unstamped cigarettes by a person who is not a licensed distributor or a dealer is prima facie evidence of a violation of this section. [1997, c. 458, §10 (new).]

4. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime. [2003, c. 452, Pt. U, §14 (new); Pt. X, §2 (aff).]

B. A person who violates this section when the person has one or more prior convictions for violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [2003, c. 452, Pt. U, §14 (new); Pt. X, §2 (aff).]

Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. U, §14 (rpr); Pt. X, §2 (aff).]

PL 1997, Ch. 458, §10 (NEW).
PL 1997, Ch. 668, §27 (AMD).
PL 2003, Ch. 452, §U14 (AMD).
PL 2003, Ch. 452, §X2 (AFF).

§4366-C. Sales of cigarettes in contravention of law

1. Cigarettes; stamps not affixed. A dealer or distributor may not offer for sale, sell or affix a stamp to a package of cigarettes if the package:

A. Does not comply with the Federal Cigarette Labeling and Advertising Act, 15 United States Code, Section 1331, et seq., for the placement of labels, warnings or any other information for a package of cigarettes to be sold within the United States; [1999, c. 616, §3 (new).]

B. Is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S." or with other wording indicating that the manufacturer did not intend that the product be sold in the United States; [1999, c. 616, §3 (new).]

C. Has been altered by adding or deleting wording, labels or warnings described in paragraphs A and B; [1999, c. 616, §3 (new).]

D. Has been imported into the United States in violation of 26 United States Code, Section 5754; or [1999, c. 616, §3 (new).]

E. In any way violates federal trademark or copyright laws. [1999, c. 616, §3 (new).]
[1999, c. 616, §3 (new).]

2. Deceptive practice. Selling a package of cigarettes described in subsection 1, with or without a stamp, is an unfair or deceptive act or practice under the Maine Unfair Trade Practices Act. [1999, c. 616, §3 (new).]

3. Penalties. The following penalties apply to violations of this section.

A. A dealer or distributor who violates this section commits a Class E crime. [2003, c. 452, Pt. U, §15 (new); Pt. X, §2 (aff).]

B. A dealer or distributor who violates this section when the dealer or distributor has one or more prior convictions for violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [2003, c. 452, Pt. U, §15 (new); Pt. X, §2 (aff).]

Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. U, §15 (rpr); Pt. X, §2 (aff).]

PL 1999, Ch. 616, §3 (NEW).
PL 2003, Ch. 452, §U15 (AMD).
PL 2003, Ch. 452, §X2 (AFF).

§4366-D. Additional cigarette tax (REPEALED)

PL 2001, Ch. 450, §D1 (NEW).
PL 2005, Ch. 218, §47 (RP).

§4367. Resale of stamps prohibited; redemption (REPEALED)

PL 1971, Ch. 22, § (AMD).
PL 1997, Ch. 458, §11 (RP).

§4368. Stamps affixed by licensed dealers (REPEALED)

PL 1985, Ch. 535, §11 (AMD).
PL 1997, Ch. 458, §12 (RP).

§4369. Stamps affixed by licensed dealers (REPEALED)

PL 1979, Ch. 508, §3 (AMD).
PL 1983, Ch. 828, §16 (AMD).
PL 1985, Ch. 535, §12 (AMD).
PL 1997, Ch. 458, §13 (RP).

§4370. Sale of unstamped cigarettes prohibited (REPEALED)

PL 1967, Ch. 62, § (AMD).
PL 1977, Ch. 696, §289 (AMD).
PL 1979, Ch. 508, §4 (AMD).
PL 1983, Ch. 828, §17 (AMD).
PL 1997, Ch. 458, §14 (RP).

§4371. Possession of unstamped cigarettes; prima facie evidence (REPEALED)

PL 1983, Ch. 828, §18 (AMD).
PL 1997, Ch. 458, §15 (RP).

§4372. Unstamped cigarettes to be confiscated (REPEALED)

PL 1975, Ch. 31, §1,2 (AMD).
PL 1977, Ch. 696, §290 (AMD).
PL 1983, Ch. 828, §19 (AMD).
PL 1997, Ch. 458, §16 (RP).

Title 36, Chapter 703, CIGARETTE TAX

§4372-A. Seizure and forfeiture of contraband cigarettes

1. Generally. Except as provided in subsection 2, any unstamped cigarettes or cigarettes described in section 4366-C, subsection 1 that are found in this State are hereby declared to be contraband goods subject to seizure by and forfeiture to the State. All law enforcement officers, including contract officers pursuant to Title 22, section 1556-A, and duly authorized agents of the State Tax Assessor may seize contraband cigarettes under the process described in subsection 3.
[1999, c. 616, §4 (amd).]

2. Exceptions. The following cigarettes are not subject to seizure:

A. Unstamped cigarettes in the possession of a licensed distributor; [1997, c. 458, §17 (new).]

B. Unstamped cigarettes in the course of transit from without the State and consigned to a licensed distributor; and [1997, c. 458, §17 (new).]

C. Unstamped cigarettes in a quantity of 2 cartons or less in the possession of an individual who is not a licensed distributor. [1997, c. 668, §28 (amd).]

Notwithstanding paragraphs A, B and C, cigarettes described in section 4366-C, subsection 1 are subject to seizure under the process described in subsection 3, unless the dealer or distributor can prove the cigarettes are to be exported out of the country.
[1999, c. 616, §5 (amd).]

3. Procedure for seizure. Contraband cigarettes may be seized by law enforcement officers and by duly authorized agents of the State Tax Assessor who have probable cause to believe that the cigarettes are unstamped cigarettes or cigarettes described in section 4366-C, subsection 1 under the following circumstances:

A. When the cigarettes are discovered in a place where the law enforcement officer or agent has the lawful right to be in the performance of official duties; or [1997, c. 458, §17 (new).]

B. When the seizure is incident to a search under a valid search warrant or an inspection under a valid administrative inspection warrant. [1997, c. 458, §17 (new).]
[1999, c. 616, §6 (amd).]

4. Procedure for forfeiture. A petition for forfeiture must be filed as provided in this subsection.

A. A district attorney or assistant district attorney, or the Attorney General or an Assistant Attorney General, may petition the District Court in the name of the State in the nature of a proceeding in rem to order the forfeiture of contraband cigarettes. [1997, c. 458, §17 (new).]

B. There may be no discovery other than under the Maine Rules of Civil Procedure, Rule 36, except by order of the court upon a showing of substantial need. An order permitting discovery must set forth in detail the areas in which substantial need has been shown and the extent to which discovery may take place. [1997, c. 458, §17 (new).]

C. A petition for forfeiture filed pursuant to this section must be accepted by the District Court without the assessment or payment of civil entry or filing fees otherwise provided for by rule of court. [1997, c. 458, §17 (new).]
[1997, c. 458, §17 (new).]

5. Jurisdiction and venue. Cigarettes subject to forfeiture under this section must be declared forfeited by the District Court having jurisdiction over the cigarettes. Venue is in the location where the contraband cigarettes are seized or in Kennebec County.
[1997, c. 458, §17 (new).]

6. Type of action; burden of proof. A proceeding instituted pursuant to this section is an in rem civil action. The State has the burden of proving all material facts by a preponderance of the evidence and the owner of the cigarettes or other person claiming the cigarettes has the burden of proving by a preponderance of the evidence one of the exceptions set forth in subsection 2.
[1997, c. 458, §17 (new).]

7. Hearings; disposition; deposit of funds. At a hearing, other than a default proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law and file a final order from which the parties have the right of appeal. When cigarettes are ordered forfeited, the final order must provide for the disposition of the cigarettes by the State Tax Assessor by public auction or by the

State Purchasing Agent. Proceeds must be deposited in the General Fund. Cigarettes described in section 4366-C, subsection 1 must be destroyed by the State Tax Assessor in a manner that prevents their reintroduction into the marketplace.
[1999, c. 616, §6 (amd).]

8. Default proceedings. Default proceedings must be held in the same manner as default proceedings in other civil actions, except that service of motions and affidavits related to the default proceedings need not be served upon any person who has not answered or otherwise defended in the action.
[1997, c. 458, §17 (new).]

PL 1997, Ch. 458, §17 (NEW).
PL 1997, Ch. 668, §28 (AMD).
PL 1999, Ch. 616, §4-6 (AMD).

§4373. Forfeiture proceedings (REPEALED)

PL 1969, Ch. 4, § (AMD).
PL 1979, Ch. 615, §1 (AMD).
PL 1983, Ch. 828, §20 (AMD).
PL 1997, Ch. 458, §18 (RP).

§4373-A. Records required; inspection and examination; assessment of tax deficiency

1. Generally. Distributors and dealers shall keep complete and accurate records of all cigarettes that they manufacture, produce, transfer or sell. The records must be of a kind and in the form prescribed by the State Tax Assessor and must be safely preserved for 6 years in a manner that ensures permanency and accessibility by authorized agents of the assessor. Records maintained by dealers must include an inventory of stamped cigarettes, by pack size. Records maintained by distributors must include the following data on either a calendar or fiscal year basis:

A. An inventory of unaffixed Maine cigarette stamps by denomination; [1997, c. 458, §19 (new).]

B. An inventory of stamped cigarettes, by pack size; [1997, c. 458, §19 (new).]

C. An inventory of unstamped cigarettes, by pack size; and [1997, c. 458, §19 (new).]

D. Copies of all documents supporting redemption for tax on unused, uncancelled stamps and for unsalable cigarettes. [1997, c. 458, §19 (new).]

If the rate of tax imposed by section 4365 is changed, a distributor shall take a new inventory.
[1997, c. 458, §19 (new).]

2. Inspection and examination; penalty. The assessor or any authorized agent may enter into or upon any premises where there is reason to believe that cigarettes are possessed, stored or sold, and may examine the books, papers, records and cigarette stock of any distributor or dealer to determine compliance with the provisions of this chapter. Failure or refusal to permit an examination pursuant to this subsection is a civil violation for which a fine in the amount of $250 must be imposed, no part of which may be suspended.
[2001, c. 396, §32 (amd).]

3. Assessment of tax deficiency; presumptions. If the assessor determines that a distributor has not purchased sufficient stamps to cover sales of cigarettes or that a dealer has made sales of unstamped cigarettes, the assessor shall assess the tax deficiency pursuant to section 141. When a distributor can not produce evidence of sufficient stamp purchases to cover receipts and sales or other disposition of cigarettes, it is presumed that the cigarettes were sold without having the proper stamps affixed to them.
[1997, c. 458, §19 (new).]

PL 1997, Ch. 458, §19 (NEW).
PL 2001, Ch. 396, §32 (AMD).

§4374. Fraudulent stamps

Any person who, with the intent to defraud, makes, forges or counterfeits any stamp prescribed by the State Tax Assessor under this chapter or who causes or procures the same to be done, who knowingly utters, publishes, passes or renders as true any false, altered, forged or counterfeited stamp or who knowingly possesses any such false, altered, forged or counterfeited stamp, for the purpose of evading the tax imposed by this chapter, commits a Class C crime. [1997, c. 458, §20 (rpr).]

PL 1977, Ch. 696, §291 (RPR).
PL 1997, Ch. 458, §20 (RPR).

§4375. Records; examinations by State Tax Assessor (REPEALED)

PL 1979, Ch. 378, §30 (AMD).
PL 1979, Ch. 508, §5 (AMD).
PL 1979, Ch. 663, §223 (RPR).
PL 1981, Ch. 364, §48 (RP).

§4376. Oaths and subpoenas (REPEALED)

PL 1981, Ch. 364, §49 (RP).

§4377. Hearings by Tax Assessor (REPEALED)

PL 1977, Ch. 694, §712 (RP).

§4378. Appeals (REPEALED)

PL 1977, Ch. 694, §712 (RP).

§4379. Administration; rules

The administration of this chapter is vested in the State Tax Assessor. All forms necessary and proper for the enforcement of this chapter must be prescribed and furnished by the assessor. The assessor shall appoint any agents necessary for effecting the purpose of this chapter. The assessor may adopt rules to carry into effect this chapter. [1997, c. 458, §21 (amd).]

PL 1985, Ch. 785, §B169 (AMD).
PL 1997, Ch. 458, §21 (AMD).

§4380. Use of metering machines (REPEALED)

PL 1983, Ch. 828, §21 (AMD).
PL 1997, Ch. 458, §22 (RP).

§4381. Tax credited to General Fund

The revenue derived from the tax imposed by this chapter shall be credited to the General Fund of the State.

§4382. Tax is levy on consumer

The liability for, or the incidence of, the tax on cigarettes is declared to be a levy on the consumer. The distributors shall add the amount of the tax on cigarettes presently levied to the price of the cigarettes and the distributor may state the amount of the taxes separately from the price of such cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such cigarettes. This section shall in no way affect the method of collection of such taxes on cigarettes as now provided by existing law.

§4383. Distributor responsibilities (REPEALED)

PL 2001, Ch. 322, §1 (NEW).
PL 2003, Ch. 439, §3 (RP).

§4384. Reporting and payment of tax

A person who is not a licensed distributor or dealer who imports, receives or otherwise acquires unstamped cigarettes for use or consumption in the State in a quantity greater than 2 cartons in any one month from a person other than a licensed distributor or dealer shall file, on or before the last day of the month following each month in which unstamped cigarettes were acquired, a return on a form prescribed by the State Tax Assessor together with payment of the tax imposed by this chapter at the rate provided in section 4365. The return must report the number of unstamped cigarettes imported, received or otherwise acquired during the previous calendar month and additional information the assessor may require. [2003, c. 705, §7 (new).]

PL 2003, Ch. 705, §7 (NEW).

Title 36, §752, -- payment

§752. -- payment

On or before the first day of September in each year, the Treasurer of State shall issue his warrant to the treasurer of each municipality requiring him to transmit and pay to the Treasurer of State, on or before the time fixed by law, that municipality's proportion of the state tax for the current year. Warrants for county taxes shall be issued by the county treasurers in the same manner with proper changes.

Title 36, §1815, Tax from sales occurring on Passamaquoddy reservation

§1815. Tax from sales occurring on Passamaquoddy reservation

1. Passamaquoddy Sales Tax Fund. The Passamaquoddy Sales Tax Fund, referred to in this section as the "fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe pursuant to subsections 2 and 3.
[1999, c. 477, §1 (new).]

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this Part in the previous month on sales occurring on the Passamaquoddy reservation at either Pleasant Point or Indian Township reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer that amount to the Passamaquoddy Sales Tax Fund.
[1999, c. 477, §1 (new).]

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy Sales Tax Fund equal to the amounts transferred into the fund.
[1999, c. 477, §1 (new).]

PL 1999, Ch. 477, §1 (NEW).

Title 37-B, §341, Prosecution of offenses

§341. Prosecution of offenses

Unless otherwise provided, offenses described in this chapter except where committed by a person subject to the Maine Code of Military Justice or the United States Uniform Code of Military Justice, may be prosecuted by complaint or indictment before a court of competent criminal jurisdiction. All fines and forfeitures collected under this chapter and not otherwise specifically provided for shall be paid into the State Treasury and credited to the General Fund. [1983, c. 460, § 3 (new).]

PL 1983, Ch. 460, §3 (NEW).

Title 38, §548, Removal of prohibited discharges

§548. Removal of prohibited discharges

Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction. Notwithstanding the above requirement, the commissioner may undertake the removal or cleanup of that discharge and may retain agents and contractors for those purposes who shall operate under the direction of the commissioner. The commissioner may implement remedies to restore or replace water supplies contaminated by a discharge of oil prohibited by section 543, including all discharges from interstate pipelines, using the most cost-effective alternative that is technologically feasible and reliable and which effectively mitigates or minimizes damages to, and provides adequate protection of, the public health, welfare and the environment. [1989, c. 890, Pt. A, §40 (aff); Pt. B, §114 (amd).]

Any unexplained discharge of oil within state jurisdiction or discharge of oil occurring in waters beyond state jurisdiction that for any reason penetrates within state jurisdiction must be removed by or under the direction of the commissioner. Any expenses involved in the removal or cleanup of discharges, including the restoration of water supplies contaminated by discharges from interstate pipelines and other discharges prohibited by section 543, whether by the person reporting the discharge, the commissioner or the commissioner's agents or contractors, must be paid in the first instance from the Maine Coastal and Inland Surface Oil Clean-up Fund and any reimbursements due that fund must be collected in accordance with section 551. [1991, c. 817, §10 (amd).]

If a water supply well is installed after October 1, 1994 to serve a location that immediately before the well installation was served by a viable community public water system, and the well is or becomes contaminated with oil: [1993, c. 621, §1 (new).]

1. Delineated contaminated area. The commissioner or any person responsible for the discharge of the oil is not obligated by this subchapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as a result of the proximity of the area to:

A. A hazardous waste storage, treatment or disposal facility licensed by the department; [1993, c. 621, §1 (new).]

B. An uncontrolled hazardous substance site as defined in section 1362, subsection 3 and listed by the department; [1993, c. 621, §1 (new).]

C. An oil terminal facility as defined in section 542, subsection 7 licensed by the department; [1993, c. 621, §1 (new).]

D. A solid waste disposal facility as defined in section 1303-C, subsection 30 and licensed by the department; or [1993, c. 621, §1 (new).]

E. A closed or abandoned municipal solid waste landfill listed by the department; and [1993, c. 621, §1 (new).] [1993, c. 621, §1 (new).]

2. Areas not delineated. If the well is installed in an area other than one described in subsection 1, the obligation under this subchapter of the commissioner or any person responsible for the discharge of oil with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, including the cost of any pump or piping installed with the well. [1993, c. 621, §1 (new).]

For purposes of this section, "viable community public water system" means a community water system as defined in Title 22, section 2660-B that has not indicated an intent to imminently cease providing water to that location. [1993, c. 621, §1 (new).]

Title 38, §548, Removal of prohibited discharges

PL 1969, Ch. 572, §1 (NEW).
PL 1971, Ch. 618, §12 (AMD).
PL 1979, Ch. 541, §A266 (AMD).
PL 1983, Ch. 483, §9 (AMD).
PL 1985, Ch. 496, §A11 (AMD).
PL 1989, Ch. 890, §A40,B114 (AMD).
PL 1991, Ch. 817, §10 (AMD).
PL 1993, Ch. 621, §1 (AMD).

Title 38, §551, Maine Coastal and Inland Surface Oil Clean-up Fund

§551. Maine Coastal and Inland Surface Oil Clean-up Fund

The Maine Coastal and Inland Surface Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund is limited to $6,000,000, the sum of which includes all funds credited under this section. The Department of Environmental Protection shall collect fees in accordance with subsection 4. To this fund are credited all license fees, penalties, reimbursements and other fees and charges related to this subchapter, and to this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, restoration of water supplies and 3rd-party damages covered by this subchapter. [1995, c. 399, §2 (amd); §21 (aff).]

Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this subchapter must be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute. Interest received on that investment must be credited to the Maine Coastal and Inland Surface Oil Clean-up Fund. [1995, c. 399, §3 (amd); §21 (aff).]

1. Research and development.
[1993, c. 721, §2 (amd); T. 38, §551, sub-§1 (rp).]

1-A. Sensitive area data management and mapping. The Legislature may allocate no more than $350,000 per year of the amount then currently in the fund until fiscal year 1994-95 to mapping, data management and computerization related to the protection of sensitive areas and similar activities required under section 546-B. This limitation does not include personnel costs. The allocations must be made in accordance with section 555. After fiscal year 1993-94, the Legislature must review the need for these activities before allocating additional funds.
[1991, c. 454, §8 (new).]

1-B. Research and development. The Legislature may allocate not more than $250,000 per annum of the amount currently in the fund to be devoted to research and development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products. Researchers receiving funds under this subsection shall use vessels based in this State as platforms when practicable. Such allocations must be made in accordance with section 555.
[2005, c. 561, §5 (amd).]

2. Third-party damages. Any person claiming to have suffered property damage or actual economic damages, including, but not limited to, loss of income and medical expenses arising from physical bodily injury, directly or indirectly as a result of a discharge of oil prohibited by section 543 including all discharges of oil from interstate pipelines, in this subsection called the claimant, may apply within 12 months after the occurrence of a discharge to coastal waters and for other surface discharges within 2 years after the occurrence or discovery of the injury or damage, whichever date is later, to the commissioner stating the amount of damage alleged to have been suffered as a result of that discharge. The commissioner shall prescribe appropriate forms and details for the applications. The commissioner may contract with insurance professionals to process claims. The commissioner may, upon petition and for good cause shown, waive the time limitation for filing damage claims. All 3rd-party damage claims for which no determination of award has been made must be processed in accordance with the substantive and procedural provisions of this section.

A. When a responsible party is known, the commissioner shall send by certified mail to the responsible party notice of claim and written notice of the right to join the 3rd-party damage claim process as an interested party. A responsible party shall provide written notification to the department of the responsible party's intent to join within 10 working days of receipt of this notice. If the responsible party joins as an interested party and formally agrees in writing to the amount of the damage claim, the determination

of the amount of the claim and award is binding in any subsequent action for reimbursement to the fund. If a claimant has not been compensated for 3rd-party damages by the responsible party and the claimant, the responsible party and the commissioner agree as to the amount of the damage claim, or if the responsible party does not join as an interested party or when the responsible party is not known after the commissioner has exercised reasonable efforts to ascertain the responsible party, and the claimant and the commissioner agree as to the amount of the damage claim, the commissioner shall certify the amount of the claim and the name of the claimant to the Treasurer of State and the Treasurer of State shall pay the amount of the claim from the Maine Coastal and Inland Surface Oil Clean-up Fund. [1991, c. 817, §11 (amd).]

B. If the claimant, the responsible party and the commissioner are not able to agree as to the amount of the damage claim, or if the responsible party does not join as an interested party or when the responsible party is not known after the commissioner has exercised reasonable efforts to ascertain the responsible party, and the claimant and the commissioner are not able to agree as to the amount of the damage claim, the claim is subject to subsection 3-A. [1991, c. 817, §11 (amd).]

C. Third-party damage claims must be stated in their entirety in one application. Damages omitted from any claim at the time the award is made are waived unless the damage or injury was not known at the time of the claim. [1991, c. 817, §11 (amd).]

D. Damage claims arising under this subchapter that are a result of a prohibited discharge to coastal waters are recoverable only in the manner provided under this subchapter, it being the intent of the Legislature that the remedies provided in this subchapter for discharges to coastal waters are exclusive. [1991, c. 817, §11 (amd).]

E. Awards from the fund on damage claims may not include any amount the claimant has recovered, on account of the same damage, by way of settlement with the responsible party or the responsible party's representatives or judgment of a court of competent jurisdiction against the responsible party to the extent these amounts are duplicative. [1991, c. 817, §11 (amd).]

F. A claimant shall take all reasonable measures to prevent and minimize damages suffered by the claimant as a result of a discharge of oil. Reasonable measures include title searches and site assessments for the acquisition of commercial or industrial properties. [1991, c. 817, §11 (new).]

G. The remedies provided for 3rd-party damage claims compensated under this subchapter are nonexclusive for damages that are not a result of prohibited discharges to coastal waters. A court awarding damages to a claimant as a result of a discharge of oil to surface waters prohibited by section 543 shall reduce damages awarded by any amounts received from the fund to the extent these amounts are duplicative. [1991, c. 817, §11 (new).]

H. Payments from the fund for 3rd-party damage claims may not exceed $200,000 per claimant except when the damages are a result of a discharge to coastal waters. [1991, c. 817, §11 (new).]

I. A 3rd-party damage claim for damages to real estate may not include the devaluation of the real estate associated with the loss of a water supply if the commissioner finds under section 548 that a public or private water supply is available and if that water supply best meets the criteria of that section and the property owner did not agree to be served by that public or private water supply. If a water supply well is installed after October 1, 1994 to serve a location that immediately before the well installation was served by a viable community public water system, and the well is or becomes contaminated with oil:

(1) A 3rd party may not recover damages under this subchapter for expenses incurred in treating or replacing the well if the well is installed in an area delineated as contaminated as provided in section 548, subsection 1; and

(2) A 3rd-party damage claim under this subchapter with regard to treatment or replacement of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well is installed in any other area.

For purposes of this paragraph, "viable community public water system" has the same meaning as in section 548. [1993, c. 621, §2 (amd).]

J. A claimant is not eligible for compensation under this subsection for costs, expenses or damages related to a discharge if the commissioner determines that the claimant is a responsible party as defined under section 542, subsection 9-C. [2003, c. 551, §9 (amd).]

K. Prior to forwarding a claim to the hearing examiner under subsection 3-A, the commissioner may require that the amount of the claim be finalized. [1991, c. 817, §11 (new).]

L. Third-party damage claims may not include expenditures for the preparation and prosecution of the damage claim, such as legal fees or real estate appraisal fees. [1991, c. 817, §11 (new).]

M. The commissioner may dismiss a 3rd-party damage claim for untimely filing, for failure by the claimant to provide the information necessary to process the claim within 60 days after the claimant receives written notice that the claim is insufficient for processing or for ineligibility as determined by the commissioner under paragraph J. A dismissal may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7. [2003, c. 551, §10 (new).]
[2005, c. 330, §20 (amd).]

2-A. Exceptions; 3rd party damage claims.
[1989, c. 890, Pt. A, §40 (aff); Pt. B, §118 (rp).]

2-B. Claimant contact. When the commissioner becomes aware of a claimant under subsection 2, the commissioner shall send a letter by certified mail to inform that person of the 3rd-party damage claims process under subsection 2. The letter must contain the name and telephone number of a contact person available to explain the claims procedure.
[1991, c. 817, §12 (new).]

3. Board of Arbitration.
[1991, c. 817, §13 (rp).]

3-A. Determination of disputed 3rd-party damage claims. The commissioner shall establish a disputed claims processing capability within the department to hear and determine claims filed under this subchapter that are not agreed upon by the claimant and the commissioner and any responsible party who has joined as an interested party.

A. An independent hearing examiner appointed by the commissioner shall hear and determine any disputed 3rd-party damage claims. The parties to the hearing are the commissioner and the claimant. [1991, c. 817, §14 (new).]

B. To the extent practical, all claims arising from or related to a common discharge must be heard and determined by the same hearing examiner. [1991, c. 817, §14 (new).]

C. Hearings before the hearing examiner are informal and the rules of evidence applicable to judicial proceedings are not binding. The hearing examiner may administer oaths and require by subpoena the attendance and testimony of witnesses and the production of books, records and other evidence relative or pertinent to the issues presented to the hearing examiner for determination. [1991, c. 817, §14 (new).]

D. Determinations made by the hearing examiner are final and those determinations may be subject to review by a Justice of the Superior Court, but only as to matters related to abuse of discretion by the hearing examiner. The party seeking review of a hearing examiner's determination must file an appeal in the Superior Court within 30 days of the determination. Determinations made by the hearing examiner must be accorded a presumption of regularity and validity in a subsequent reimbursement action, but this presumption may be rebutted by responsible parties. [1993, c. 355, §12 (amd).]

E. The commissioner shall certify the amount of the damage award, if any, after determination by the hearing examiner and shall certify the name of the claimant to the Treasurer of State. [1991, c. 817, §14 (new).]
[1993, c. 355, §12 (amd).]

4. Funding.

A. License fees are 3¢ per barrel of unrefined crude oil and all other refined oil, including #6 fuel oil, #2 fuel oil, kerosene, gasoline, jet fuel and diesel fuel, transferred by the licensee during the licensing period and must be paid monthly by the licensee on the basis of records certified to the commissioner. License fees must be paid to the department and upon receipt by it credited to the Maine Coastal and Inland Surface Oil Clean-up Fund. [1997, c. 364, §26 (amd).]

B. [1991, c. 817, §15 (rp).]

C. [1985, c. 496, Pt. A, §13 (rp).]

D. Any person required to register under section 545-B and who first transports oil in Maine shall pay 3¢ per barrel for all refined oil, including #6 fuel oil, #2 fuel oil, kerosene, gasoline, jet fuel, diesel fuel and liquid asphalt transported by the registrant during the period of registration. Fees must be paid monthly by the registrant on the basis of records certified to the commissioner. Fees

must be paid to the department and upon receipt by it credited to the Maine Coastal and Inland Surface Oil Clean-up Fund. The registrant shall make available to the commissioner and the commissioner's authorized representatives all documents relating to the oil transported by the registrant during the period of registration. This paragraph does not apply to waste oil transported into Maine in any motor vehicle that has a valid license issued by the department for the transportation of waste oil pursuant to section 1319-O and is subject to fees established under section 1319-I. [1997, c. 364, §27 (amd).]

E. When the commissioner projects that the fund balance will reach $6,000,000, the commissioner shall provide a 15-day notice that the per barrel fees assessed under this subsection will be suspended. The $6,000,000 fund limit may be exceeded to accept transfer fees assessed or received after the 15-day notice has been issued. Following any suspension of fees assessed under this subsection, the commissioner shall provide a 15-day advance notice to licensees before fees are reimposed. [1991, c. 817, §16 (new).]

[1997, c. 364, §§26, 27 (amd).]

4-A. Penalty for late payment of fees. Fees assessed under subsection 4 are due to the department on or before the last day of the month immediately following the month in which the oil was transferred or first transported in this State. Licensees or registrants who fail to pay the fee by that date shall pay an additional amount equal to 10% of the amount assessed under subsection 4. The department may waive the penalty for good cause shown by the licensee or registrant. Good cause may include, without limitation, events that may not be reasonably anticipated or events that were not under the control of the licensee or registrant.

[1999, c. 334, §1 (new).]

5. Disbursements from fund. Money in the Maine Coastal and Inland Surface Oil Clean-up Fund shall be disbursed for the following purposes and no others:

A. Administrative expenses, personnel expenses and equipment costs of the commissioner related to the enforcement of this subchapter; [1995, c. 399, §4 (amd); §21 (aff).]

B. All costs, including without limitation personnel undertaking oil spill response activities and equipment expenses, involved in the removal of oil, the abatement of pollution and the implementation of remedial measures including restoration of water supplies, related to the discharge of oil, petroleum products and their by-products covered by this subchapter, including all discharges from interstate pipelines and other discharges prohibited by section 543; [1991, c. 698, §10 (amd).]

C. Sums allocated to research and development in accordance with this section; [1985, c. 496, Pt. A, §13 (amd).]

D. Payment of 3rd party claims awarded in accordance with this section; [1985, c. 496, Pt. A, §13 (amd).]

E. Payment of costs of arbitration and arbitrators; [1985, c. 496, Pt. A, §13 (amd).]

F. Payment of costs of insurance by the State to extend or implement the benefits of the fund; [1985, c. 496, Pt. A, §13 (amd).]

G. [1991, c. 817, §18 (rp).]

H. Sums, up to $50,000 each year, that have been allocated by the Legislature on a contingency basis in accordance with section 555 for payment of costs for damage assessment for specific spills and site-specific studies of the environmental impacts of a particular discharge prohibited by section 543 that may have adverse economic effects and occur subsequent to such an allocation, when those studies are determined necessary by the commissioner; and [1991, c. 698, §11 (amd).]

I. Payment of costs for the collection of overdue reimbursements. [1989, c. 868, §8 (new).]

[1995, c. 399, §4 (amd); §21 (aff).]

6. Reimbursements to Maine Coastal and Inland Surface Oil Clean-up Fund. For the use of the fund, the commissioner shall seek recovery of all disbursements from the fund for the following purposes, including overdrafts and interest computed at 15% a year from the date of expenditure, unless the department finds the amount involved too small, the likelihood of success too uncertain or that recovery of costs is unlikely due to the inability of the responsible party to pay those costs, provided that recoveries resulting from damage due to an oil pollution disaster declared by the Governor pursuant to section 547 must be apportioned between the Maine Coastal and Inland Surface Oil Clean-up Fund and the General Fund so as to repay the full costs to the General Fund of any bonds issued as a result of the disaster:

A. All disbursements made by the fund pursuant to subsection 5, paragraphs B, D, E, H and I in connection with a prohibited discharge; and [1991, c. 454, §12 (rpr).]

B. In the case of a licensee promptly reporting a discharge as required by this subchapter, disbursements made by the fund pursuant to subsection 5, paragraphs B, D and E in connection with any single prohibited discharge including 3rd-party claims in excess of $15,000, except to the extent that the costs are covered by payments received under any federal program. [1991, c. 454, §12 (rpr).]

C. [1989, c. 868, §9 (rp); 1991, c. 66, Pt. A, §21 (rp).]

D. [1989, c. 868, §9 (rp); 1991, c. 66, Pt. A, §21 (rp).]

Requests for reimbursement to the fund, if not paid within 30 days of demand, may be turned over to the Attorney General for collection or may be submitted to a collection agency or agent or an attorney retained by the department with the approval of the Attorney General in conformance with Title 5, section 191. The commissioner may file claims with appropriate federal agencies to recover for the use of the fund all disbursements from the fund in connection with a prohibited discharge.

Requests for reimbursement to the fund for disbursements pursuant to subsection 5, paragraph B, if not paid within 60 days of demand, are subject to a penalty not to exceed twice the total amount of reimbursement requested. This penalty is in addition to the reimbursement requested and any other fines or civil penalties authorized by this Title.
[1993, c. 355, §13 (amd).]

6-A. Lien. All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil are a lien against the real estate of the responsible party. The lien does not apply to the real estate of a licensee if the discharge was caused or suffered by a carrier destined for the licensee's facilities.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.
[1997, c. 364, §28 (new).]

7. Waiver of reimbursement. Upon petition of any licensee, the board may, after hearing, waive the right to reimbursement to the fund if it finds that the occurrence was the result of any of the following:

A. An act of war; [1985, c. 496, Pt. A, §13 (amd).]

B. An act of government, either state, federal or municipal, except insofar as the act was pursuant to section 548; or [RR 1991, c. 2, §147 (cor).]

C. An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency. [RR 1993, c. 1, §125 (cor).]

Upon such finding by the board, immediate credit therefor must be entered for the party involved. The findings of the board are conclusive as it is the legislative intent that waiver provided in this subsection is a privilege conferred, not a right granted.
[RR 1993, c. 1, §125 (cor).]

8. Disbursements to state agencies. A state agency that seeks reimbursement from the Maine Coastal and Inland Surface Oil Clean-up Fund for costs incurred in undertaking oil spill response activities shall keep time records demonstrating the amount of spill response activities performed for which reimbursement is sought. A state agency may establish a dedicated account for receipt of disbursements from the fund. Disbursements from the fund to a state agency pursuant to subsection 5, paragraph B must be deposited in that account, if it has been established, and may be used by the agency to support its activities.
[1997, c. 188, §1 (new).]

MRSA , §T.38 SEC. 551/1 (AMD).

Title 38, §551, Maine Coastal and Inland Surface Oil Clean-up Fund

PL 1969, Ch. 572, §1 (NEW).
PL 1971, Ch. 618, §12 (AMD).
PL 1973, Ch. 625, §278,279 (AMD).
PL 1975, Ch. 379, §1-3 (AMD).
PL 1977, Ch. 375, §10-16 (AMD).
PL 1979, Ch. 541, §A268 (AMD).
PL 1979, Ch. 708, § (AMD).
PL 1981, Ch. 356, §1,2 (AMD).
PL 1983, Ch. 273, §1,2 (AMD).
PL 1983, Ch. 483, §11-15 (AMD).
PL 1985, Ch. 496, §A13 (AMD).
PL 1985, Ch. 746, §22 (AMD).
PL 1987, Ch. 750, §3 (AMD).
PL 1989, Ch. 500, §1-3 (AMD).
PL 1989, Ch. 502, §A147 (AMD).
PL 1989, Ch. 868, §4-9,19 (AMD).
PL 1989, Ch. 890, §A40,B117- 123 (AMD).
PL 1991, Ch. 66, §A19-21 (AMD).
PL 1991, Ch. 66, §A42 (AFF).
PL 1991, Ch. 454, §14 (AFF).
PL 1991, Ch. 454, §8-12 (AMD).
PL 1991, Ch. 698, §10,11 (AMD).
PL 1991, Ch. 817, §11-19 (AMD).
RR 1991, Ch. 2, §147 (COR).
PL 1993, Ch. 355, §11-13 (AMD).
PL 1993, Ch. 621, §2 (AMD).
PL 1993, Ch. 720, §2,3 (AMD).
RR 1993, Ch. 1, §125 (COR).
PL 1995, Ch. 399, §2-4 (AMD).
PL 1995, Ch. 399, §21 (AFF).
PL 1997, Ch. 188, §1 (AMD).
PL 1997, Ch. 364, §26-29 (AMD).
PL 1999, Ch. 334, §1 (AMD).
PL 2003, Ch. 137, §1 (AMD).
PL 2003, Ch. 551, §9,10 (AMD).
PL 2005, Ch. 330, §20 (AMD).
PL 2005, Ch. 561, §5 (AMD).

Title 38, §1364, Powers and duties of the department

§1364. Powers and duties of the department

1. Technical services. The commissioner shall establish a technical services capability within the department to assist in the identification, evaluation and mitigation of uncontrolled hazardous substance sites.
[1983, c. 569, §1 (new).]

2. Rules. The board may adopt rules related to the handling of hazardous substances; the investigation, abatement, mitigation and cleanup of spills of hazardous substances; and the investigation, designation and mitigation of uncontrolled hazardous substance sites. The board may provide by rule that any person who knows or has reason to believe that any hazardous substance is present in ground water or soils beneath a site which is owned or operated by that person provide notice of that condition to the department if the concentration of the hazardous substance in ground water exceeds state or federal recommended contaminant levels for drinking water or the concentration in soils exceeds contaminant levels established by the board.
[1993, c. 355, §60 (amd).]

3. Investigation and evaluation. The commissioner may investigate and sample sites where hazardous substances are stored or handled to identify uncontrolled hazardous substance sites. During the course of the investigation, the commissioner may require submission of information or documents that relate or may relate to the site under investigation from any person whom the commissioner has reason to believe may be a responsible party. The information may include the nature and amounts of hazardous substances or other wastes that arrived or may have arrived at the site, manner of transportation, treatment or disposal of the hazardous substances or other wastes and any other information relating to the site or to threats posed by the potential site.
[1989, c. 890, Pt. A, §40 (aff); Pt. B, §266 (amd).]

4. Designation. In accordance with section 1365, the commissioner may declare a site to be an uncontrolled hazardous substance site. The designation may be appealed only upon the issuance of an order pursuant to section 1365, subsection 2, as provided in section 1365, subsection 4.
[1987, c. 419, §13 (amd).]

5. Mitigation. The commissioner may take whatever action necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by an uncontrolled site or to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards, and implementing remedies to remove, store, treat, dispose of or otherwise handle hazardous substances located in, on or over an uncontrolled site, including soil and water contaminated by hazardous substances. When the necessary action includes the installation of a public water supply or the extension of mains of an existing water utility, the department's obligation is limited to construction of those works that are necessary to furnish the contaminated or potentially contaminated properties with a supply of water sufficient for existing uses. The department is not obligated to contribute to a water utility's system development charge, nor to provide works or water sources exceeding those required to abate the threats or hazards posed by the uncontrolled site. The department may pay the costs of operation, maintenance and depreciation of the works or water supply for a period not exceeding 20 years if funds are available from Other Special Revenue or proceeds from the sale of bonds. If a water supply well is installed after October 1, 1994 to serve a location that immediately before the well installation was served by a viable community public water system, and the well is or becomes contaminated with a hazardous substance:

A. Neither the commissioner nor any responsible party is obligated under this chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and [1995, c. 462, Pt. A, §78 (amd).]

B. The obligation of the commissioner or any responsible party under this chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well is installed in an area other than one described in paragraph A. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, including the cost of any pump or piping installed with the well. [1995, c. 462, Pt. A, §78 (amd).]

For purposes of this subsection, "viable community public water system" has the same meaning as in section 548.
[1995, c. 462, Pt. A, §78 (amd).]

6. Accept funds. The department may accept any public or private funds which may be available for carrying out the purposes of this chapter. The Uncontrolled Sites Fund is established to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this chapter, including the long-term oversight of uncontrolled hazardous substance sites. Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this chapter, shall be deposited with the Treasurer of State to the credit of the fund and may be invested in such a manner as is provided for by law. Interest received on that investment shall be credited to the fund.
[1987, c. 192, §29 (amd).]

7. Acquisition of property; authority. The department may acquire, by purchase, lease, condemnation, donation or otherwise, any real property or any interest in real property that the board in its discretion determines, by 2/3 majority vote, is necessary to conduct remedial actions in response to threats or hazards posed or potentially posed by an uncontrolled site, including, but not limited to:

A. Actions to prevent further threats or hazards and to mitigate or terminate the threats or hazards; [1991, c. 312, §2 (new).]

B. Actions to clean up soils and ground water and remove hazardous substances from an uncontrolled site; and [1991, c. 312, §2 (new).]

C. Replacement of water supplies contaminated or threatened by hazardous substances. [1991, c. 312, §2 (new).]

The department may exercise the right of eminent domain in the manner described in Title 35-A, chapter 65, to take and hold real property for any of the purposes described in this subsection. The commissioner shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over natural resource matters during the next regular session following the acquisition of any property by eminent domain. The department may transfer or convey to any person real property or any interest in real property once acquired.
[1991, c. 312, §2 (new).]

PL 1983, Ch. 569, §1 (NEW).
PL 1985, Ch. 746, §33,34 (AMD).
PL 1987, Ch. 192, §29 (AMD).
PL 1987, Ch. 419, §13 (AMD).
PL 1989, Ch. 792, § (AMD).
PL 1989, Ch. 890, §A40,B266, 267 (AMD).
PL 1991, Ch. 66, §A40 (AMD).
PL 1991, Ch. 312, §1,2 (AMD).
PL 1993, Ch. 355, §60 (AMD).
PL 1993, Ch. 621, §7 (AMD).
PL 1995, Ch. 462, §A78 (AMD).

Title 39-A, §355, Employment Rehabilitation Fund

§355. Employment Rehabilitation Fund

If an employee who has completed a rehabilitation program under section 217, whether implementation is approved or ordered by the board, subsequently sustains a personal injury arising out of and in the course of employment and that injury, in combination with the prior injury, results in a reduction in earning capacity that is substantially greater in duration or degree, or both, than that which would have resulted from the subsequent injury alone, taking into account the age, education, employment opportunities and other factors related to the employee, the employer at the time of the subsequent injury is entitled to reimbursement from the Employment Rehabilitation Fund, referred to in this section as the "fund," as provided in this section. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

1. Fund administration and contributions. There is established a special fund, known as the Employment Rehabilitation Fund, for the sole purpose of making payments in accordance with this Act. The fund is administered by the board. The Treasurer of State is the custodian of the fund. All money and securities in the fund must be held in trust by the Treasurer of State for the purpose of making payments under this Act and are not money or property for the general use of the State. The fund does not lapse.

The Treasurer of State may disburse money from the fund only upon written order of the board. The Treasurer of State shall invest the money of the fund in accordance with law. Interest, income and dividends from the investments must be credited to the fund.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

2. Limitations. An employer is not entitled to reimbursement from the fund in the event of subsequent injury if an injured employee returns to the employee's preinjury job with the same employer without the provision of significant rehabilitation services or significant modification of the workplace.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

3. Reimbursement. The employer must be reimbursed at least quarterly from the fund for any weekly wage replacement benefits for which the employer is liable under section 212, 213 or 215 and that are paid by that employer.

A. An employer entitled to reimbursement under this section remains liable to the employee for all payments otherwise required from the employer by this Act and remains responsible for carrying out the rehabilitation efforts required by this Act as a result of the subsequent injury. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

B. The board shall order a reduction, suspension or termination of reimbursement of an employer under this section if the board finds that the employer has not made a bona fide effort to return the employee to continuing suitable employment. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

4. Apportionment. Reimbursement under this section must be reduced by the amount of any contribution paid to the employer by any other employer for wage replacement benefits on the basis of apportioned liability under section 354.

A. If insurers disagree on the apportionment of liability in a case under this section, the matter must be considered by the board before an insurer may file a petition under section 354. The board shall encourage agreement between the insurers and, if agreement can not be achieved, shall make a recommendation on the apportionment of liability. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

5. Employer knowledge. An employer otherwise entitled to reimbursement under this section is entitled to that reimbursement regardless of whether the employer has knowledge at any time that the employee had completed an approved rehabilitation plan. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

6. Hiring incentive; wage credit. If an employer hires an employee after the employee has completed a rehabilitation program under section 217, that subsequent employer may apply for a wage credit under this subsection. For the purposes of this subsection, the term "employer" does not include the insurer of a subsequent employer or the same employer for whom an employee worked when the employee sustained the injury for which the employee received rehabilitation.

A. The subsequent employer must file an application for a wage credit by providing the board, within 2 weeks after the close of the first 90 days of employment of the employee, with a statement of the total direct wages, earnings or salary the employer paid to the employee for the first 90 days of employment along with such verification as may be required by rule of the board. Within 2 weeks after the close of the first 180 days of employment, the subsequent employer must provide to the board a supplemental report of the direct wages, earnings and salary for the 2nd 90-day period, along with the required verification. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

B. The board shall compute the wage credit, which consists of a sum equal to 50% of the average weekly direct wages, earnings or salary for the 90-day period listed in the subsequent employer's application or statement, but may not exceed the amount of workers' compensation benefits that the employee did not receive because of the employment but would have been entitled to for the wage credit period, based on the average weekly workers' compensation benefits during the most recent 60-day period in which the employee did receive benefits preceding the employee's hiring by the employer.

(1) On adequate verification of the application or statement, the board shall pay the amount for each 90-day period in a lump sum to the subsequent employer within 30 days of receiving the application or statement.

(2) The board shall bill these sums to the insurer or self-insurer that was responsible for payment of the compensation received by the employee immediately before the employee's hiring by the subsequent employer. When the sum is received from the insurer or self-insurer, the board shall deposit it in the fund.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

C. If the employment with the subsequent employer is terminated by the employer without good cause before the completion of 12 consecutive months of employment, the subsequent employer shall return to the board all wage credits received by the employer for that employee and all sums paid into the fund by the insurer or self-insurer must be returned to that insurer or self-insurer. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

D. When the wage credit is paid from the fund to an employer, the insurer or self-insurer who paid the sum into the fund has no further obligation to pay any sums into the fund for any future reemployment of that employee, except as provided in paragraph E.

(1) Total wage credit payments under a plan may not exceed a period of 180 days, not including periods subject to refunds under paragraph C.

(2) The board shall inform subsequent employers of the number of days of wage credits available, if it is less than 180 days.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

E. Wage credit payments are not dependent on the receipt by the fund of payments from an insurer or self-insurer. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

7. Plan implementation costs; payment; reimbursement. The actual and direct costs of implementing plans ordered by the board under section 217, subsection 2 must be paid from the fund. Payments must be made directly to the rehabilitation providers or other persons who provide services under the plan. Upon an order of recovery of plan implementation costs under section 217, subsection 3, the board shall assess the employer who refused to agree to implement the plan under section 217 an amount equal to 180% of the costs paid from the fund under this subsection. An employer may appeal the imposition or amount of this assessment to the board. The employee may not be a party to this appeal.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

8. Jurisdiction. The board has jurisdiction over all claims brought against the fund.

A. The fund is not bound as to any question of law or fact by reason of any award or any adjudication to which the fund was not a party or in relation to which the fund was not notified, at least 21 days prior to the award or adjudication, that the fund might be subject to liability for the injury or death of an employee. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

B. An employer shall notify the board of any possible claim for subsequent injury reimbursement against the fund as soon as practicable, but in no event later than one year after the injury or death of an employee. Failure to provide timely notice bars the claim. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

9. Legal representation. The Attorney General shall provide legal representation for any claim made under this section, including the enforcement of an assessment made under subsection 7 or the defense of an employer's appeal of that assessment.

A. The reasonable expense of prosecution or defense by the Attorney General of assessments to or claims against the fund, subject to the approval of the board, are payable out of the fund. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

B. The Attorney General may not prosecute an assessment against the State or defend the fund against any claim brought by the State. The board may hire, using money from the fund, private counsel for this purpose. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

10. Effect on obligations of prior employers. The availability of reimbursement under this section does not limit or reduce the obligation of any previous employer to provide benefits under this Act to the employee.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

11. Freedom from liability. The State is not liable for any claim against the fund that is in excess of the fund's current ability to pay. If any claim against the fund is denied due to an inadequate fund balance, that claim is entitled to priority over later claims when an adequate balance is restored.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

12. Applicability. Reimbursement under this section is available solely with respect to employees who are injured and rehabilitated after November 20, 1987.

[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

13. Reimbursement.

[2001, c. 448, §3 (rp).]

14. Funding; assessments. This subsection governs funding of the Employment Rehabilitation Fund.

A. The board may levy an assessment when the balance in the fund is insufficient to meet obligations of the fund under this section. The assessment must be levied on each insurer based on its actual paid losses during the previous calendar year. [2001, c. 448, §4 (new).]

B. Every insurer shall keep as permanent records a record of the amount and date of each loss paid. The records must be open for inspection at all times. Every insurer shall, on or before the 60th day following the end of a calendar quarter, render a report to the State Tax Assessor stating the amount of losses paid by the insurer during the preceding calendar quarter. That report must contain any further information the board prescribes by rule. [2001, c. 448, §4 (new).]

C. The State Tax Assessor shall pay daily all receipts from any assessment and any receipts received under paragraph F to the Treasurer of State. The Treasurer of State shall deposit all receipts as received in the fund. [2001, c. 448, §4 (new).]

D. The State Tax Assessor or the State Tax Assessor's duly authorized agent or the board, for the purpose of determining the truth or falsity of any statement or return made by the insurer, may:

(1) Enter any place of business of an insurer to inspect any books or records of the insurer;

(2) Notwithstanding any other provision of law, inspect any records or reports filed by an insurer with the Superintendent of Insurance; and

(3) Delegate these powers to the Superintendent of Insurance or the superintendent's deputies, agents or employees.

[2001, c. 448, §4 (new).]

E. Whenever any insurer fails to pay any assessment due under this subsection within the time specified by the board, the Attorney General shall enforce payment by civil action against that insurer for the amount of the assessment in the Superior Court in and for the county or the District Court in the division in which that insurer has the insurer's place of business, or in the Superior Court of Kennebec County. [2001, c. 448, §4 (new).]

F. In every case of the death of any employee when there is no person entitled to compensation, the employer shall pay to the Treasurer of State a sum equal to 100 times the average weekly wage in the State as computed by the Department of Labor to be credited to the fund. [2001, c. 448, §4 (new).]

G. For the purposes of this subsection, "insurer" means an insurance company or association that does business or collects premiums for workers' compensation insurance in this State or an individual or group self-insurer under this Act, including the State and any other public or governmental authority. [2001, c. 448, §4 (new).]

[2001, c. 448, §4 (new).]

PL 1991, Ch. 885, §A8 (NEW).
PL 1991, Ch. 885, §A9-11 (AFF).
PL 2001, Ch. 448, §3,4 (AMD).

§409. Assessment for the expenses of administering the Self-insurer's Workers' Compensation Program

The Superintendent of Insurance shall annually make an assessment on self-insuring employers approved pursuant to section 403, respecting the operations of each self-insurer conducted in the State to defray the cost of administration of the Bureau of Insurance. On or before March 1st of each year, every individual workers' compensation self-insurer and group workers' compensation self-insurer shall report to the superintendent the self-insurer's experience modification factor for the previous calendar year. The superintendent shall calculate the amount of annual standard premium that would have been paid during the previous calendar year for every individual workers' compensation self-insurer and group workers' compensation self-insurer. The annual assessment upon approved self-insuring employers must be calculated using the imputed annual standard premium relating to business operations in the State that each self-insurer would have paid during the previous calendar year pursuant to manual rates established by the principal rating organization in the State and using the experience rating procedure approved by the Superintendent of Insurance for that self-insurer. For the purposes of this section, the definitions of annual standard premium in section 404, subsection 4 apply. The assessment must be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment must be in an amount not exceeding 11/100 of 1% of the imputed annual standard premium. When the superintendent calculates the amount of the annual assessment, the superintendent may consider, among other things, the staffing level required to administer workers' compensation self-insurance oversight responsibilities of the bureau. All information filed by self-insurers in compliance with this section is confidential in accordance with section 403, subsection 15.
[1997, c. 126, §13 (amd).]

1. Annual standard premium. The superintendent shall utilize the annual standard premium for each approved self-insurer as calculated by the Bureau of Insurance pursuant to this section in determining the amount of the assessment.
[1997, c. 126, §14 (amd).]

2. Expense of examination. The expense of examination of group self-insurers subject to section 403, subsection 5, paragraph I is payable by the person examined.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

3. Minimum assessment. In any year in which a self-insurer has no annual standard premium in the State or in which the annual standard premium is not sufficient to produce at the rate prescribed by law an amount equal to or in excess of $100, the minimum assessment payable by any self-insurer is $100.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

4. Notification of assessment. On or before July 1st, next following receipt of the report from the Maine Self-Insurance Guarantee Association, the Superintendent of Insurance shall notify each self-insurer of the assessment due.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

5. Time of payment. Payment must be made on or before August 10th.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

6. Revocation or termination. If the assessment is not paid on or before the prescribed date, the right of any individual or group to continue the option of self-insurance may be revoked or terminated by the Superintendent of Insurance.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each 2nd succeeding fiscal year, the Superintendent of Insurance shall recalculate the assessment on each self-insurer subject to this section. If, in any instance, any assessment paid under this section is based in whole or in part on the annual standard premium estimated in the calendar year utilized for assessment purposes, the recalculation must recognize the actual audited annual standard premium, as available, for each affected self-insurer. Actual expenditures of the Bureau of Insurance during the preceding fiscal year must also be recognized. On or before October 1st, the Superintendent of Insurance shall render to each self-insurer a statement showing the difference between the self-insurer's respective recalculated assessment and the amount paid during the preceding biennium. Any overpayment of annual assessment resulting from complying with the requirements of this section must be refunded or, at the option of the assessed party, applied as a credit against the assessment for the succeeding fiscal year. Any overpayment of $100 or less must be applied as a credit against the assessment for the succeeding fiscal year.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

8. Deposit with Treasurer of State. The Superintendent of Insurance shall deposit all payments made pursuant to this section with the Treasurer of State. The money must be used for the sole purpose of paying the expenses of the Bureau of Insurance for administration of the Self-insurer's Workers' Compensation Program.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

9. Exclusions. This section does not apply to the State or the University of Maine System.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

10. Applicability. This section applies with respect to fiscal years commencing on or after July 1, 1986.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

PL 1991, Ch. 885, §A8 (NEW).
PL 1991, Ch. 885, §A9-11 (AFF).
PL 1993, Ch. 313, §40 (AMD).
PL 1997, Ch. 126, §13,14 (AMD).

§154. Dedicated fund; assessment on workers' compensation insurers and self-insured employers

The Workers' Compensation Board Administrative Fund is established to accomplish the purposes of this Act. All income generated pursuant to this section must be recorded on the books of the State in a separate account and deposited with the Treasurer of State and be credited to the Workers' Compensation Board Administrative Fund. [1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

1. Use of fund. All money credited to the Workers' Compensation Board Administrative Fund must be used to support the activities of the board and for no other purpose. Any balance remaining continues from year to year as a fund available for the purposes set out in this section and for no other purpose.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

2. Expenditures. Expenditures from the Workers' Compensation Board Administrative Fund are subject to legislative approval and allocation in the same manner as appropriations are made from the General Fund. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall approve the allocation.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

3. Assessment on workers' compensation insurance. The following provisions apply regarding the Workers' Compensation Board assessment on workers' compensation insurance.

A. Every insurance company or association that writes workers' compensation insurance in the State and that does business or collects premiums or assessments in the State, including newly licensed insurance companies and associations, shall pay to the board the assessment determined pursuant to this section for the purpose of providing partial support and maintenance of the board. [1995, c. 59, §1 (amd).]

B. The assessment must be stated as a percentage of each employer's premium base. In determining the assessment percentage, consideration must be given to the balance in the Workers' Compensation Board Administrative Fund. [1995, c. 59, §1 (amd).]

B-1. An employer's premium base for assessment purposes is defined as payroll times the filed manual rate applicable to the employer times the employer's current experience modification factor, if applicable. The calculation may not include any deductible credit, other than credits for the $1,000 and $5,000 indemnity deductibles and the $250 and $500 medical deductibles established pursuant to Title 24-A, sections 2385 and 2385-A. For policies written using retrospective rating, the premium base must be calculated in accordance with this paragraph regardless of the actual retrospective premium calculation.

The employer's premium base is subject to the final audit requirements of the Bureau of Insurance Rule, Chapter 470. If the audit results in a change in premium base, the amount of the assessment must be adjusted accordingly. [1995, c. 59, §1 (new).]

C. For each fiscal year, the initial assessment percentage must be determined by the board by May 1st of the prior fiscal year. Insurance companies or associations must begin collecting the initial assessment from all employers on July 1st of each year. In establishing the assessment percentage, the board shall estimate the expected premium base for the upcoming fiscal year based on the returns filed under paragraph D and anticipated trends in the insurance marketplace. The board shall consult with the Bureau

of Insurance and other knowledgeable sources to help determine the trends. The board may adjust the assessment percentage at any time but shall provide written notice to the affected companies and associations at least 45 days prior to the effective date of the adjustment. The board may not adjust the assessment percentage more than 3 times in a fiscal year. The adjusted assessment percentage must be applied prospectively on policies with an effective date on or after the effective date of the adjustment. [1995, c. 59, §1 (amd).]

D. Every insurance company or association subject to the assessment imposed by this section with an estimated annual payment of $50,000 or more based on previous assessment returns may make payments quarterly. Each insurance company or association electing quarterly payments must on or before the last day of each January, each April, the 25th day of each June and the last day of each October file with the board on forms prescribed by the board a return for the quarter ending the last day of the preceding month, except the month of June, which is for the quarter ending June 30th and remit payment of the assessment based upon the results for the quarter reported. A final reconciled annual return must be filed on or before September 15th covering the prior fiscal year in which the previous assessment was levied. The final return must be certified by the company's or association's chief financial officer. Insurance companies or associations with an annual assessment estimate of under $50,000 shall pay the assessment on or before June 1st and shall also file a quarterly and an annual return on forms prescribed by the board. Affiliated insurers may aggregate their collection volume in order to meet the $50,000 assessment threshold as long as the affiliation is consistent with the standards defined in Title 24-A, section 222. Those qualifying insurance companies or associations that opt to consolidate their quarterly payments and reports may do so only if each individually licensed company or association is individually reported within each consolidated return. [1995, c. 59, §1 (amd).]

[1995, c. 59, §1 (amd).]

4. Assessment on self-insured employers. Every self-insured employer approved pursuant to section 403 shall, for the purpose of providing partial support and maintenance of the board, pay an assessment on aggregate benefits paid by each member pursuant to section 404, subsection 4. This assessment must be a dollar amount.

[1995, c. 59, §2 (amd).]

5. Amounts of premiums and losses; distribution of assessment. The Bureau of Insurance shall provide to the board the amounts of gross direct workers' compensation premiums written by each insurance carrier and the amounts of aggregate benefits paid by each self-insurer and group self-insurer on or before April 1st of each year. Beginning with the assessment for the fiscal year beginning July 1, 1995 and thereafter, the total assessment must be distributed between insurance companies or associations and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year for which data is available. This distribution of the assessment must be determined on a basis consistent with the information reported by the Department of Labor, Bureau of Labor Standards, Research and Statistics Division in its annual Characteristics of Work-Related Injuries and Illnesses in Maine publication, provided that any segment of the market identified as "not-insured" be excluded from the calculation of proportionate shares. In consultation with the Director of Labor Standards, the board shall determine a date prior to the required assessment to establish the distribution.

[1995, c. 59, §3 (amd).]

6. Assessment levied. The assessments levied under this section may not be designed to produce more than $6,000,000 in revenues annually beginning in the 1995-96 fiscal year, more than $6,600,000 annually beginning in the 1997-98 fiscal year, more than $6,735,000 beginning in the 1999-00 fiscal year, more than $7,035,000 in the 2001-02 fiscal year, more than $6,860,000 beginning in the 2002-03 fiscal year, more than $8,390,000 beginning in the 2003-04 fiscal year, more than $8,565,000 beginning in the 2004-05 fiscal year or more than $8,525,000 beginning in the 2005-06 fiscal year. Assessments collected that exceed $6,000,000 beginning in the 1995-96 fiscal year, $6,600,000 beginning in the 1997-98 fiscal year, $6,735,000 beginning in the 1999-00 fiscal year, $7,035,000 in fiscal year 2001-02, $6,860,000 beginning in the 2002-03 fiscal year, $8,390,000 beginning in the 2003-04 fiscal year, $8,565,000 beginning in the 2004-05 fiscal year or $8,525,000 beginning in the 2005-06 fiscal year by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to 1/4 of the board's annual budget. The board, by a majority vote of its membership, may use its reserve to assist in funding its Personal Services account expenditures and All Other account expenditures and to help defray the costs incurred by the board pursuant to this Act including administrative expenses, consulting fees and all other reasonable costs incurred to administer this Act. The board shall notify the chairs and members of the joint standing committee of the Legislature having jurisdiction over labor matters whenever the board receives approval from the State Budget Officer and the Governor to use reserve funds to increase its allotment above the allocation authorized by the Legislature. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.

[2003, c. 425, §2 (amd).]

7. Insurance company or association collections. Insurance companies or associations shall bill and collect assessments under this section on insured employers. The assessments must be separately stated amounts on all premium notices and may not be reported as premiums for any tax or regulatory purpose or for the purpose of any other law. All collected payments must be submitted to the board with the next quarterly payment. The Bureau of Insurance shall report to the board all newly authorized workers' compensation carriers in order to facilitate notification to the new carrier of its obligations under this section.
[1995, c. 59, §5 (amd).]

8. Violations. Any insurance company, association or self-insured employer subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than $500 may be adjudged for each day following the due date for which payment is not made.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

9. Deposit of funds; investment. All revenues derived from assessments levied against insurance companies, associations and self-insured employers described in this section must be reported and paid to the Treasurer of State and credited to the Workers' Compensation Board Administrative Fund. The Treasurer of State may invest the funds in accordance with state law. All interest must be paid to the fund.
[1991, c. 885, Pt. A, §8 (new); §§9-11 (aff).]

10. Deposit of funds in Workers' Compensation Board Administrative Fund. The Treasurer of State shall deposit in the Workers' Compensation Board Administrative Fund funds collected pursuant to section 152, subsection 14.
[1993, c. 145, §5 (new).]

11. Assessment errors.
[1995, c. 59, §6 (rp).]

12. Audit. In consultation with the Bureau of Insurance, the board may audit all returns and investigate any issues relevant to the collection and payment of any assessment under this section.
[1995, c. 59, §7 (new).]

PL 1991, Ch. 885, §A8 (NEW).
PL 1991, Ch. 885, §A9-11 (AFF).
PL 1993, Ch. 145, §4,5 (AMD).
PL 1993, Ch. 619, §2,3 (AMD).
PL 1995, Ch. 59, §1-7 (AMD).
PL 1997, Ch. 486, §5 (AMD).
PL 1999, Ch. 359, §1 (AMD).
PL 2001, Ch. 393, §1 (AMD).
PL 2001, Ch. 692, §1 (AMD).
PL 2003, Ch. 93, §1 (AMD).
PL 2003, Ch. 425, §2 (AMD).

Public Law

123rd Legislature

First Regular Session

Chapter 447

H.P. 347 - L.D. 431

An Act To Enable the Dirigo Health Program To Be Self-administered

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

Sec. 1. 5 MRSA §12004-G, sub-§14-D, as enacted by PL 2003, c. 469, Pt. A, §3, is amended to read:

14-D.			
Health Care Board of ~~Directors~~Trustees of Dirigo Health		$100 per diem and expenses	24-A MRSA §6904

Sec. 2. 22 MRSA §3174-DD, as amended by PL 2005, c. 400, Pt. C, §2, is further amended to read:

§ 3174-DD. Dirigo health coverage

The department may contract with one or more health insurance carriers or the Dirigo Health Self-administered Plan established pursuant to Title 24-A, section 6981 to purchase Dirigo Health Program coverage for MaineCare members who seek to enroll through their employers pursuant to Title 24-A, section 6910, subsection 4, paragraph B. A MaineCare member who enrolls in the Dirigo Health Program as a member of an employer group receives full MaineCare benefits through the Dirigo Health Program. The benefits are delivered through the employer-based health plan, subject to nominal cost sharing as permitted by 42 United States Code, Section 1396o(2003) and additional coverage provided under contract by the department.

Sec. 3. 24-A MRSA §6903, sub-§1, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

1. Board. "Board" means the Board of ~~Directors~~Trustees of Dirigo Health, as established in section 6904.

Sec. 4. 24-A MRSA §6904, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

§ 6904. Board of Trustees of Dirigo Health

Dirigo Health operates under the supervision of ~~a~~the Board of ~~Directors~~Trustees of Dirigo Health established in accordance with this section.

1. Appointments. The board consists of ~~5~~9 voting members and ~~3~~4 ex officio, nonvoting members as follows.

A. The ~~5~~9 voting members of the board ~~must be~~are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters and confirmation by the Senate in accordance with this paragraph.

(1) Five members qualified in accordance with subsection 2-A, paragraph A are appointed by the Governor.

(2) One member qualified in accordance with subsection 2-A, paragraph A is appointed by the Governor and must be selected from candidates nominated by the President of the Senate.

(3) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from candidates nominated by the Speaker of the House.

(4) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from the candidates nominated by the Senate Minority Leader.

(5) One member qualified in accordance with subsection 2-A, paragraph B is appointed by the Governor and must be selected from candidates nominated by the House Minority Leader.

B. The ~~3~~4 ex officio, nonvoting members of the board are:

(1) The Commissioner of Professional and Financial Regulation or the commissioner's designee;

(2) The director of the Governor's Office of Health Policy and Finance or the director of a successor agency; ~~and~~

(3) The Commissioner of Administrative and Financial Services or the commissioner's designee.; and

(4) The Treasurer of State or the treasurer's designee.

~~**2. Qualifications of voting members.** Voting members of the board:~~

~~A. Must have knowledge of and experience in one or more of the following areas:~~

~~(1) Health care purchasing;~~

~~(2) Health insurance;~~

~~(3) MaineCare;~~

~~(4) Health policy and law;~~

~~(5) State management and budget; or~~

~~(6) Health care financing; and~~

~~B. Except as provided in this paragraph, may not be:~~

~~(1) A representative or employee of an insurance carrier authorized to do business in this State;~~

~~(2) A representative or employee of a health care provider operating in this State; or~~

~~(3) Affiliated with a health or health-related organization regulated by State Government.~~

~~A nonpracticing health care practitioner, retired or former health care administrator or retired or former employee of a health insurance carrier is not prohibited from being considered for board membership as long as that person is not currently affiliated with a health or health-related organization.~~

2-A. Qualifications of voting members. Voting members of the board must be qualified in accordance with this subsection.

A. Six of the voting members of the board must have knowledge of and experience in one or more of the following areas:

(1) Health care purchasing;

(2) Health insurance;

(3) MaineCare;

(4) Health policy and law;

(5) State management and budgeting;

(6) Health care financing;

(7) Labor or consumer advocacy; and

(8) Marketing.

B. Three of the voting members of the board must have knowledge of and experience in one or more of the following areas:

(1) Accounting;

(2) Banking;

(3) Securities; and

(4) Insurance.

C. Except as provided in this paragraph, a voting member of the board may not be:

(1) A representative or employee of a health insurance carrier authorized to do business in this State;

(2) A representative or employee of a health care provider operating in this State;

(3) Affiliated with a health or health-related organization regulated by State Government; or

(4) A representative or employee of Dirigo Health.

A nonpracticing health care practitioner, retired or former health care administrator or retired or former employee of a health insurance carrier is not prohibited from being considered for board membership as long as that person is not currently affiliated with a health or health-related organization.

3. Terms of office. Voting members serve 3-year terms. Voting members may serve up to 2 consecutive terms. Of the initial appointees, one member serves an initial term of one year, 2 members serve initial terms of 2 years and 2 members serve initial terms of 3 years. ~~The Governor shall fill any~~Any vacancy for an unexpired term must be filled in accordance with subsections 1 and ~~2~~2-A. Members reaching the end of their terms may serve until replacements are named.

4. Chair. The Governor shall appoint one of the voting members as the chair of the board.

5. Quorum. ~~Three~~Five voting members of the board constitute a quorum.

6. Affirmative vote. An affirmative vote of ~~3~~5 members is required for any action taken by the board.

7. Compensation. A member of the board must be compensated according to the provisions of Title 5, section 12004-G, subsection 14-D; a member must receive compensation whenever that member fulfills any board duties in accordance with board bylaws.

8. Meetings. The board shall meet ~~at least 4 times a year at regular intervals~~monthly and may also meet at other times at the call of the chair or the executive director. All meetings of the board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

Sec. 5. 24-A MRSA §6905, as enacted by PL 2003, c. 469, Pt. A, §8, is repealed and the following enacted in its place:

§ 6905. Limitation on liability

1. Indemnification of Dirigo Health employees. An employee of Dirigo Health is not subject to any personal liability for having acted within the course and scope of membership or employment to carry out any power or duty under this chapter. Dirigo Health shall indemnify any member of the board and any employee of Dirigo Health against expenses actually and necessarily incurred by that member or employee in connection with the defense of any action or proceeding in which that member or employee is made a party by reason of past or present authority with Dirigo Health.

2. Limitation on liability of board members. The personal liability of a member of the board is governed by Title 18-B, section 1010.

Sec. 6. 24-A MRSA §6908, sub-§2, ¶E, as amended by PL 2005, c. 400, Pt. C, §6, is further amended to read:

E. Arrange the provision of Dirigo Health Program benefit coverage to eligible individuals and eligible employees through contracts with one or more qualified bidders in accordance with section 6910 or through the Dirigo Health Self-administered Plan authorized pursuant to section 6981;

Sec. 7. 24-A MRSA §6908, sub-§13, as reallocated by PL 2005, c. 683, Pt. B, §20, is amended to read:

13. Report; jurisdiction. Dirigo Health shall report twice annually, once in January and once during the last month of the regular legislative session, to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters on the Dirigo Health Program and budget. Minutes of meetings of the Board of ~~Directors~~Trustees of Dirigo Health must be provided to each member of the joint standing committees of the Legislature having jurisdiction over insurance and financial services matters, health and human services matters and appropriations and financial affairs.

Sec. 8. 24-A MRSA §6909, sub-§2, ¶A, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

A. Serve as the liaison between the board ~~of directors~~ and Dirigo Health and serve as secretary and treasurer to the board;

Sec. 9. 24-A MRSA §6910, sub-§1, as amended by PL 2005, c. 400, Pt. C, §8, is further amended to read:

1. Dirigo Health Program. Dirigo Health shall arrange for the provision of health benefits coverage through the Dirigo Health Program not later than October 1, 2004. The Dirigo Health Program must comply with all relevant requirements of this Title. Dirigo Health Program coverage may be offered by health insurance carriers that apply to the board and meet qualifications described in this section and any additional qualifications set by the board or may be provided through the Dirigo Health Self-administered Plan pursuant to section 6981.

Sec. 10. 24-A MRSA §6916 is enacted to read:

§ 6916. Marketing and sale of Dirigo Health Program; qualifications of insurance producers

1. **Qualifications of insurance producers.** An insurance producer licensed pursuant to chapter 16 may solicit, negotiate and sell insurance products offered by or through the Dirigo Health Program if the following conditions are met prior to any such solicitation, negotiation or sale:

A. The producer is authorized by the superintendent to solicit, negotiate and sell insurance products for the health line of business;

B. The producer has successfully completed all training offered and required by the Dirigo Health Program for the solicitation, negotiation and sale of Dirigo Health Program insurance products, including any continuing training offered and required by the Dirigo Health Program;

C. The producer provides the carrier or carriers with which the Dirigo Health Program has contracted to underwrite and provide Dirigo Health Program coverage a current certificate from the Dirigo Health Program certifying the successful completion of all training offered and required by the Dirigo Health Program; and

D. The producer successfully completes all training specific to the sale of Dirigo Health Program insurance products offered and required by the carrier or carriers contracting with the Dirigo Health Program to underwrite and provide Dirigo Health Program coverage, including any continuing training offered and required by such carrier or carriers.

2. **Annual certification required.** Training pursuant to subsection 1 must be completed annually, and any certificate establishing successful completion of training is valid for one year from the date of issuance. If a producer fails to obtain certification following the expiration of the prior year's certification, the producer may not continue to solicit, negotiate and sell insurance products offered by or through the Dirigo Health Program.

3. **Carrier appointment not required.** Notwithstanding any other provision of law, an insurance producer licensed pursuant to chapter 16 who complies with this section may solicit, negotiate and sell insurance products offered by or through the Dirigo Health Program without being appointed by the carrier or carriers contracting with the Dirigo Health Program to underwrite and provide Dirigo Health Program coverage. A producer may not solicit, negotiate or sell insurance products offered by or through the Dirigo Health Program if the producer is not in compliance with this subsection. Notwithstanding section 1445, the carrier or carriers contracting with the Dirigo Health Program to underwrite and provide

Dirigo Health Program coverage are not liable for the actions of an insurance producer who has not been appointed to solicit, negotiate and sell insurance products offered by or through the Dirigo Health Program.

Sec. 11. 24-A MRSA c. 87, sub-c. 4 is enacted to read:

SUBCHAPTER 4

DIRIGO HEALTH SELF-ADMINISTERED PLAN

§ 6981. Dirigo Health Self-administered Plan

Notwithstanding section 6910, subsection 2, Dirigo Health may provide access to health benefits coverage by establishing the Dirigo Health Self-administered Plan, referred to in this subchapter as "the self-administered plan," pursuant to this section.

1. Establishment. Dirigo Health may provide access to health benefits coverage through the self-administered plan subject to the requirements of this section. The board may make a determination that Dirigo Health will provide access to health benefits coverage through the self-administered plan after the board evaluates competitive bids for health benefits coverage for self-administered and fully underwritten health benefits coverage. If the board determines that Dirigo Health will provide access to health coverage through the self-administered plan as authorized under this section, the board shall submit a report explaining the reasons for the decision to the joint standing committee of the Legislature having jurisdiction over health insurance matters within 30 days of the decision. Upon receipt of a report from the board, the chairs of the joint standing committee of the Legislature having jurisdiction over health insurance matters may call a meeting of the committee. Following receipt of such a report, the joint standing committee of the Legislature having jurisdiction over health insurance matters may report out legislation to the next regular or special session of the Legislature relating to the establishment of the self-administered plan.

2. Cooperative agreements. Dirigo Health may enter into voluntary cooperative agreements with a public purchaser for purchasing purposes and administrative functions. If a cooperative agreement is entered into pursuant to this subsection, the self-administered plan and any public purchaser shall maintain separate and distinct risk pools and reserves and may not commingle risk pools or reserve funds under any circumstances. For the purposes of this subsection, "public purchaser" means an entity that purchases health coverage in whole or in part with public funds, including, but not limited to, the state employee health insurance program, the University of Maine System, the Maine Community College System, the Maine Education Association benefits trust, the Maine School Management Association benefits trust and municipal and county governments. For the purposes of this subsection, "public purchaser" does not mean the Department of Health and Human Services, Office of MaineCare Services except for cooperative agreements for the purchasing of pharmaceuticals pursuant to Title 5, section 2031.

3. Additional responsibilities of board. In addition to the duties and responsibilities set out in sections 6908 and 6910, the board is authorized to:

A. Operate the self-administered plan pursuant to a trust instrument in accordance with Title 18-B;

B. Develop, maintain and modify a business plan for the self-administered plan as appropriate in consultation with the executive director;

C. Establish an operating budget for the self-administered plan subject to legislative approval in the biennial budget process in accordance with section 6908, subsection 3;

D. Ensure the ongoing fiscal integrity and stability of the self-administered plan in accordance with subsections 5 and 11 and monitor statistics provided by the executive director relating to the number of plan enrollees, working rates, utilization of benefits, operating costs and reimbursement for losses related to excess or stop loss coverage;

E. Establish administrative and accounting procedures in accordance with section 6908, subsection 2, paragraph A and develop financial statements that are consistent with generally accepted accounting principles;

F. Obtain necessary contracts for services, including, but not limited to, actuarial services, accounting services, auditing services, investment advice and counsel and custodial services for financial assets in accordance with subsection 4;

G. Take any actions necessary to comply with federal and state Medicaid rules regarding Dirigo Health plan members eligible for MaineCare;

H. Take any actions necessary to comply with federal Medicaid managed care organization contract requirements as provided in 42 Code of Federal Regulations, Part 438 (2002); and

I. Have and exercise all powers necessary and appropriate to carry out the purposes of this section.

4. Services. If the board determines that Dirigo Health will provide access to health coverage through the self-administered plan pursuant to subsection 2, the board shall contract for the following services through a competitive bidding process unless the requirement for competitive bidding is waived pursuant to Title 5, section 1825-B, subsection 2 or a carrier contracted by Dirigo Health to fully underwrite health benefits coverage terminates that contract.

A. The board shall secure the services of an actuary for technical advice on matters regarding the operation of the self-administered plan in accordance with this paragraph. The board shall contract for actuarial services after a competitive bidding process at least every 3 years and may award a bid only to an actuary who is a member in good standing of the American Academy of Actuaries or a successor organization. The contract must require the actuary to:

(1) Act as a technical advisor to the board on matters regarding the operation of the self-administered plan in accordance with this paragraph;

(2) Certify the amounts of the benefits paid and payable under this section;

(3) Analyze the year's operations and results and the experience of the self-administered plan;

(4) Determine appropriate actuarial assumptions for recommendation to the board; and

(5) Determine the appropriate level of reserves needed to sustain the self-administered plan and pay benefits.

B. The board shall secure the services of one or more fiduciaries or registered investment advisors through negotiated contractual arrangements. The contract must require the fiduciary or registered investment advisor to:

(1) Invest and reinvest the funds in accordance with appropriate financial and trust standards;

(2) Advise the board as to reasonable investment philosophy; and

(3) Submit regular reports of investments and changes to the board.

C. The board shall contract with an appropriate financial institution for custodial services for the securities and other investment assets of the self-administered plan. The contract must require the custodian to meet financial safeguards and other qualifications determined by the board, including restrictions on the manner in which deposits and withdrawals of funds are completed.

D. When the self-administered plan is established, the board shall purchase, through contracts from one or more 3rd-party administrators or any organization necessary to administer and provide a health plan, a policy or policies or a contract to provide the benefits specified by this section. The purchase of policies by the board must be accomplished by use of a written contract for a term determined by the board.

The board may contract for any other applicable services necessary to comply with federal law.

5. Administration. The following provisions govern the administration of the self-administered plan.

A. The assets and liabilities of the self-administered plan are solely the assets and liabilities of Dirigo Health.

B. The actuary under contract with the board pursuant to subsection 4 shall determine:

(1) The appropriate level of reserves estimated to be sufficient to pay claims and administrative costs according to subsection 11, paragraph B;

(2) Whether the program is operating on an actuarially sound basis and any recommendations based on that determination;

(3) A rate structure for the self-administered plan, including working rates actuarially sufficient to pay anticipated claims for the current claims year as well as to provide sufficient reserves for incurred but not reported claims;

(4) Recommendations as to the purchase of excess or stop loss insurance including suggested attachment levels and limits; and

(5) Recommendations as to the need for a security deposit or surety bond to protect against insolvency.

The actuary shall annually present information to the board on the determinations made pursuant to this paragraph as well as the method of distribution of any accumulations above the reserves including use of excess reserves to moderate the working rates.

C. The superintendent shall complete a detailed review of the financial and actuarial aspects of the self-administered plan, including, but not limited to, the presentation and recommendations of the actuary and the audited financial statements of the self-administered plan. The superintendent shall report the superintendent's findings and any recommendations to the board and at a public meeting of the joint standing committee of the Legislature having jurisdiction over insurance matters on or before March 1st of each year.

D. The self-administered plan may not obligate the General Fund beyond that amount appropriated by the Legislature.

6. Audits; financial statements. The board shall arrange for an annual audit of its financial statements by an independent certified public accounting firm. Within 30 days of the completion of the audit, a copy of the audited financial statements must be distributed to the Legislature in the same manner as required by section 6908, subsection 4. A copy of the audited financial statements must also be made available for public inspection.

7. Public entity. The self-administered plan is a public entity for the purposes of 42 Code of Federal Regulations, Section 438.116.

8. Health benefit coverage. Health benefits coverage provided under the self-administered plan in accordance with this subchapter must be comprehensive and include a low deductible plan option for enrollees in the Dirigo Health Program.

9. Application of certain insurance provisions. The self-administered plan must meet or exceed the following requirements in the same manner as when health benefits coverage is provided by a health insurance carrier:

A. The requirements for rating practices pursuant to section 2736-C, subsection 2 and section 2808-B, subsection 2;

B. The requirements for guaranteed issuance pursuant to section 2736-C, subsection 3 and section 2808-B, subsection 4;

C. The requirements for guaranteed renewal pursuant to section 2736-C, subsection 3 and section 2808-B, subsection 4 subject to the limitations of available funds maintained by the self-administered plan in accordance with subsection 11;

D. The requirements for continuity of coverage, coverage of late enrollees and preexisting condition exclusions pursuant to chapter 36;

E. The requirements for mandated coverage of specific health care services and for specific diseases and for certain providers of health care services pursuant to Title 24 and this Title;

F. The requirements for the benefits, rights and protections for individuals enrolled in health plans pursuant to chapter 56-A and Bureau of Insurance Rule Chapter 850. Notwithstanding any statute or common law to the contrary, an individual enrolled in the self-administered plan may maintain a cause of action against the self-administered plan subject to the requirements of section 4313. This paragraph is a waiver of the State's defense of immunity under Title 14, chapter 741;

G. The requirements of the Insurance Information and Privacy Protection Act pursuant to chapter 24; and

H. The provisions of sections 2159-B and 2159-C relating to discrimination against victims of domestic abuse and discrimination on the basis of genetic information or testing.

The self-administered plan may not enter into any contract with a 3rd-party administrator, carrier or other organization to administer and provide health coverage that has not demonstrated compliance with all applicable state laws.

10. Self-administered plan not an insurer. The self-administered plan is not an insurer, reciprocal insurer or joint underwriting association under the laws of the State. The administration of the self-administered plan by the board does not constitute doing the business of insurance.

11. Reserves. This subsection applies to reserves of the self-administered plan.

A. The Dirigo Health Reserve is created as an account within the Dirigo Health Enterprise Fund, as established pursuant to section 6915, for the deposit of reserves as required by paragraph B.

B. The self-administered plan shall maintain a reserve at least equal to the sum of:

(1) An amount estimated by a qualified actuary under subsection 5 to be necessary to pay claims and administrative costs for the assumed risk for 2 1/2 months; and

(2) The amount determined annually by a qualified actuary under subsection 5 to be necessary to fund the unpaid portion of ultimate expected losses, including incurred but not reported claims, and related expenses incurred in the provision of benefits for eligible participants, less any credit, as determined by a qualified actuary, for excess or stop loss insurance.

C. The Dirigo Health Reserve must be adjusted on a quarterly basis in order to maintain a reserve at least equal to the amount determined in paragraph B.

D. The Dirigo Health Reserve is capitalized by money from the Dirigo Health Enterprise Fund, as established pursuant to section 6915, and any other fund advanced for initial operating expenses, monthly enrollee payments, any funds received from any public or private source, legislative appropriations, payments from state departments and agencies and such other means as the Legislature may approve. All money in the Dirigo Health Reserve is deemed to be the commingled assets of all covered enrollees and may be used only for the purposes of this section.

12. Stop loss insurance. The board may purchase excess or stop loss insurance for the self-administered plan, with attachment levels and limits as recommended by a qualified actuary pursuant to subsection 5. If the board is unable to purchase excess or stop loss insurance at the recommended attachment levels and limits, the board does not have the authority to establish a self-administered plan as provided in this section.

13. Marketing and distribution. The board may contract for the marketing and distribution of the self-administered plan in accordance with the requirements of this subsection. Any entity or individual that contracts with the self-administered plan shall successfully complete all training offered by Dirigo Health for the solicitation, negotiation and sale of health benefits coverage. Training must be completed annually, and any certificate establishing successful completion of training is valid for one year from the date of issuance. If an entity or individual fails to obtain certification following the expiration of the prior year's certification, the entity or individual may not continue to solicit, negotiate and sell health benefits coverage under the self-administered plan.

14. Provider reimbursement. In any contract with a 3rd-party administrator, carrier or other organization to administer and provide health coverage to enrollees of the self-administered plan, the board shall ensure that:

A. Providers contracting to provide health coverage to plan enrollees are reimbursed at a rate comparable to current market reimbursement rates among commercial carriers in the State;

B. Providers contracting to provide health coverage to plan enrollees are paid in a timely manner in accordance with the same requirements that would be required under state law for health insurance carriers pursuant to section 2436; and

C. If the self-administered plan fails to pay for health care services as set forth in the contract, providers are governed by the standards required pursuant to section 4204, subsection 6. This paragraph does not prohibit a provider from collecting or attempting to collect from a plan enrollee any amount for services not normally payable to the self-administered plan, including any applicable copayments and deductibles.

15. No liability for plan enrollees. This section does not create any liability on the part of eligible employers, eligible employees or eligible individuals enrolled in Dirigo Health in the event that the self-administered plan becomes insolvent or fails to pay claims.

Sec. 12. New appointments to Board of Trustees of Dirigo Health; staggered terms. Notwithstanding the Maine Revised Statutes, Title 24-A, section 6904, subsection 3, the terms of the 4 members added to the Board of Trustees of Dirigo Health pursuant to this Act must be staggered. One member must be appointed for a term of one year, one member for a term of 2 years and 2 members for terms of 3 years.

Effective September 20, 2007

Resolve

123rd Legislature

First Regular Session

Chapter 126

H.P. 187 - L.D. 216

Resolve, To Establish the Council on Financial Literacy and Create a Financial Literacy Matching Grant Program

Sec. 1 Council established. Resolved: That there is created the Council on Financial Literacy, referred to in this resolve as "the council," whose purpose is to encourage and support projects and programs offered by public entities and private not-for-profit entities that seek to inform and educate Maine residents, especially students, on the management of their personal finances; and be it further

Sec. 2 Grant program. Resolved: That the purpose of the council must be carried out through administration of a financial literacy matching grant program for the benefit of Maine residents. The program grants must be awarded by the Treasurer of State, with advice from the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation, referred to in this resolve as "the director"; and be it further

Sec. 3 Membership. Resolved: That the council must be chaired by the Treasurer of State. The director or a designee must be a member of the council. Other members must be selected by the Treasurer of State, and must include one member of the Senate appointed by the President of the Senate, one member of the House of Representatives appointed by the Speaker of the House, a business person, a Maine high school student, a Maine college student, a banker, a credit union officer, a Maine investment advisor, a Maine public school teacher and a member of the public; and be it further

Sec. 4 Service without compensation. Resolved: That members of the council serve without compensation except that Legislators are entitled to receive the legislative per diem for attendance at meetings of the council; and be it further

Sec. 5 Additional authority. Resolved: That the council is authorized to apply for and raise private funds to supplement its grant program; and be it further

Sec. 6 Report. Resolved: That the Treasurer of State shall issue a report to the Legislature no later than January 15, 2009 on the operations of the financial literacy matching grant program, including a description of the recipients of the matching grants, a description of how the funded programs have benefited Maine citizens and whether the council has been able to supplement its initial funding from other sources; and be it further

Sec. 7 Transfer to the Financial Literacy Program. Resolved: That, notwithstanding any other provision of law, the State Controller shall transfer $50,000 in each of fiscal years 2007-08 and 2008-09 from the Office of Consumer Credit Regulation, Other Special Revenue Funds account

in the Department of Professional and Financial Regulation to the Financial Literacy Program, Other Special Revenue Funds account in the Office of the Treasurer of State. The State Controller shall make these transfers at a time determined in consultation with the Director of the Office of Consumer Credit Regulation and the Treasurer of State; and be it further

Sec. 8 Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF

Financial Literacy Program N004

Initiative: Allocates funds for the expenses of the financial literacy matching grant program.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	$50,000	$50,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$50,000	$50,000

Effective September 20, 2007

Resolve

123rd Legislature

First Regular Session

Chapter 132

H.P. 1089 - L.D. 1564

Resolve, To Encourage Financial Education of Children from Kindergarten to Grade 12

Sec. 1 Treasurer of State to organize seminar. Resolved: That the Treasurer of State, in conjunction with the University of Maine System, the Maine Community College System, the Institute for Financial Literacy, Jump Start, Inc. and other interested parties, shall organize a seminar in November 2007 to provide training on teaching financial literacy to public school students from kindergarten to grade 12; and be it further

Sec. 2 Transfer to the financial literacy program. Resolved: That, notwithstanding any other provision of law, the State Controller shall transfer $15,000 in fiscal year 2007-08 from the Office of Consumer Credit Regulation, Other Special Revenue Funds account in the Department of Professional and Financial Regulation to the financial literacy program, Other Special Revenue Funds account in the Office of the Treasurer of State. The State Controller shall make this transfer at a time determined in consultation with the Director of the Office of Consumer Credit Regulation and the Treasurer of State; and be it further

Sec. 3 Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

TREASURER OF STATE, OFFICE OF THE

Financial Literacy Program N004

Initiative: Allocates funds for costs associated with hosting a statewide seminar on teaching financial literacy to public school students, including speakers, materials and food.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	$15,000	$0
OTHER SPECIAL REVENUE FUNDS TOTAL	$15,000	$0

Title 5, §19005, Contribution Fund

§19005. Contribution Fund

The "Contribution Fund," as established, shall consist of and there shall be deposited in the fund: All contributions, interest and penalties collected under section 19004; all money appropriated thereto under this chapter; any property or securities and earnings thereof acquired through the use of money belonging to the fund; interest earned upon any money in the fund; and all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received for the fund from any other source. All money in the fund shall be mingled and undivided. Subject to this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all money and property or securities belonging thereto. The state agency shall invest the fund pursuant to section 17153, subsection 3 and credit all interest and income earned in excess of that needed, for the purposes set forth in this section, to the expense fund of the state agency, to be used to prepare and, if approved by the Legislature, implement a portable and integrated retirement plan for participating local districts and to defray the cost of administration for those districts that participated in the social security system through the Maine State Retirement System. The state agency may perform any and all acts whether or not specifically designated, which are necessary to the administration of the Contribution Fund and are consistent with this chapter. [1989, c. 77, §1 (amd).]

The Contribution Fund shall be established and held separate and apart from any other funds or money of the State and shall be used and administered exclusively for the purpose of this chapter. Subject to this section, withdrawals from the fund shall be made for, and solely for, payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under section 19003; and refunds of overpayments, not otherwise adjustable, made by a political subdivision or instrumentality. [1989, c. 77, §1 (amd).]

From the Contribution Fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 19003 and the Social Security Act. [1985, c. 801, § § 5, 7 (new).]

The Treasurer of State shall be ex officio treasurer and custodian of the Contribution Fund and shall administer such fund in accordance with this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with this section and with such regulations as the state agency may prescribe pursuant thereto. [1985, c. 801, § § 5, 7 (new).]

There are authorized to be appropriated biannually to the Contribution Fund, in addition to the contributions collected and paid into the Contribution Fund under section 19004, to be available for the purposes of the 2nd and 3rd paragraphs of this section until expended, such additional sums as are found to be necessary in order to make the payments to the Secretary of the Treasury which the State is obligated to make pursuant to an agreement entered into under section 19003. [1985, c. 801, § § 5, 7 (new).]

The state agency shall submit to each regular session of the Legislature, at least 90 days in advance of the beginning of each session, an estimate of the amounts authorized to be appropriated to the Contribution Fund by the preceding paragraph of this section for the next appropriation period. [1985, c. 801, § § 5, 7 (new).]

PL 1985, Ch. 801, §5,7 (NEW).
PL 1989, Ch. 77, §1 (AMD).

THIS INVESTMENT TRUST FUND AGREEMENT (hereinafter, "Agreement") is executed this _____ day of _____, 2007, between the State of Maine, as the Grantor, and the undersigned Trustees of the Retiree Health Insurance Post-employment Benefits Investment Trust.

W I T N E S S E T H:

WHEREAS, pursuant to 5 M.R.S.A. § 286-B, the Maine Legislature established an Irrevocable Trust Fund for Other Post-employment Benefits for the purposes of meeting the State of Maine's unfunded liability obligations for retiree health benefits for eligible participants; and

WHEREAS, the Trustees of the Irrevocable Trust Fund are the Treasurer of the State and the State Controller; and

WHEREAS, pursuant to 5 M.R.S.A. § 17432, the Maine Legislature established the Retiree Health Insurance Post-employment Benefits Investment Trust Fund as an irrevocable trust for the sole purpose of holding and investing funds appropriated or otherwise provided to the Investment Trust Fund for the benefit of the Irrevocable Trust Fund established in § 286-B; and

WHEREAS, the Trustees of the Investment Trust Fund are the Trustees of the Maine Public Employees Retirement System; and

WHEREAS, 5 M.R.S.A. § 286-B and § 17432 direct that the purpose of accumulating assets in the Investment Trust Fund is to provide funding of the State's unfunded liability obligations for retiree health benefits; and

WHEREAS, the date of legislative establishment of the Investment Trust Fund was July 1, 2007; and

WHEREAS, the Legislature has determined that the assets of the Investment Trust Fund are exempt from any state, county or municipal tax and the State of Maine intends for the assets and earnings of the Investment Trust Fund to be exempt from any and all federal income taxes pursuant to Section 115 of the Internal Revenue Code; and

NOW, THEREFORE, the Irrevocable Trust Fund Trustees and the Investment Trust Fund Trustees hereby agree as follows:

ARTICLE I - DEFINITIONS AND RULES OF CONSTRUCTION

1.01. Definitions. The following words and phrases shall have the meaning stated below, unless otherwise expressly provided:

(a) "Act" means 5 M.R.S.A. § 286-B and related legislation.
(b) "Board" means the Board of Trustees of the Maine Public Employees Retirement System..
(c) "Fiscal Year" means the fiscal year of the State as may from time to time be provided by law.
(d) "Investment Trust Fund" and "the Trust" mean the Retiree Health Insurance Post-employment Benefits Investment Trust Fund established in 5 M.R.S.A. § 17432, also called the Investment Trust Fund and the subject of this Agreement.
(e) "Investment Trust Fund Trustees" and "Trustees" mean the Trustees serving under this Investment Trust Agreement. References in this Agreement to the "Investment Trust Fund Trustees" and "Trustees" shall be deemed to include not only the original Trustees of this Investment Trust Fund but also any successor Trustee(s), whether named in this Agreement or not.
(f) "Irrevocable Trust Fund" means the Irrevocable Trust Fund for Other Post-employment Benefits established by 5 M.R.S.A. § 286-B.
(g) "Irrevocable Trust Fund Trustees" means the State Controller and Treasurer of the State.
(h) "State" means the State of Maine,
(i) "Legislature" means the Legislature of the State of Maine.
(j) "Permitted Investments" mean all assets and properties in which the Investment Trust Fund Trustees may invest as permitted by law from time to time., including, but not limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, interest in partnerships whether limited or general or in any insurance contract policy, annuity, or other investment media offered by an insurance company. Without limiting the foregoing, all investments permitted to be made by the Trustees with respect to assets of the Maine Public Employees Retirement System defined benefit plans constitute Permitted Investments.
(k) "Retiree Health Benefits for Eligible Participants" ("Participants") has the same meaning set forth in 5 M.R.S.A. § 285, subsections 1-A and 11-A and 20-A M.R.S.A. § 13451, subsections 2, 2-A, 2-B and 2-C, as amended from time to time.
(l) "Retiree Health Insurance Post-employment Benefits" ("RHIPEB") mean non-pension health insurance benefits paid on behalf of retired employees or their dependents after the employees' separation from service in accordance with the Plan.

1.02. Rules of Construction. Words herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

ARTICLE II – ACCEPTANCE OF TRUST

2.01. Acceptance of Trust. All appropriations or additions to the Trust, together with the income, gains and all other increments, shall be held, managed, invested, reinvested and administered in trust pursuant to the terms of this Agreement. The Trustees accept the assets contributed to the Trust and will perform the duties, responsibilities, and obligations as Trustees under this Agreement.

2.02. Initial Trust Fund. The State shall provide the initial funding of the Trust, and that

property and all additions to it from whatever source shall be held by the Trustees in trust for the uses and purposes and upon the terms and conditions set forth in this Agreement.

2.03. Additions to Trust Fund. Annually, beginning with the fiscal year starting July 1, 2009 the Legislature shall appropriate funds that will retire, in 30 years or less from July 1, 2007, the unfunded liability for retiree health benefits for eligible participants as described by law.

ARTICLE III – ADMINISTRATIVE PROVISIONS

3.01. Management and Control. The Trust shall be under the management and control of the Trustees. All powers necessary or otherwise advisable for the administration, management and control of the Trust shall be vested solely in the Trustees. Each Trustee shall be entitled to one vote in matters concerning the Trust. Five Trustees shall constitute a quorum for the transaction of any Trust business. Five votes are necessary for any resolution or action by the Trustees at any meeting of the Trustees.

3.02. Trustees. The Trustees shall be the members of the Maine Public Employees Retirement System ("MainePERS") Board of Trustees serving from time to time. Upon the election or appointment to the position of a member of the MainePERS Board, such Board member shall automatically become a Trustee of the Trust. A Trustee shall automatically cease serving in that capacity upon termination of his or her membership on the MainePERS Board of Trustees. No Trustee shall be removed or resign as long as such Trustee is a member of the MainePERS Board. All powers vested in the original Trustees of the Trust shall be vested in and exercisable by successor Trustees. All limitations or restrictions upon the original Trustees of the Trust shall be applicable to any successor Trustee. The Chair of the MSRS Board of Trustees shall serve as the Chair of the Trustees of the Investment Trust Fund.

3.03. Administration. The Trustees may delegate as appropriate to the Executive Director, Chief Investment Officer and other staff of the Maine Public Employees Retirement System the responsibility to carry out, as directed by the Trustees, the administration of the Trust and its investment and disbursement activities. Associated administrative costs and expenses attributable to the Trust shall be charged to the Trust.

3.04. Policies, Practices and Regulations. Unless contrary to the terms of this Agreement or applicable law, the operation of the Trust shall be governed by the policies, practices and regulations established and amended by the Trustees of the Investment Trust Fund from time to time. The Trustees are fully authorized to establish such policies, rules and regulations.

3.05. Committees. The Trustees may create one or more committees consisting of less than all of the Trustees. Each committee may have three or more members, who serve on the Committee at the pleasure of the Trustees. The creation of a committee and appointment of members to it must be approved by a vote of the Trustees. Each committee may exercise the authority specified and delegated by the Trustees.

3.06. Compensation of Trustees. The Trustees shall be compensated from the Trust for their services as Trustees as set forth in as set forth in 5 M.R.S.A. § 17434 in accordance with 5 M.R.S.A. § 17102(6) and any successor provision and reimbursed for all reasonable and necessary expenses that they incur in connection with their services as set forth in as set forth in 5 M.R.S.A. § 17434 in accordance with 5 M.R.S.A. § 17102(7) and any successor provision.

3.07. Continuing Powers Granted Trustees. Except as otherwise provided in this

Agreement, all powers, privileges, and exemptions granted to the Trustees shall be exercisable by the Trustees and by any successor(s) and shall remain exercisable until termination of the Trust.

3.08. Duty of Persons Dealing With Trustees to Inquire. No one dealing with the Trustees need inquire concerning the validity of anything done by the Trustees or see to the investment of any money paid or properly transferred to the Trustees or upon their order. All disbursements made by the Trustees in compliance with this Agreement and applicable law shall constitute a full discharge of the Trustees with respect to those disbursements.

3.09. Liability and Immunity of Trustees. A Trustee is not:

A. Personally liable for any liability, loss or expense suffered by the investment trust fund, unless such a liability, loss or expense arises out of or results from the willful misconduct or intentional wrongdoing of that trustee of the investment trust fund;

B. Responsible for the adequacy of the investment trust fund to meet and discharge any obligation; or

C. Required to take action to enforce the payment of any contribution or appropriation to the investment trust fund.

The Trustees are immune from suit on any and all tort claims seeking recovery of damages to the same extent as governmental entities under the Maine Tort Claims Act. The Attorney General is legal counsel to the Trustees and shall represent and defend the Trustees, as a group and individually, in connection with any claim, suit or action at law arising out of the performance or nonperformance of any actions related to the Trust to the same extent as provided for governmental entities in the Maine Tort Claims Act. The exercise of the Trustee's powers as set forth herein and pursuant to relevant law is held to be the performance of essential governmental functions.

3.10. Indemnification of Trustees. The Trust shall indemnify and hold each Trustee harmless from any and all costs, liabilities, losses, damages, and expenses, including attorneys' fees, in connection with or arising out of the operations of the Trust, unless such cost, liability, loss, damage, or expense arises out of or results from the willful misconduct or intentional wrongdoing of such Trustee.

3.11. Legal Representation and Defense of Trustees. The Maine Attorney General is legal counsel to the Trustees and shall represent and defend the Trustees, as a group and individually, in connection with any claim, suit or action at law arising out of the performance or non-performance of any actions related to the Trust, to the same extent as provided for governmental entities in the Maine Tort Claims Act.

ARTICLE IV – POWERS OF THE TRUSTEES

4.01. Grant of Broad Powers. The Trustees shall have full power to do everything in connection with the administration of the Trust that the Trustees reasonably deem appropriate whether or not it be authorized or appropriate for fiduciaries but for this broad grant of power. In extension and not in limitation of the powers given the Trustees by law or other provisions of this Agreement, the Trustees shall have the powers specifically set forth in the succeeding Sections of this Article with respect to the Trust and its property, in each case to be exercised from time to time in the discretion of the Trustees and without order or license of any Court.

4.02. General Powers. The Trustees shall have all of the powers necessary to carry out and effectuate the purposes and provisions of this Agreement, all the power and authority granted under law

and all powers granted to trustees under Maine law to the extent not in conflict with this Agreement or applicable law, including, without limiting the generality of the foregoing, the following powers to:

(a) Adopt, alter, and repeal policies and procedures or the operation and conduct of the Trust's affairs and business to the extent not otherwise provided in this Agreement;

(b) Make, enter into and execute contracts, other agreements and take such other actions as may be necessary or otherwise advisable for the management and operation of the Trust;

(c) Enter into contracts with, accept aid and grants from, cooperate with and do any and all things that may be necessary or otherwise advisable in order to avail the Trust of the aid and cooperation of the United States of America, the State of Maine and any other state or any agency, instrumentality or political subdivision of any thereof in furtherance of the purposes of the Trust;

(d) Appoint, employ and contract with such investment managers, investment consultants, actuaries, investment counsel and other attorneys, banks and trust companies and other investment professionals or advisors, accountants, employees and agents, including, but not limited to MainePERS staff, financial experts and such other advisors, consultants and agents as may, in the Trustees' judgment, be necessary or otherwise advisable; and further to determine and pay, from the assets of the Trust, the compensation of those persons; and

(e) Invest the assets of the Trust in any Permitted Investment; and

(f) To the extent permitted by law and deemed appropriate in the sole discretion of the Trustees, commingle the investment of the Trust assets with other funds that are administered by MainePERS.

4.03. Investments.

(a) The Trustees are empowered to acquire, by purchase or otherwise, and retain so long as they deem advisable, whether originally a part of the Trust property or subsequently acquired, any kind of Permitted Investment.

(b) The Trustees shall hold, invest, reinvest, and manage assets appropriated to the Investment Trust and all other Trust assets transferred to the Trust for the sole benefit of the Irrevocable Trust Fund and shall not encumber, invest or divest or disburse the funds for any other purpose except for the payment of expenses and costs allowed by law. The Trustees shall have full power to hold, purchase, sell, assign, transfer and dispose of any securities and investments and will provide all necessary services with respect to trust investments.

(c) During Fiscal Year 2008 the Trustees shall, in their sole discretion, determine, and revise from time to time as necessary, an appropriate Trust investment policy, including but not limited to provisions for asset allocation and investment strategy. This policy must embody the following guidelines for investment established by the Maine Legislature:

1. A long-term time horizon;
2. The funding plan approved by the Legislature and a projected disbursement schedule that will begin not before year 2027, as both may be revised in the Trust document from time to time; and
3. The primary goal of the Trust is the preservation and growth of principal within prudent risk parameters.

(d) Upon receipt of the initial trust funds and until the Trustees determine a Trust investment policy in accordance with Section 4.03(c), any assets transferred or otherwise allocated to the Trust shall be invested and managed to the extent feasible by the Trustees in the same manner as the assets of the defined benefit plans of MainePERS under the investment policy of those plans.

(e) The Trustees shall invest and manage the assets in accordance with the requirements of subsections (c) and (d) above with reasonable care, skill and expertise of a prudent investor as set forth in 18-B M.R.S.A. § 901 *et seq.*, subject to the guidelines set forth in 5 M.R. S.A. § 17435.

(f) The Trustees in their sole discretion may, without regard for the source of such assets, commingle the Trust assets with the defined benefit plan assets and other investment funds managed by the Board of Trustees of MainePERS or may create a separate investment structure for Trust assets or may use a combination of both approaches. In the event that the Irrevocable Trust Fund requires access to illiquid assets, the Trustees shall sell commingled assets in the most feasible and practical manner, assuring the correct allocation to this Trust and de minimis collateral effect on the MainePERS assets. Costs attributable to the administration, accounting, management, investment, and the trading of the Trust will be charged to the Trust assets.

(g) The Trustees may incur reasonable investment expenses payable from the assets of the Trust, including but not limited to, services of investment managers, investment consultants, actuaries, investment counsel and other attorneys, banks and trust companies and other investment professionals or advisors, accountants, employees and agents, including, but not limited to, financial experts and such other advisors, consultants and agents as they deem necessary and prudent in determining investment policy, in investing funds and in the liquidating of assets.

4.04. Delegation of Authority to Agents. The Trustees are empowered to delegate discretionary powers to agents (including investment managers, investment consultants, actuaries, investment counsel and other attorneys, banks and trust companies and other investment professionals or advisors, accountants, employees and agents, including, but not limited to MainePERS staff, financial experts and such other advisors, consultants and agents), remunerate them, and pay their expenses, employ custodians of the Trust assets, bookkeepers, clerks and other assistants, and pay them for their services from income or principal.

4.05. Claims, Compromise and Settlement. The Trustees are empowered to renew, assign, alter, extend, compromise, release, with or without consideration, or submit to arbitration, obligations or claims held by or asserted against the Trustees or which affect Trust assets.

4.06. Borrowing Money and Mortgaging Property. The Trustees are empowered to borrow money from others, for any purpose that in the opinion of the Trustees will facilitate the administration of the Trust and to pledge or mortgage property as security for any such loans.

4.07. Nominee Registration. The Trustees are empowered to hold any or all stocks, bonds, notes, mortgages or other property in bearer form or in the name of the Trustees of the Trust, or in the name of a nominee, with or without indication of any fiduciary capacity, and the liability of the Trustees

shall be neither increased nor decreased by the Trustees' so doing. The Trustees are empowered to deposit cash in checking or savings accounts in a bank, without indication of any fiduciary capacity.

4.08. Power to Accumulate. The Trustees are empowered to accumulate so much of the income of the Trust as they deem appropriate and to add the accumulated income to the principal of the Trust.

4.09. Corporate Changes. The Trustees are empowered to assent to, oppose and participate in any reorganization, recapitalization, merger, consolidation or similar proceeding affecting any corporation or association the securities of which are held under this Agreement, and, in connection with any such proceeding, deposit securities, delegate discretionary powers, acquire or surrender voting rights, pay assessments or other expenses and exchange property, all as fully as might be done by persons owning similar property in their own right.

4.10. Rights and Voting. The Trustees are empowered to exercise or sell all rights, options, powers and privileges pertaining to, and vote in person or by proxy upon, any stocks, bonds or other securities, all as fully as might be done by persons owning similar property in their own right.

4.11. Location of Trust Property. The Trustees are empowered to keep any or all of the assets of the Trust at any place or places in Maine or elsewhere with an appropriate depositary or custodian at such place or places.

4.12. Power of Absolute Owner. The Trustees are empowered to exercise all other rights, privileges and powers that an absolute owner of the same property would have, and to make, execute and deliver any and all instruments or agreements binding the Trust. This general power shall not be limited in any way by the specific powers granted in this Article.

ARTICLE V – DISTRIBUTIONS AND EXPENSES

5.01. Distributions. The assets of the Trust shall be held in trust for the benefit of the Irrevocable Trust Fund and the Trustees shall not expend or disburse or loan or transfer or use the assets for any purpose other than to acquire Permitted Investments, pay administrative expenses, and disburse to the Irrevocable Trust Fund Trustees in discharge of their duties. Disbursement will be made at the presentation of a lawful payment order by the Irrevocable Trust Fund Trustees. Assets are accumulated in the Trust for the purpose of providing post-employment health care benefits to eligible participants but the Trustees shall have no responsibility to ascertain the stated or actual use by the Irrevocable Trust Fund Trustees. The Legislature shall have no authority or power to divert any of the assets of the Trust to use for any other purpose.

5.02. Restrictions on Distributions. Notwithstanding anything in this Agreement to the contrary, no distributions from the Trust to the Irrevocable Trust Fund Trustees shall be made until 2027 or later. Thereafter, disbursements from the Trust shall be made and in accordance with applicable law but no more often than annually on July 1 of each year upon presentation of a lawful request from the Irrevocable Trust Fund Trustees.

5.03. Expenses. The expenses of making and disposing of investments, such as brokerage commissions, legal expenses referable to a particular transaction or for investment advice, transfer taxes and other customary transactional expenses with respect to the Trust, and administrative costs and expenses shall be payable out of the assets of the Trust.

ARTICLE VI – AMENDMENT AND TERMINATIONS

6.01. Irrevocable Agreement. Except as otherwise provided in Sections 6.02 and 6.03, this Agreement shall not be altered, amended, revoked, or terminated. Any such attempted alteration, amendment, revocation, or termination of this Agreement shall be void.

6.02. Amendment. As long as such amendment is consistent with the legislative intent of the Act, the Trustees by a vote of a majority of the Trustees shall have the authority to amend or modify this Agreement (a) if, in the opinion of the Trustees, such amendment is necessary or otherwise advisable to obtain any material tax advantage or avoid any material adverse tax result; (b) if, in the opinion of the Trustees, such amendment is necessary or otherwise advisable to cause the Trust to be considered an irrevocable other post-employment benefits trust in accordance with generally accepted governmental accounting principles, as prescribed by the Governmental Accounting Standards Board or its successor, or (c) if in response to a petition of the Trustees that the Trust be amended, a court of competent jurisdiction determines that such amendment is necessary or otherwise advisable to accomplish one or more purposes of the Act. The decision to petition a court of competent jurisdiction under this Section shall be made by a vote of a majority of the Trustees.

6.03. Termination. The Trust may be terminated by a vote of a majority of the Trustees only if all State plans or programs providing Retiree Health Benefits for Eligible Participants for which the Trust is established are repealed or terminated and there is no future obligation of the State to provide such post-employment health care benefits.

6.04. Reversion on Termination. If the Trust is terminated, the then remaining assets of the Trust shall revert to the Irrevocable Trust Fund to and for the credit of the Trustees.

ARTICLE VII – MISCELLANEOUS

7.01. Financial Statements; Annual Audit. The Trustees shall cause the annual financial statements of the Trust to be prepared in accordance with generally accepted accounting principles and an audit by a qualified independent certified accounting firm to be conducted of those financial statements of the Trust for each Fiscal Year in accordance with generally accepted auditing standards.

7.02. Anti-Assignment. The assets of the Trust will not be subject to the claims of creditors of the State, the Board or its members, the Trustees or Participants, and will not be subject to execution, attachment, garnishment, the operation of bankruptcy, the insolvency laws, or other process whatsoever, nor shall any assignment thereof be enforceable in any court.

7.03. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.

7.04. Severability. If any part of this Agreement shall be determined to be illegal or unenforceable for any reason, such determination shall not affect the remaining provisions of this Agreement. The remaining provisions shall be interpreted to effectuate the purpose of the Trust.

7.05. Descriptive Headings. The descriptive headings to this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning of any of its provisions.

7.06. Certified Copies Treated As Original., Anyone may rely upon a copy certified by a

Trustee's Affidavit to be a true copy of this Agreement (and of the amendments, exhibits or other writings, if any, endorsed thereon or attached to it), to the same effect as if it were the executed original.

ARTICLE VIII – NAME OF TRUST

8.01. This Trust shall be known as the RETIREE HEALTH INSURANCE POST-EMPLOYMENT BENEFITS INVESTMENT TRUST FUND("INVESTMENT TRUST FUND") DATED _____, 2007.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on this _____ day of _____, 2007:

IRREVOCABLE TRUST FUND FOR OTHER POST-EMPLOYMENT BENEFITS ("IRREVOCABLE TRUST FUND") **TRUSTEES**

Date:_____ By: _____

Date: _____ By: _____

RETIREE HEALTH INSURANCE POST-EMPLOYMENT BENEFITS INVESTMENT TRUST FUND ("INVESTMENT TRUST FUND"), **TRUSTEES**

Date:_____ _____

Date:_____ _____

Date:_____ _____

Date:_____ _____

Date:_____ _____

Date:_____ _____

Date:_____ _____

Date:_____ _____

Federal Register

Friday,
May 10, 2002

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 205
Rules and Procedures for Efficient Federal-State Funds Transfers; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 205

RIN 1510–AA38

Rules and Procedures for Efficient Federal-State Funds Transfers

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: On October 12, 2000, the Financial Management Service issued a Notice of Proposed Rulemaking proposing revisions to the regulations implementing the Cash Management Improvement Act of 1990, as amended (CMIA). These regulations govern the transfer of funds between the Federal government and States for certain Federal assistance programs. This final rule finalizes the proposed rule, with changes, and addresses issues raised by comments received in response to the Notice of Proposed Rulemaking. The purpose of this final rule is to update the current regulations and address various concerns raised since the initial issuance of the regulations. This rule is intended to improve the efficiency of Federal-State funds transfers.

EFFECTIVE DATE: June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen K. Kenneally, Financial Program Specialist, at (202) 874–6966, or Ellen Neubauer, Senior Attorney, at (202) 874–6680. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays. A copy of this final rule is being made available on the Financial Management Service web site at the following address: *http://www.fms.treas.gov/policycmia.*

SUPPLEMENTARY INFORMATION:

I. Background

We are revising our regulations at 31 CFR part 205 (part 205). Since we issued part 205 in 1992, we have issued a number of CMIA Policy Statements (Policy Statements) that address various issues relevant to part 205. One of the purposes of this final rule is to update the current regulations by deleting obsolete provisions and incorporating Policy Statements. Another purpose is to address various concerns that States, Federal agencies, and the General Accounting Office [1] have raised since the initial issuance of part 205. Specifically, the regulations:

(1) Provide greater flexibility in funding techniques;

(2) Ensure that Treasury-State agreements are unambiguous and auditable;

(3) Reflect new laws and directives, including the Single Audit Act Amendments of 1996, 31 U.S.C. chapter 75; Executive Order 12866 of September 30, 1993, Regulatory Planning and Review; and the Debt Collection Improvement Act of 1996; and, (4) Are clearer and, where possible, more concise.

We provided an earlier draft of the proposed rule to the National Association of State Auditors, Comptrollers and Treasurers, the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, and the National League of Cities and solicited comments from their membership. We also provided the draft proposed rule to the State of Colorado. Their comments were considered in the formulation of the proposed rule. Several States and State Associations commented on the proposed rule and, as described in more detail below, their comments were considered in the formulation of this final rule.

II. Summary of Comments

We received 57 written comments in response to the Notice of Proposed Rulemaking (NPRM) from State agencies, State Associations, and Federal agencies. Two issues were of particular interest to the commenters. These issues involve the application of CMIA to disallowed expenses (§ 205.15 of the NPRM) and the requirement of proportional drawdowns of Federal funds for certain grant programs (§ 205.25 of the NPRM). In addition to these two issues, commenters submitted numerous questions, comments and recommendations regarding several other sections. Responses to questions raised by commenters that did not impact the rule and, therefore, are not addressed in the Preamble to this rule, will be published on our web site at *http://www.fms.treas.gov/policycmia.* Substantive changes to the rule are summarized below.

Disallowances

Forty-seven of the fifty-seven commenters opposed the proposed provision in § 205.15 that would have imposed an interest liability on States for disallowed expenditures. The commenters opposed the NPRM's inclusion of disallowance coverage for four main reasons: the increased administrative burden imposed on States for tracking additional interest over longer time periods; the conflicts between existing Federal Program Agency regulations and the NPRM; the inequity caused by States being subject to interest liability if they lose an appeal, but no correlating provision describing Federal Program Agency liability; and the unfairness of the NPRM's interest accrual date being the date funds were drawn down and not the later date when a State is informed that a funds transfer was disallowed.

We have carefully considered the comments received relating to disallowances and the concerns raised therein. Based upon these comments and upon reconsideration of the intent of CMIA, we have deleted those provisions of the NPRM which would subject disallowances to interest liability under CMIA. This treatment of disallowed expenses is consistent with longstanding current practice.

The primary goal of CMIA is to improve the efficiency and effectiveness of funds transfers between the Federal government and States. Disallowances are reflective of program management disputes, not a lack of efficiency of funds transfers. Federal Program Agencies administering Federal programs are the authorities best suited to determine whether funds have been used for an allowable program purpose.

States are required to ensure that Federal funds are used solely for appropriate program purposes. Although disallowances are not governed by the CMIA regulations, they are covered by specific program regulations. In addition, disallowed expenses are subject to existing debt collection regulations.

Proportional Drawdowns

Eighteen State entities and five State Associations opposed proposed § 205.25 which would have required States that provide matching State funding and/or maintenance-of-effort (MOE) funding to coordinate a proportional drawdown of State and Federal funds to avoid interest liabilities.

The matter of proportional drawdowns was addressed in Policy Statements 7 (dated March 31, 1993) and 19 (dated June 1, 1999). These Policy Statements addressed the treatment of programs that incorporate (MOE) and "matching" requirements. Programs with MOE requirements provide a State with an amount of Federal funds and mandate that a State contribute a set minimum of their

[1] See Financial Management: "Implementation of the Cash Management Improvement Act" (Letter Report, 01/08/96, GAO/AIMD–96–4).

historical financial commitment as a condition for receiving Federal funds. Programs with matching requirements allow the Federal Program Agency and a State to share the costs of a program. For example, for every two dollars spent by the Federal Program Agency, a State must contribute one dollar.

The NPRM would have required that States contributing their own funds to a Federal-State program through a MOE requirement or matching program not draw down all Federal funds before State funds are used. The NPRM would have required that Federal and State funds be spent concurrently and in the appropriate proportion.

A large number of commenters noted that the proposed proportional drawdown provision was more prescriptive than are the specific regulations governing the programs. Several commenters noted that the NPRM requirements exceeded the Federal Program Agency requirements governing not only how Federal funds are disbursed, but how States spend their own funds. For example, several commenters indicated that the NPRM provision conflicts directly with the Social Services Block Grant (SSBG), the Child Care Development Fund (CCDF), and the Temporary Assistance for Needy Families (TANF) block grant requirements. These commenters further commented that the use and disbursement of State funds has nothing to do with the relationship between the Federal government and the State as it relates to Federal funds in the SSBG. Commenters also stated that TANF and CCDF funds should not be subject to the proportional drawdown requirement. These commenters noted that under the Federal TANF and CCDF programs agencies must meet the MOE requirement by the close of the fiscal year, but not on a proportional or ongoing basis. In addition, several commenters recommended that clarifications be made between programs that require MOE and those that require matching funds, and that this section not treat MOE in the same manner as State matching requirements. One commenter noted that while both involve cost sharing, the requirements are not the same and should not be treated as such in the regulations.

Commenters indicated that States require flexibility in administering block grant funds, given the complex funding structures associated with these funds. They stated that monitoring block grant funds closely to ensure proportionality creates an administrative burden for the States, particularly since many States have automated drawdown systems not capable of calculating proportional drawdown requests. One commenter wrote that this provision would cause such an administrative burden that it would result in a disincentive for States to voluntarily supplement their programs throughout the year.

One Federal Program Agency addressed this provision, recommending that the regulatory requirements applying to matching funds and MOE be clarified because they are two different types of funding mechanisms.

Based on comments received and additional research, the final rule recognizes that the different funding techniques associated with MOE, mandatory matching, and voluntary matching require proportional State contributions only in limited circumstances. We agree that the requirement in the NPRM for proportional drawdowns in programs that utilize MOE funding may be more prescriptive than are program requirements. Therefore, for programs utilizing MOE contributions from States, the final rule does not require concurrent proportional State contributions. This gives States the added flexibility that was intended for the administration of block grant programs and eases the burden associated with the use of in-kind contributions and funds being used across a large number of State agencies for one program. However, the CMIA regulations' interest provisions continue to apply to the Federal funds received by the State. The time between receiving these Federal funds and expending these funds for program purposes must continue to be minimized.

In programs utilizing voluntary matching contributions from States, the final rule does not require concurrent proportional State contributions. We believe that the CMIA regulations should not hinder States from making voluntary contributions to Federal/State programs. The CMIA regulations' interest provisions will continue to apply to Federal funds received by the State, but the CMIA regulations will not require proportional draws of State voluntary contributions.

In programs utilizing mandatory matching of funds, the requirement for proportional drawdowns is maintained in the final rule in § 205.15(d). Because of the nature of this funding technique, it is necessary to maintain a close linkage between State and Federal funding.

Section 205.2 What Definitions Apply to This Part?

Commenters stated that the proposed definition of "administrative costs" is too vague. They stated that because of the variances among grants a uniform definition of this term is not possible or desirable and would cause an undue burden on States in meeting Federal financial reporting requirements. A few commenters suggested that FMS remove this definition altogether from the regulations and others suggested tailoring the definition according to each specific grant program definition of the term. Because the rule describes the treatment of administrative costs under CMIA, a definition of administrative costs is necessary and is intentionally broad to ensure the variances among the many Federal programs are covered. The definition has been amended, however, to clarify that administrative costs include indirect costs.

Commenters noted that the definition of "disburse" should recognize that an off-line environment, such as the Electronic Benefit Transfers system, is also an option for the disbursement of funds. We agree with this recommendation and have amended the definition of "disburse" accordingly.

Commenters stated that the definition of "indirect costs" is too vague and should be narrowed to include only true indirect costs. These commenters noted that the definition should not be so broad as to include direct apportioned costs, which are used by public assistance agencies. One State entity added that the definition should not include allowable allocated costs.

Another State entity added that this definition cannot be standardized because it can have different meanings for different grants. The definition of indirect costs has not been changed. The definition is intentionally broad to ensure it encompasses the variances among Federal programs.

One commenter stated that the definition of "indirect cost rate" should be parallel to the definition in Office of Management and Budget (OMB) Circular A–87. We have declined to adopt this suggestion, but believe that the existing definition allows a State and FMS to agree to use indirect cost rates as defined in OMB Circular A–87.

Another commenter noted that the NPRM used the term "direct cost" in two different ways. The commenter recommended that this apparent discrepancy be clarified. The term "direct cost" as used within the definition of "indirect cost rate" is not intended to have the same meaning as that term is used elsewhere in the rule.

We agree that the use of the term "direct cost" to describe the costs a State incurs in calculating interest liabilities may be confusing. We have, therefore, changed the term describing the costs a State incurs in calculating interest liabilities to "Interest Calculation Costs."

One commenter expressed concern that the definition of "compensating balances" would result in increased costs to States, because it would require banking costs to be paid directly from grant funds. Under the NPRM, a State may not draw down funds from its account in the Unemployment Trust Fund in advance of immediate cash needs for any purpose including maintaining a compensating balance. Another commenter suggested that a definition should be included for "immediate cash needs," to clarify the vagueness of the regulations. The definition of compensating balances was added to clarify existing policy regarding drawing down funds in advance of need. The rule merely states, consistent with the goals of CMIA, that funds, including funds drawn down for the purpose of maintaining a compensating balance, may not be drawn down in advance of need. This does not necessarily require that banking costs be paid directly from grant funds. For example, where a Treasury-State agreement establishes a funding technique that creates a State interest liability on funds drawn from the State's account in the Unemployment Trust Fund (e.g., pre-issuance funding), consistent with CMIA, a State may deduct its banking costs from any interest paid. However, States may not draw down funds in advance of need solely for the purpose of covering banking costs.

One commenter recommended that the definition of "estimate" be revised so that its usage is consistent in other sections in the regulations. Specifically, the commenter questioned whether the definition applies to references of drawing down Federal funds or in establishing future grant authority amounts. We agree that the term "estimate" is used in various sections of the rule in a manner which is inconsistent with how the term is defined. Accordingly, where appropriate, we have replaced the term "estimate" with the term "project" in §§ 205.10, 205.12, and 205.20.

Section 205.4 Are There any Circumstances Where a Federal Assistance Program That Meets the Criteria of § 205.3 Would Not Be Subject to This Subpart A?

This section allows, under limited circumstances, the exclusion of components of a major Federal assistance program from interest calculations if the State administers the program through several State agencies. Two commenters wrote that this section does not greatly reduce the State's administrative burden, particularly if the management of Federal funds is decentralized within the State. One of these commenters commented that if the agreement is with the State, the entire program should be covered. The other commenter recommended that if the State agencies covered in the agreement account for 90–95% or more of the total program expenditures, the amounts drawn by the remaining agencies should be assumed interest neutral and excluded from the calculations completely. We have not made changes to this section because we believe that, as proposed, it may reduce a State's administrative burden. Where a State administers a Federal financial assistance program through more than one State agency, the State is only required to track funding to a single agency and may pro-rate to determine interest liabilities funding to the remaining agency or agencies. Additionally, this method of calculating interest is optional and, therefore, need not be adopted if it creates a burden. Therefore, no changes to this section have been made.

Two commenters noted that proposed § 205.4(b)(1) does not result in the same exclusions as do the examples in the current CMIA Policy Statement 8 (dated April 19, 1993). In response, we have amended § 205.4(b)(1) to ensure that the final rule and Policy Statement 8 are consistent. States may exclude a component of a major Federal assistance program that is administered by multiple State agencies from the provisions of CMIA on the basis that the funding for that component is an immaterial percentage of the program. FMS will agree to this immaterial exception only if certain requirements are met. These requirements are that the dollar amount of the exempted cash flow or component may not exceed 5% of the State's Single Audit threshold, and the total amount excluded under a single program, by all State agencies administering the program, may not exceed 10% of the total program expenditures. If less than total program funding is subject to interest calculation procedures, the interest liabilities that are calculated under the program should be prorated to 100% of the program to provide the truest projection of interest liabilities.

The only Federal Program Agency commenting on this section suggested that this section be clarified to state that all major programs not already included in a Treasury-State agreement are covered by default procedures until the agreement is modified. We agree that it is important that new major programs be covered as soon as possible, however, we do believe that covering such programs by default procedures until such time as a Treasury-State agreement is modified is the most effective way to ensure prompt coverage. To address this concern, we have clarified in § 205.7 that States must inform us of new major programs in a timely manner (within 30 days) so that they may properly be included in a Treasury-State agreement.

Section 205.5 What Are the Thresholds for Major Federal Assistance Programs?

This section describes new thresholds for determining major Federal assistance programs, as well as the methodology to calculate the new thresholds. Many of the commenters wrote that the formulas included in this section were difficult to understand and, therefore, require further simplification. One commenter stated that it is not clear if the 10% comparison should be calculated each year that the Single Audit is issued or if it should be performed on a one-time basis. We have clarified that this is an annual requirement. We have also revised this section in an attempt to clarify the threshold calculations. Assistance in calculating the threshold can be found at *http://www.fms.treas.gov/policmia.*

Section 205.6 What Is a Treasury-State Agreement?

This section provides that Treasury-State agreements will remain in effect until terminated. Commenters suggested that we clarify that Treasury-State agreements can still be negotiated yearly if the parties desire to do so. This section has been amended to clarify that we and a State may still agree that a Treasury-State agreement will terminate on a specific termination date, where appropriate.

Section 205.7 Can a Treasury-State Agreement Be Amended?

Two commenters proposed that amendments to the Treasury-State agreement should be retroactive based on mutual consent by a State and FMS. We agree that there may be circumstances where it is appropriate for a change to a Treasury-State agreement to be effective as of the date the Treasury-State agreement was entered into. We have therefore amended this section to allow the parties to agree to the effective date of an amendment.

One commenter sought clarification on how soon after Single Audit data is available a State must notify FMS when a Treasury-State agreement needs to be amended due to Federal assistance program changes. This section has been amended to reflect that States must notify us of required amendments to the Treasury-State agreement within 30 days of the time the State becomes aware of the change.

Section 205.8 What If There Is No Treasury-State Agreement in Effect?

One commenter recommended there be a middle ground between establishing a Treasury-State agreement and resorting to default procedures, to prevent the entire agreement from going into default due to disagreement over coverage of a single program. In the "middle ground" case, default procedures would go into effect only for the program about which there is a disagreement; a Treasury-State agreement would be entered into for all other programs. We agree that where we and a State are unable to reach agreement over a particular program, we may impose default procedures for only that one program and, therefore, have incorporated this change.

Section 205.9 What Is Included in a Treasury-State Agreement?

This section describes information required to be in Treasury-State agreements, including applicable funding techniques, methodology regarding clearance patterns and estimates, and interest calculations. Two commenters described 205.9(g), which requires States and Federal agencies to describe the methods used to calculate interest liabilities, as excessive and contrary to efforts of reducing administrative burden. We have not changed this provision because we believe the required information is necessary to ensure that interest liabilities are being properly calculated.

Two commenters also stated that 205.9(f), which requires States to include the results of the clearance pattern process, is unnecessary and places an undue burden on States. One of these commenters noted that this burden is placed on States that use pre-issuance funding techniques when computing clearance patterns for inclusion in an agreement that will not be required to be used for interest calculations for over 15 months. In response to this comment, we have amended this section to reflect our intent that this section apply only to programs where funds are drawn based on clearance patterns. Pre-issuance States may provide the results of their clearance pattern process with their annual report.

Section 205.11 What Requirements Apply to Funding Techniques?

Many of the comments on this section addressed compensating balances. Although no change in the treatment of compensating balances was intended in the NPRM, some commenters interpreted the language as a new policy position that prohibited the use of Federal funds for compensating balances. It has been our longstanding policy position, consistent with the purpose of CMIA, that funds cannot be drawn down in advance of need. Because questions regarding compensating balances have arisen, this section of the rule is meant to merely clarify existing policy prohibiting the drawing down of funds for the purpose of maintaining a compensating balance. This does not prohibit those States that are required to have funds on hand before issuing checks from drawing down funds early nor does it prohibit those States from deducting their banking costs from any interest paid.

Section 205.12 What Funding Techniques May Be Used?

Some State Constitutions require that States have funds on hand before issuing checks. These pre-issuance States are allowed to draw funds early, but are subject to interest liability. The commenters strongly recommended retaining the current three-day drawdown window for pre-issuance States, rather than the two-day window proposed in the NPRM. One State said the proposed two-day drawdown window was "arbitrary and unrealistic" while another State entity called it "unnecessary and restrictive." We agree that the two-day window proposed in the NPRM may not give States sufficient time to ensure that funds are on hand prior to the issuance of payments. This section has, therefore, been amended to retain the three-day drawdown window that currently exists.

Section 205.13 How Do You Determine When State or Federal Interest Liability Accrues?

One commenter wrote that the indirect costs referenced in § 205.13(b) should be for Statewide indirect costs, not agency specific costs. Another commenter recommended clarifying § 205.13(b) by including specific reference to costs allocated through a Federally-approved public assistance cost allocation plan or through a Federally-approved Statewide cost allocation plan. Based on these comments, we have made changes in the final rule. States will be allowed to apply a Statewide indirect cost rate or a public assistance indirect cost rate, where appropriate. The cost rate must be consistent with OMB Circular A–87, including Attachments.

Section 205.14 When Does Federal Interest Liability Accrue?

Three commenters requested clarification on how interest is calculated when obligational authority is established after an expenditure is made. Under § 205.14(a)(2), Federal interest liability may accrue when States expend their own funds for program purposes and obligational authority is subsequently established to cover those expenditures. In accordance with § 205.14(a)(1), this Federal interest liability is calculated from the time of expenditure. Paragraph (a)(2) has been amended to clarify this intent.

One commenter commented that § 205.14(c) conflicts with § 205.14(a)(1). Section 205.14(c) requires that a State adhere to Federal disbursement schedules when requesting funds; § 205.14(a)(1) states that interest begins to accrue against the Federal government whenever a State advances funds for program purposes. We do not agree that these two provisions conflict. Section 205.14(a)(1) contains the general rule regarding the accrual of Federal interest liabilities. Section 205.14(c) contains an exception to that rule, namely, we may deny interest liability even if a State advances its own funds for program purposes if it does so because it failed to timely request a drawdown of the funds. To clarify this in the rule, we have added the phrase "notwithstanding any other provision of this section" at the beginning of 205.14(c).

One Federal Program Agency recommended that there be no Federal interest liability for implementation of new activities by the State until the Federal Program Agency approves the new plan(s) and/or system projects. The same agency proposed adding language to this section saying no Federal interest will accrue while approval is pending. In response to these comments, we have modified the provisions of paragraph (a)(2) to allow for greater flexibility to deny interest in certain circumstances where a State expends its own funds without Federal approval even if obligational authority is subsequently established. For example, if a State is required to have an approved State plan in effect as a pre-condition to Federal funding and makes an expenditure prior to the time the plan has been approved, we may deny Federal interest liability if

the State failed to act reasonably in obtaining Federal approval.

Section 205.15 When Does State Interest Liability Accrue?

As previously discussed, the provisions addressing interest liability on disallowances have been deleted.

The final rule clarifies that for mandatory matching programs, the interest provisions of the CMIA regulations apply when a State draws Federal funds in advance or in excess of State funds.

Section 205.16 What Special Rules Apply to Federal Assistance Programs and Projects Funded by the Federal Highway Trust Fund?

One commenter disagreed with the policy on valid projects that experience an unforeseen cost overrun. Under this section, a State that advances its own funds because of cost overruns may be reimbursed later by the Federal Highway Administration. However, no CMIA interest will be paid to the State, even though it advanced its own funds. The policy, which has not changed from the existing rule, is intended to discourage cost overruns. Accordingly we have not made any changes to this provision.

Section 205.18 Are Administrative Costs Subject to This Part?

One commenter questioned why the determination of whether indirect and administrative costs are subject to subpart A is based upon whether the grants are wholly dedicated to these purposes. Another commenter noted that the exclusion in 205.18(b) exempting the administrative and indirect cost portions of Federal Program Agency grants from subpart A of the regulations may prevent States from collecting interest from Federal Program Agencies. One commenter sought a definition or example of "administrative costs" while another stated that the regulations should not provide a definition at all, but rely on how the term is defined by the Federal Program Agency responsible for that particular program. One Federal Program Agency suggested that the provision clearly state that drawdowns for indirect costs must be related to timing of the associated direct costs.

While the intent of this provision was to ease the burden on States of tracking administrative and indirect costs which were only a portion of a Federal award, we nevertheless agree that whether an award is wholly or partially dedicated to indirect and administrative costs should not be the basis for determining whether or not CMIA interest applies. We have, therefore, amended this section to clarify that when States and Treasury agree, in a Treasury-State agreement, to specified funding techniques for administrative costs (including Statewide or public assistance indirect costs, if appropriate, consistent with OMB Circular A–87), no interest liability will accrue provided the agreed upon funding technique is followed. This rule will apply whether the Federal grant is dedicated wholly or partially to administrative costs.

Section 205.21 When May Clearance Patterns Be Used?

One commenter recommended amending § 205.21(b) to delete the reference to § 205.9, since that commenter felt the provisions contained therein are excessive, unreasonably burdensome, and will be costly to develop and incorporate in Treasury-State agreements. We have not adopted this recommendation because, without the required information, we cannot ensure the accuracy of clearance patterns. The costs of developing clearance patterns in support of interest calculations may be considered Interest Calculation Costs.

Section 205.23 What Requirements Apply to Estimates?

One commenter noted that the provisions of this section are counter to most, if not all, of the program regulations on block grant programs. This commenter suggested that forcing a State to list "hard and fast" rules in a Treasury-State agreement defeats the purpose and intent of block grant law. We do not agree because the requirements of this section apply only when the funds transfer procedures agreed upon by us and a State are based on estimates. Where the use of estimates is not agreed upon, the requirements do not apply.

Consistent with changes made to § 205.25 on proportional draws, the restrictions on MOE and voluntary matching have been removed from the final rule.

Commenters also sought clarification on the use of the term "estimates" in the proposed regulations. We agree that the term "estimate" is used in various sections of the rule in a manner which is inconsistent with how the term is defined. Accordingly, where appropriate, we have replaced the term "estimate" with the term "project" in §§ 205.10, 205.12, and 205.20. The use of the term "estimate" in § 205.23 remains unchanged.

Section 205.25 How Does This Part Apply to Certain Federal Assistance Programs or Funds?

In addition to comments received on the issue of proportional drawdowns, discussed above, two commenters recommended that this section be amended to allow States the option of maintaining a compensating balance to offset the actual benefit and clearing account banking charges incurred. These same commenters also suggested that the final rule allow States to earn non-cash credits to offset legitimate banking charges related to the Unemployment Insurance Trust Fund.

We have declined to adopt this recommendation because maintaining a compensating balance is not consistent with the goals of CMIA. Under CMIA, States must minimize the time elapsing between the receipt of funds from the Federal government and the payment of those funds to program beneficiaries. Maintaining funds drawn down from the Federal government in a bank account for the purpose of covering banking expenses is inconsistent with that goal. As previously noted, however, nothing in this rule prohibits us and a State from agreeing, in a Treasury-State agreement, to a funding technique that creates a State interest liability on funds drawn from the State's account in the Unemployment Trust Fund (e.g., pre-issuance funding). Where a State incurs an interest liability on funds drawn from the State's account in the Unemployment Trust Fund, banking costs may be deducted from any interest paid.

Section 205.26 What Are the Requirements for Preparing Annual Reports?

This section requires States to submit supporting documentation for all liability claims greater than $5,000. One commenter was in favor of increasing the documentation threshold to $10,000. Another recommended deleting the requirement of documentation for claims in excess of $5,000. A third commenter recommended requiring the $5,000 supporting documentation only in cases when the funding technique used would not normally be expected to result in a Federal interest liability. We have not adopted these recommendations because we are of the view that this requirement is necessary to ensure that claims are verified when appropriate.

Section 205.27 How Are Interest Calculation Costs Calculated?

The title of this section has been amended to eliminate the confusion

caused by use of the term "direct costs" to describe those costs incurred by a State in performing the interest calculations required under CMIA. The term "direct costs" has been replaced with the term "Interest Calculation Costs." Two commenters suggested that Interest Calculation Costs should not be limited to amounts that can be offset against interest owed by the States to the Federal government. Two commenters recommended that the definition of "interest calculation" be broadened to allow more costs to be charged. One of these commenters wrote that, in order to measure the cost benefit of the CMIA program, CMIA-related costs need to be recovered by the program. We do not believe that CMIA permits us to expand the definition of Interest Calculation Costs. The CMIA limits those costs which may be claimed by States to costs incurred for interest calculations. The statute does not provide a mechanism for paying these costs other than to offset them from amounts otherwise owed by States. Additionally, in our view the $50,000 limitation imposed by this section is reasonable and appropriate.

Section 205.30 What Are the Federal Oversight and Compliance Responsibilities?

One Federal Program Agency submitted comments proposing a time period of at least 30 days to review States' Annual Reports. We agree that a 30-day time period to review States' annual reports is reasonable and have incorporated this change.

Section 205.31 How Does a State or Federal Program Agency Appeal a Determination Made by us and Resolve Disputes?

One commenter recommended shortening the 90-day periods for appeals and rebuttals to 30-day periods. We have not adopted this recommendation because we believe 90 days is warranted to ensure that appeals and rebuttals are carefully considered and thoroughly reviewed. Another commenter suggested removing the discretion granted to the FMS Assistant Commissioner on approving when disputes can be moved along the Administrative Dispute Resolution Act (ADRA) track. Because the use of alternative dispute resolution procedures requires the agreement of all parties, we have declined to adopt this recommendation.

Subpart B

Section 205.35 What Is the Result of Federal Program Agency or State Non-compliance?

One commenter wrote that §§ 205.3(b), 205.3(c), and 205.35 seemed contradictory and requested clarification regarding whether or not individual programs covered by subpart B could be moved to subpart A. Section 205.35 has been clarified to reflect our intent that under § 205.35 we may, at our discretion, move a program that falls below the threshold for a major Federal assistance program from subpart B to subpart A without lowering the threshold applicable to other programs.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. These regulations will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These regulations do not alter the budgetary effects of entitlement, grants, user fees, or loan programs, or the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this final rule easier to understand.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule does not require any actions on the part of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the final rule under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, and has assigned clearance number 1510–0061. Sections of this final rule with information collection requirements are §§ 205.9, 205.26, 205.27, 205.29, and we estimate the public reporting burden of these sections to average, respectively, 500 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. We estimate the number of respondents to be 56. No comments were received regarding this burden estimate or any other aspect of this collection of information.

List of Subjects in 31 CFR Part 205

Administrative practice and procedure, Electronic funds transfers, Grant programs, Intergovernmental relations.

Authority and Issuance

For the reasons set out in the Preamble, we revise Part 205 of title 31 of the Code of Federal Regulations to read as follows:

PART 205—RULES AND PROCEDURES FOR EFFICIENT FEDERAL-STATE FUNDS TRANSFERS

Sec.

Authority: 5 U.S.C. 301; 31 U.S.C. 321, 3332, 3335, 6501, 6503.

§ 205.1 What Federal assistance programs are covered by this part?

(a) This part prescribes rules for transferring funds between the Federal government and States for Federal assistance programs. This part applies to:

(1) All States as defined in § 205.2; and

(2) All Federal program agencies, except the Tennessee Valley Authority (TVA) and its Federal assistance programs.

(b) Only programs listed in the Catalog of Federal Domestic Assistance, as established by Chapter 61 of Title 31, United States Code (U.S.C) are covered by this part.

(c) This part does not apply to:

(1) Payments made to States acting as vendors on Federal contracts, which are subject to the Prompt Payment Act of 1982, as amended, 31 U.S.C. 3901 *et seq.*, 5 CFR Part 1315, and 48 CFR Part 32; or

(2) Direct loans from the Federal government to States.

§ 205.2 What definitions apply to this part?

For purposes of this part:

Administrative Costs means expenses incurred by a State associated with managing a Federal assistance program. This term includes indirect costs.

Auditable means records must be retained to allow for calculations outlined in the Treasury-State agreements to be reviewed and replicated for compliance purposes. States must maintain these records to be readily available, fully documented, and verifiable.

Authorized State Official means a person with the authority under the laws of a State to make commitments on behalf of the State for the purposes of this part, or that person's official designee as certified in writing.

Business Day means a day when Federal Reserve Banks are open.

Catalog of Federal Domestic Assistance (CFDA) means the government-wide list of Federal assistance programs, projects, services, and activities which provide assistance or benefits to the American public. The listing includes financial and non-financial Federal assistance programs administered by agencies of the Federal government.

Clearance Pattern means a projection showing the daily amount subtracted from a State's bank account each day after the State makes a disbursement. For example, a State mailing out benefit checks may project that the percentage of checks cashed each day will be 0% for the first day, 10% for the second day, 80% on the third day, and 10% on the fourth day following issuance. Clearance patterns are used to schedule the transfer of funds with various funding techniques and to support interest calculations.

Compensating Balance means funds maintained in State bank accounts and/or State Treasurer bank accounts to offset the costs of bank services.

Current Project Cost means a cost for which the State has recorded a liability on or after the day that the State last requested funds for the project.

Day means a calendar day unless otherwise specified.

Default Procedures means efficient cash management practices that we prescribe for Federal funds transfers to a State if a Treasury-State agreement is not in place.

Disburse means to issue a check or initiate an electronic funds transfer payment, or to provide access to benefits through an electronic benefits transfer.

Discretionary Grant Project means a project for which a Federal Program Agency is authorized by law to exercise judgment in awarding a grant and in selecting a grantee, generally through a competitive process.

Dollar-Weighted Average Day of Clearance means the day when, on a cumulative basis, 50 percent of funds have been paid out. To calculate the dollar-weighted average day of clearance for a clearance pattern:

(1) For each day, multiply the percentage of dollars paid out that day by the number of days that have elapsed since the payments were issued. For example, on the first day payments were issued, multiply the percentage of dollars paid out on that day by zero, since zero days have elapsed. On the day after payments were issued, multiply the percentage of dollars paid out on that day by one, since one day has elapsed; and so forth.

(2) Total the results from paragraph (1) of this definition. Round to the nearest whole number. This is the dollar-weighted average day of clearance.

Draw Down (verb) means a process in which a State requests and receives Federal funds.

Drawdown (noun) means Federal funds requested and received by a State.

Electronic Funds Transfer (EFT) means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Estimate means a projection of the needs of a Federal Assistance Program.

Federal Assistance Program means a program included in the Catalog of Federal Domestic Assistance where funds are transferred from the Federal government to a State. Federal assistance programs include cooperative agreements, but do not include vendor payments or direct loans.

Federal Program Agency means an executive agency as defined by 31 U.S.C. 102, except the Tennessee Valley Authority (TVA), that issues and administers Federal assistance programs to States or cooperative agreements with States.

Federal-State Agreement means an agreement between a State and a Federal Program Agency specifying terms and conditions for carrying out a Federal assistance program or group of programs. This is different than a Treasury-State agreement.

Financial Management Service (we or us) means the Bureau of the U.S. Department of the Treasury responsible for implementation of this part.

Fiscal Year means the twelve-month period that a State designates as its budget year.

Grant means, for purposes of this part, a funds transfer by the Federal government associated with a Federal assistance program listed in the Catalog of Federal Domestic Assistance.

Indirect Cost Rate means a formula that identifies the amount of indirect costs based on the amount of accrued direct costs. The applicable indirect cost rate shall be described in the Treasury-State agreement.

Indirect Costs means costs a State incurs that are necessary to the operation and performance of its Federal assistance programs, but that are not readily identifiable with a particular project or Federal assistance program.

Interest Calculation Costs means those costs a State incurs in performing the actual calculation of interest liabilities, including those costs a State incurs in developing and maintaining clearance patterns in support of interest calculations.

Maintenance-of-Effort means a requirement that a State spend at least a specified amount of State funds for Federal assistance program purposes.

Major Federal Assistance Program means a Federal assistance program which receives Federal funding in excess of the dollar thresholds found in Table A to § 205.5.

Obligational Authority means the existence of a definite commitment on the part of the Federal government to provide appropriated funds to a State to carry out specified programs, whether the commitment is executed before or after a State pays out funds for Federal assistance program purposes.

Pay Out means to debit the State's bank account.

Pay Out Funds for Federal Assistance Program Purposes means, in the context of State payments, to debit a State account for the purpose of making a payment to:

(1) A person or entity that is not considered part of the State pursuant to the definition of "State" in this section; or

(2) A State entity that provides goods or services for the direct benefit or use of the payor State entity or the Federal government to further Federal assistance program goals.

Rebate means funds returned to a State by third parties after a State has paid out those funds for Federal assistance program purposes.

Refund means funds that a State recovers that it previously paid out for Federal assistance program purposes. Refunds include rebates received from third parties.

Refund Transaction means an entry to the record of a State bank account representing a single deposit of refunds. A refund transaction may consist of a single check or item, or a bundle of accumulated checks.

Related Banking Costs means separately identified costs which are necessary and customary for maintaining an account in a financial institution, whether a commercial account or a State Treasurer account. Investment service fees and fees for credit-related services are not related banking costs.

Request for Funds means a State's request for funds that the State completes and submits in accordance with Federal Program Agency guidelines.

Reverse Flow Program means a Federal assistance program, such as Supplemental Security Income (SSI), for which the Federal government makes payments to recipients on behalf of a State.

Revolving Loan Fund means a pool of program funds managed by a State. States may loan funds from the pool to other entities in support of Federal assistance program goals. Investment income is earned on the funds that remain in the pool and on loans made from pool funds. A Federal Program Agency may require that all income derived from a revolving loan fund be used for Federal assistance program purposes.

Secretary means the Secretary of the United States Department of the Treasury. We are the Secretary's representative in all matters concerning this part, unless otherwise specified.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands. It includes any agency, instrumentality, or fiscal agent of a State that is legally and fiscally dependent on the State Executive, State Treasurer, or State Comptroller.

(1) A State agency or instrumentality is any organization of the primary government of the State financial reporting entity, as defined by generally accepted accounting principles.

(2) A fiscal agent of a State is an entity that pays, collects, or holds Federal funds on behalf of the State in furtherance of a Federal assistance program, excluding private nonprofit community organizations.

(3) Local governments, Indian Tribal governments, institutions of higher education, hospitals, and nonprofit organizations are excluded from the definition of State.

Treasury-State agreement means a document describing the accepted funding techniques and methods for calculating interest and identifying the Federal assistance programs governed by this subpart A.

Trust Fund for Which the Secretary Is the Trustee means a trust fund administered by the Secretary.

Vendor Payment means a funds transfer by a Federal Program Agency to a State to compensate the State for acting as a vendor on a Federal contract.

We and Us means Financial Management Service.

Subpart A—Rules Applicable to Federal Assistance Programs Included in a Treasury-State Agreement

§ 205.3 What Federal assistance programs are subject to this subpart A?

(a) Generally, this subpart prescribes the rules that apply to Federal assistance programs which:

(1) Are listed in the Catalog of Federal Domestic Assistance;

(2) Meet the funding threshold for a major Federal assistance program; and

(3) Are included in a Treasury-State agreement or default procedures.

(b) Upon a State's request, we will make additional Federal assistance programs subject to subpart A by lowering the funding threshold in the Treasury-State agreement. All of a State's programs that meet this lower threshold would be subject to this subpart A.

(c) We may make additional Federal assistance programs subject to subpart A if a State or Federal Program Agency fails to comply with subpart B of this part.

§ 205.4 Are there any circumstances where a Federal assistance program that meets the criteria of § 205.3 would not be subject to this subpart A?

(a) A Federal assistance program that meets or exceeds the threshold for major Federal assistance programs in a State is not subject to this subpart A until it is included in a Treasury-State agreement or in default procedures.

(b) We and a State may agree to exclude components of a major Federal assistance program from interest calculations if the State administers the program through several State agencies and meets the following requirements:

(1) The dollar amount of the exempted cash flow does not exceed 5% of the State's major Federal assistance program threshold and the total amount excluded under a single program by all State agencies administering the program does not exceed 10% of that Federal assistance program's total expenditures;

(2) If less than the total amount of Federal assistance program funding is subject to interest calculation procedures, the interest liabilities should be pro-rated to 100% of the Federal assistance program funding;

(3) A State may not use this exclusion if a Federal assistance program is administered by only one State agency; and

(4) We may request Federal assistance program specific data on funding levels to determine exemptions.

(c) We and a State may exclude a Federal assistance program from this subpart A if the Federal assistance program has been discontinued since the most recent Single Audit and the remaining funding is below the threshold, or if the Federal assistance program is funded by an award not limited to one fiscal year and the remaining Federal assistance program funding is below the State's threshold.

§ 205.5 What are the thresholds for major Federal assistance programs?

(a) Table A of this section defines major Federal assistance programs based on the dollar amount of an individual Federal assistance program and the dollar amount of all Federal assistance being received by a State for all Federal assistance programs including non-cash programs. A State must locate the appropriate row in Column A based upon the total amount of Federal assistance received. In that same row, a State must apply the percentage from Column B to the dollar value of all its Federal assistance programs to determine the State's threshold for major Federal assistance programs. For example, if the total amount received by a State for all Federal assistance programs is $50 million, then that State's threshold for major Federal assistance programs is 6% of $50 million or $3 million. A State which receives more than $10 billion under Federal assistance programs will have a minimum default threshold of $60 million.

(b) To ensure adequate coverage of all State programs, a State must, on an annual basis, compare its program coverage using the percentage obtained from Table A to the program coverage which would result using a percentage which is half of the percentage obtained from Table A. For example, a State receiving $1 billion in Federal Assistance would use Table A to learn that its threshold level would be .60 percent of $1 billion. A State would compare program coverage at .60 percent of $1 billion to program coverage at .30 percent of $1 billion.

(c) If the comparison conducted under paragraph (b) of this section results in a reduction of program coverage that is greater than 10%, a State must lower its threshold, or add programs, until the difference is less than or equal to 10%.

(d) In accordance with § 205.3(b), a State may lower its threshold to include additional programs. All of a State's programs that meet this lower threshold would be subject to this subpart A.

(e) Unless specified otherwise, major Federal assistance programs must be determined from the most recent Single Audit data available.

TABLE A TO § 205.5

Column A Total amount of Federal Assistance for all programs per State:	Column B Major Federal Assistance Program means any Federal assistance program that exceed these levels:
Between zero and $100 million inclusive.	6.00 percent of the total amount of Federal assistance.
Over $100 million but less than or equal to $10 billion.	0.60 percent of the total amount of Federal assistance.
Over $10 billion.	The greater of 0.30 percent of the total Federal assistance of $60 million.

§ 205.6 What is a Treasury-State agreement?

(a) A Treasury-State agreement documents the accepted funding techniques and methods for calculating interest agreed upon by us and a State and identifies the Federal assistance programs governed by this subpart A. If anything in a Treasury-State agreement is inconsistent with this subpart A, that part of the Treasury-State agreement will not have any effect and this subpart A will govern.

(b) A Treasury-State agreement will be effective until terminated unless we and a State agree to a specific termination date. We or a State may terminate a Treasury-State agreement on 30 days written notice.

§ 205.7 Can a Treasury-State agreement be amended?

(a) We or a State may amend a Treasury-State agreement at any time if both we and the State agree in writing.

(b) The effective date of an amendment shall be the date both parties agree to the amendment in writing unless otherwise agreed to by both parties.

(c) We and a State must amend a Treasury-State agreement as needed to change or clarify its language when the terms of the existing agreement are either no longer correct or no longer applicable. A State must notify us in writing within 30 days of the time the State becomes aware of a change, describing the Federal assistance program change. The notification must include a proposed amendment for our review and a current list of all programs included in the Treasury-State agreement. Amendments may address, but are not limited to:

(1) Additions or deletions of Federal assistance programs subject to this subpart A;

(2) Changes in funding techniques; and

(3) Changes in clearance patterns.

(d) Additions or deletions to the list of Federal assistance programs subject to this subpart A take effect when a Treasury-State agreement is amended, unless otherwise agreed to by the parties.

(e) Federal assistance programs that are to be added to a Treasury-State agreement are not subject to this subpart A until the Treasury-State agreement is amended, except when a Federal assistance program subject to this subpart A is being replaced by a Federal assistance program governed by subpart B of this part, in which case the replacement program is immediately subject to this subpart A.

(f) Notwithstanding any other provision of this section, if no changes to the Treasury-State agreement are required, States must notify us annually.

§ 205.8 What if there is no Treasury-State agreement in effect?

When a State does not have a Treasury-State agreement in effect, we will prescribe default procedures to implement this subpart A. The default procedures will prescribe efficient funds transfer procedures consistent with State and Federal law and identify the covered Federal assistance programs and designated funding techniques. When we and a State reach agreement on some but not all Federal assistance programs administered by the State, we and the State may enter into a Treasury-State agreement for all programs on which we are in agreement and we may prescribe default procedures governing those programs on which we are unable to reach agreement.

§ 205.9 What is included in a Treasury-State agreement?

We will prescribe a uniform format for all Treasury-State agreements. A Treasury-State agreement must include, but is not limited to, the following:

(a) State agencies, instrumentalities, and fiscal agents that administer the

Federal assistance programs subject to this subpart A.

(b) Federal assistance programs subject to this subpart A, consistent with §§ 205.3 and 205.4. A State must use its most recent Single Audit report as a basis for determining the funding thresholds for major Federal assistance programs, unless otherwise specified in the Treasury-State agreement. A State may use budget or appropriations data for a more recent period instead of Single Audit data, if specified in the Treasury-State agreement.

(c) Funding techniques to be applied to Federal assistance programs subject to this subpart A.

(d) Methods the State will use to develop and maintain clearance patterns and estimates, consistent with § 205.11. The method must include, at a minimum, a clear indication of:

(1) The data used;

(2) The sources of the data;

(3) The development process;

(4) For estimates, when and how the State will update the estimate to reflect the most recent data available;

(5) For estimates, when and how the State will make adjustments, if any, to reconcile the difference between the estimate and the State's actual cash needs; and

(6) Any assumptions, standards, or conventions used in converting the data into the clearance pattern or estimate.

(e) Federal Program Agency provisions requiring reconciliation of estimates to actual outlays may be included in a Treasury-State agreement. The supporting documentation must be retained by the State for three years.

(f) States must include the results of the clearance pattern process in the Treasury-State agreement for programs where the timing of drawdowns is based on clearance patterns. For programs where the timing of drawdowns is not based on clearance patterns, the results of the clearance pattern process may be provided with the annual report required under § 205.26. The supporting documentation must be retained by the State for three years.

(g) Methods used by the State and Federal agencies to calculate interest liabilities pursuant to this subpart A. The method must include, but is not limited to, a clear indication of:

(1) The data used;

(2) The sources of the data;

(3) The calculation process; and

(4) Any assumptions, standards, or conventions used in converting the data into the interest liability amounts.

(h) Treasury-State agreements must include language describing how a State and Federal Program Agency will address a State request for supplemental funding. This language must include, but is not limited to, the following provisions:

(1) What constitutes a timely request for supplemental funds for Federal assistance program purposes by a State; and

(2) What constitutes a timely transfer of supplemental funds for Federal assistance program purposes from a Federal Program Agency to a State.

§ 205.10 How do you document funding techniques?

The Treasury-State agreement must include a concise description for each funding technique that a State will use. The description must include the following:

(a) What constitutes a timely request for funds;

(b) How the State determines the amount of funds to request;

(c) What procedures are used to project or reconcile estimates with actual and immediate cash needs;

(d) What constitutes the timely receipt of funds; and

(e) Whether a State or Federal interest liability accrues when the funding technique, including any associated procedure for projection or reconciliation, is properly applied.

§ 205.11 What requirements apply to funding techniques?

(a) A State and a Federal Program Agency must minimize the time elapsing between the transfer of funds from the United States Treasury and the State's payout of funds for Federal assistance program purposes, whether the transfer occurs before or after the payout of funds.

(b) A State and a Federal Program Agency must limit the amount of funds transferred to the minimum required to meet a State's actual and immediate cash needs.

(c) A State must not draw down funds from its account in the Unemployment Trust Fund (UTF) or from a Federal account in the UTF in advance of actual immediate cash needs for any purpose including maintaining a compensating balance.

(d) A Federal Program Agency must allow a State to submit requests for funds daily. This requirement should not be construed as a change to Federal Program Agency guidelines defining a properly completed request for funds.

(e) In accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996 (31 U.S.C. 3332), a Federal Program Agency must use electronic funds transfer methods to transfer funds to States unless a waiver is available.

§ 205.12 What funding techniques may be used?

(a) We and a State may negotiate the use of mutually agreed upon funding techniques. We may deny interest liability if a State does not use a mutually agreed upon funding technique. Funding techniques should be efficient and minimize the exchange of interest between States and Federal agencies.

(b) We and a State may base our agreement on the sample funding techniques listed in paragraphs (b)(1) through (b)(5) of this section, or any other technique upon which both parties agree.

(1) Zero balance accounting means that a Federal Program Agency transfers the actual amount of Federal funds to a State that are paid out by the State each day.

(2) Projected clearance means that a Federal Program Agency transfers to a State the projected amount of funds that the State pays out each day. The projected amount paid out each day is determined by applying a clearance pattern to the total amount the State will disburse.

(3) Average clearance means that a Federal Program Agency, on the dollar-weighted average day of clearance of a disbursement, transfers to a State a lump sum equal to the actual amount of funds that the State is paying out. The dollar-weighted average day of clearance is the day when, on a cumulative basis, 50 percent of the funds have been paid out. The dollar-weighted average day of clearance is calculated from a clearance pattern, consistent with § 205.20.

(4) Cash advance (pre-issuance or post-issuance) funding means that a Federal Program Agency transfers the actual amount of Federal funds to a State that will be paid out by the State, in a lump sum, not more than three business days prior to the day the State issues checks or initiates EFT payments.

(5) Reimbursable funding means that a Federal Program Agency transfers Federal funds to a State after that State has already paid out the funds for Federal assistance program purposes.

§ 205.13 How do you determine when State or Federal interest liability accrues?

(a) State or Federal interest liability may or may not accrue when mutually agreed to funding techniques are applied, depending on the terms of the Treasury-State agreement.

(b) We and a State may agree in a Treasury-State agreement that no State or Federal interest liability will accrue for indirect costs or indirect allocated costs based on an indirect cost rate. This

indirect cost must be consistent with OMB Circular A–87 (For availability, see 5 CFR 1310.3.) and be in accordance with this subpart A. The indirect cost rate may be a Statewide indirect cost rate or a public assistance cost rate, where appropriate.

§ 205.14 When does Federal interest liability accrue?

(a) Federal interest liabilities may accrue in accordance with the following provisions:

(1) The Federal Program Agency incurs interest liability if a State pays out its own funds for Federal assistance program purposes with valid obligational authority under Federal law, Federal regulation, or Federal-State agreement. A Federal interest liability will accrue from the day a State pays out its own funds for Federal assistance program purposes to the day Federal funds are credited to a State bank account.

(2) If a State pays out its own funds for Federal assistance program purposes without obligational authority, the Federal Program Agency will incur an interest liability if obligational authority subsequently is established. However, if the lack of obligational authority is the result of the failure of the State to comply with a Federal Program Agency requirement established by statute, regulation, or agreement, interest liability may be denied. A Federal interest liability will accrue from the day a State pays out its own funds for Federal assistance program purposes to the day Federal funds are credited to a State bank account.

(3) If a State pays out its own funds prior to the day a Federal Program Agency officially notifies the State in writing that a discretionary grant project is approved, the Federal Program Agency does not incur an interest liability, notwithstanding any other provision of this section.

(4) If a State pays out its own funds prior to the availability of Federal funds authorized or appropriated for a future Federal fiscal year, the Federal Program Agency does not incur an interest liability, notwithstanding any other provision of this section.

(5) If a State fails to request funds timely as set forth in § 205.29, or otherwise fails to apply a funding technique properly, we may deny any resulting Federal interest liability, notwithstanding any other provision of this section.

(b) Federal Program Agency programs that have specific payment dates set by the Federal Program Agency that create interest liabilities are subject to this part.

(c) States must adhere to Federal Program Agency disbursement schedules when requesting funds. Notwithstanding any other provision of this section, we may deny a State's claim for Federal interest liability for the period prior to a late drawdown request. States must time their funds drawdown so that it does not create Federal interest liability. The drawdown request must allow the Federal Program Agency sufficient time to meet its disbursement schedule. If the Federal Program Agency does not make a timely payout in accordance with the terms of the Treasury-State agreement, a State may submit a claim for interest liability.

§ 205.15 When does State interest liability accrue?

(a) *General rule.* State interest liability may accrue if Federal funds are received by a State prior to the day the State pays out the funds for Federal assistance program purposes. State interest liability accrues from the day Federal funds are credited to a State account to the day the State pays out the Federal funds for Federal assistance program purposes.

(b) *Refunds.* (1) A State incurs interest liability on refunds of Federal funds from the day the refund is credited to a State account to the day the refund is either paid out for Federal assistance program purposes or credited to the Federal government.

(2) We and a State may agree, in a Treasury-State agreement, that a State does not incur an interest liability on refunds in refund transactions under $50,000.

(c) *Exception to the general rule.* A State does not incur an interest liability to the Federal government if a Federal statute requires the State to retain or use for Federal assistance program purposes the interest earned on Federal funds, notwithstanding any other provision in this section.

(d) *Mandatory matching of Federal funds.* In programs utilizing mandatory matching of Federal funds with State funds, a State must not arbitrarily assign its earliest costs to the Federal government. A State incurs interest liabilities if it draws Federal funds in advance and/or in excess of the required proportion of agreed upon levels of State contributions in programs utilizing mandatory matching of Federal funds with State funds.

§ 205.16 What special rules apply to Federal assistance programs and projects funded by the Federal Highway Trust Fund?

The following applies to Federal assistance programs and projects funded out of the Federal Highway Trust Fund, notwithstanding any other provision of this part:

(a) A State must request funds at least weekly for current project costs, or Federal interest liability will not accrue prior to the day a State submits a request for funds.

(b) If a State pays out its own funds in the absence of a project agreement or in excess of the Federal obligation in a project agreement, the Federal Program Agency will not incur an interest liability.

§ 205.17 Are funds transfers delayed by automated payment systems restrictions based on the size and timing of the drawdown request subject to this part?

Funds transfers delayed due to payment processes that automatically reject drawdown requests that fall outside a pre-determined set of parameters are subject to this part.

§ 205.18 Are administrative costs subject to this part?

(a) A State and FMS may agree, in a Treasury-State agreement, to the following funding conventions for indirect costs and administrative costs:

(1) The State will draw down a prorated amount of administrative costs on the date of the State payday. For example, the State would draw one-third of its quarterly administrative costs if payroll is monthly, or one-sixth of its quarterly administrative costs if payroll is semi-monthly.

(2) If an indirect cost rate is applied to a program, the State will include a proportionate share of the indirect cost allowance on each drawdown by applying the indirect cost rate to the appropriate direct costs on each drawdown.

(3) If costs must be allocated to various programs pursuant to a labor distribution or other system under an approved cost allocation plan, the State will draw down funds to meet cash outlay requirements based on the most recent, certified cost allocations, with subsequent adjustments made pursuant to the actual allocation of costs.

(b) Notwithstanding any other provision of this part, no interest liabilities will be incurred or calculated for indirect costs and administrative costs, provided the funding conventions described in paragraph (a) of this section are properly applied.

§ 205.19 How is interest calculated?

(a) A State must calculate Federal interest liabilities and State interest liabilities for each Federal assistance program subject to this subpart A.

(b) The interest rate for all interest liabilities for each Federal assistance program subject to this subpart A is the

annualized rate equal to the average equivalent yields of 13-week Treasury Bills auctioned during a State's fiscal year. We provide this rate to each State.

(c) A State must calculate and report interest liabilities on the basis of its fiscal year. A State must ensure that its interest calculations are auditable and retain a record of the calculations.

(d) As set forth in § 205.9, a Treasury-State agreement must include the method a State uses to calculate and document interest liabilities.

(e) A State may use actual data, a clearance pattern, or statistical sampling to calculate interest. A clearance pattern used to calculate interest must meet the standards of § 205.20. If a State uses statistical sampling to calculate interest, the State must sample transactions separately for each Federal assistance program subject to this subpart A. Each sample must be representative of the pool of transactions and be of sufficient size to accurately represent the flow of Federal funds under the Federal assistance program, including seasonal or other periodic variations.

(f) For the first year in which a Federal assistance program is covered in a Treasury-State agreement, funds transfers that occur prior to the first day of the State's fiscal year must not be included in interest calculations and are not subject to the interest liability provisions of this part.

§ 205.20 What is a clearance pattern?

States use clearance patterns to project when funds are paid out, given a known dollar amount and a known date of disbursement. A State must ensure that clearance patterns meet the following standards:

(a) A clearance pattern must be auditable.

(b) A clearance pattern must accurately represent the flow of Federal funds under the Federal assistance programs to which it is applied.

(c) A clearance pattern must include seasonal or other periodic variations in clearance activity.

(d) A clearance pattern must be based on at least three consecutive months of disbursement data, unless additional data is required to accurately represent the flow of Federal funds.

(e) If a State uses statistical sampling to develop a clearance pattern, the sample size must be sufficient to ensure a 96 percent confidence interval no more than plus or minus 0.25 weighted days above or below the estimated mean.

(f) A clearance pattern must extend, at a minimum, until 99 percent of the dollars in a disbursement have been paid out for Federal assistance program purposes.

(g) We and a State may agree to other procedures, such as estimates to project when funds are paid out when the dollar amount and/or the timing of disbursements are not known.

§ 205.21 When may clearance patterns be used?

(a) A State may develop a clearance pattern for:

(1) An individual Federal assistance program;

(2) A logical group of Federal assistance programs that have the same disbursement method and type of payee;

(3) A bank account;

(4) A specific type of payment, such as payroll or vendor payments; or

(5) Anything that is agreed upon by us and a State. If a clearance pattern is used for multiple Federal assistance programs, a State must apply the clearance pattern separately to each Federal assistance program when scheduling funds transfers or calculating interest.

(b) As set forth in § 205.9, a Treasury-State agreement must include the method a State uses to develop and maintain clearance patterns.

§ 205.22 How are accurate clearance patterns maintained?

(a) If a State has knowledge, at any time, that a clearance pattern no longer reflects a Federal assistance program's actual clearance activity, or if a Federal assistance program undergoes operational changes that may affect clearance activity, the State must notify us, develop a new clearance pattern, and certify that the new pattern corresponds to the Federal assistance program's clearance activity. Clearance patterns will remain in effect until a new clearance pattern is certified.

(b) An authorized State official must certify that a clearance pattern corresponds to the clearance activity of the Federal assistance program to which it is applied. An authorized State official must re-certify the accuracy of a clearance pattern at least every five years. If a State develops a clearance pattern for a bank account or a specific type of payment, or on another basis, as set forth in § 205.21, we may prescribe other requirements for re-certifying the accuracy of the clearance pattern. A State can begin to use a new clearance pattern on the date the new clearance pattern is certified.

§ 205.23 What requirements apply to estimates?

The following requirements apply when we and a State negotiate a mutually agreed upon funds transfer procedure based on an estimate of the State's immediate cash needs:

(a) The State must ensure that the estimate reasonably represents the flow of Federal funds under the Federal assistance program or program component to which the estimate applies. The estimate must take into account seasonal or other periodic variations in activity throughout the period for which the Federal funds are available.

(b) As set forth in §§ 205.9 and 205.10, a Treasury-State agreement must include the method a State uses to develop, maintain, and document the estimate.

§ 205.24 How are accurate estimates maintained?

(a) If a State has knowledge that an estimate does not reasonably correspond to the State's cash needs for a Federal assistance program or program component, or if a Federal assistance program undergoes operational changes that may affect cash needs, the State must immediately notify us in writing. We and the State will amend the funding technique provisions in the Treasury-State agreement or take other mutually agreed upon corrective action.

(b) When estimates are properly updated and applied, a State or Federal interest liability may or may not accrue, depending on the terms of the Treasury-State agreement.

(c) We may require a State to justify in writing that it is not feasible to use a more efficient basis for determining the amount of funds to be transferred under the Federal assistance program or program component to which an estimate is applied. We may prescribe requirements for certifying the reasonableness of an estimate.

§ 205.25 How does this part apply to certain Federal assistance programs or funds?

(a) Special rules apply to certain Federal assistance programs or funds described in this section. To the extent the provisions of this section are inconsistent with other provisions of this part, this section applies.

(b) A State's interest liability on funds withdrawn from its account in the UTF equals the actual interest earned on such funds less the related banking costs. Actual interest earned does not include non-cash bank earnings. If funds withdrawn from the State account in the UTF are commingled with other funds, a proportionate share of interest earnings and banking costs must be allocated to the funds withdrawn from the State account. Interest liabilities on funds withdrawn from a Federal

account in the UTF, except the Federal Unemployment Account, are calculated in accordance with § 205.19.

(c) *Supplemental Security Income.* (1) Except as provided in 42 U.S.C. 1382e(d), the Federal government incurs an interest liability from the day State funds are credited to the Federal government's account to the day a Federal Program Agency pays out the State funds for Federal assistance program purposes. A State incurs an interest liability from the day a Federal Program Agency pays out Federal funds for Federal assistance program purposes to the day State funds are credited to the Federal government's account.

(2) Interest liability must be calculated on the difference between a State's monthly Supplemental Security Income payment and the State's actual liability for the month.

(3) The Federal government will not incur interest liabilities on refunds of State funds under the Supplemental Security Income Program.

(4) Administrative fees charged by the Social Security Administration to States under the Supplemental Security Income program are not subject to this part.

(5) Supplemental State payments made in conjunction with Supplemental Security Income are not subject to this part.

(d) *Funds collected under the Child Support Enforcement Program.* (1) Funds collected by States from absent parents pursuant to Title IV–D of the Social Security Act are not subject to this part.

(2) Interest earned by States on undistributed collections must be treated as Federal assistance program income under 45 CFR 304.50(b) and is not subject to this part.

(3) Late payment fees collected by States from absent parents are not subject to interest liabilities under this part and are not subject to this part. However, such fees must be treated as Federal assistance program income in accordance with 45 CFR 302.75(b)(6).

(e) A State that earns interest on Special Supplemental Food Program for Women, Infants, and Children rebates is not subject to interest liability if the funds earned are used for Federal assistance program purposes.

(f) *Revolving Loan Funds.* (1) This part applies to any transfer of funds from the Federal Program Agency to the State for the Revolving Loan Fund.

(2) This part does not apply to interest a State earns on Revolving Loan Funds when Federal Program Agency regulations require that all interest earned on invested funds be used for Federal assistance program purposes.

§ 205.26 What are the requirements for preparing Annual Reports?

(a) A State must submit to us an Annual Report accounting for State and Federal interest liabilities of the State's most recently completed fiscal year. Adjustments to the Annual Report must be limited to the two State fiscal years prior to the State fiscal year covered by the report. The authorized State official must certify the accuracy of a State's Annual Report. A signed original of the Annual Report must be received by December 31 of the year in which the State's fiscal year ends. We will provide copies of Annual Reports to Federal agencies. We will prescribe the format of the Annual Report, and may prescribe that the Annual Report be submitted by electronic means.

(b) A State must submit a description and supporting documentation for liability claims greater than $5,000. This information must include the following:

(1) The amount of funds requested;

(2) The date the funds were requested;

(3) The date the funds were paid out for Federal assistance program purposes;

(4) The date the funds were received by the State; and

(5) The date of award.

(c) A State claiming reimbursement of Interest Calculation Costs must submit its claim with its Annual Report in accordance with § 205.27. An authorized State official must certify the accuracy of a State's claim for Interest Calculation Costs.

§ 205.27 How are Interest Calculation Costs calculated?

(a) We will compensate a State annually for the costs of calculating interest, including the cost of developing and maintaining clearance patterns in support of interest calculations, pursuant to this subpart A, subject to the conditions and limitations of this section.

(b) We may deny an interest calculation cost claim if a State does not:

(1) Have a Treasury-State agreement with us, as set forth in §§ 205.6 through 205.9;

(2) Submit timely a Treasury-State agreement, as set forth in §§ 205.6 through 205.9;

(3) Submit timely an updated list of Federal assistance programs subject to this subpart A, as set forth in §§ 205.6 through 205.9;

(4) Submit timely a claim for Interest Calculation Costs with its Annual Report, as set forth in § 205.26; or

(5) Submit timely its Annual Report, as set forth in § 205.26.

(c) A State must maintain documentation to substantiate its claim for Interest Calculation Costs. We may require a State to provide documentation to support its interest calculation cost claims. We will review all interest calculation cost claims for reasonableness. If we determine that a cost claim is unreasonable, we will not reimburse a State for that cost, notwithstanding any other provision of this section.

(d) *Eligibility and treatment of Interest Calculation Costs.* (1) Interest Calculation Costs do not include expenses for normal disbursing services, such as processing checks or maintaining records for accounting and reconciliation of cash accounts, or expenses for upgrading or modernizing accounting systems.

(2) Interest Calculation Costs in excess of $50,000 in any year are not eligible for reimbursement, unless a State can justify to us that the State is unable to develop and maintain clearance patterns in support of interest calculations, or perform the actual calculation of interest, without incurring such costs. Supporting documentation must accompany State requests for reimbursement in excess of $50,000.

(3) Interest Calculation Costs that a State incurs in fiscal years prior to its most recently completed Annual Report are not eligible for reimbursement.

(4) A State must not include Interest Calculation Costs in its Statewide cost allocation plan, as defined and provided for in OMB Circular A–87. All costs incurred by a State to implement this subpart A, other than Interest Calculation Costs, are subject to the procedures and principles of OMB Circular A–87.

(e) The payments from the Federal government to individual States to offset Interest Calculation Costs incurred are funded from the aggregate interest payments States make to the Federal government. The following limitations apply:

(1) We will not reduce or adjust interest liabilities for Federal assistance programs funded out of trust funds for which the Secretary is trustee. These programs include, but are not limited to, Unemployment Insurance Trust Fund (CFDA 17.225); Highway & Planning Trust Fund (CFDA 20.205); Airport Improvement Trust Fund (CFDA 20.106); Federal Transit Capital Improvement Trust Fund (CFDA 20.500); Federal Transit Capital & Operating Assistance Trust Fund (CFDA 20.507); and Social Security—Disability Insurance Trust Fund (CFDA 96.001); and

(2) The aggregate payments from the Federal government to States to offset Interest Calculation Costs will not be

greater than the aggregate interest payments States make to the Federal government.

§ 205.28 How are interest payments exchanged?

(a) We offset the adjusted total State interest liability and the adjusted total Federal interest liability for each State to determine the net interest payable to or from each specific State. The payment of net interest and any Interest Calculation Costs, as set forth in § 205.27, for the most recently completed fiscal year must occur no later than March 31. We will notify a State of the final net interest liability. A State must submit a claim to receive payment.

(b) A State may appeal a decision by us on interest liabilities and interest calculation cost claims in accordance with § 205.31.

(c) If a State appeals the amount of interest payable in accordance with the provisions of § 205.31, payment must occur by March 31 for any portions not subject to the appeal.

(d) The Federal government will not be liable for interest on any payment of interest to a State.

§ 205.29 What are the State oversight and compliance responsibilities?

(a) A State must designate an official representative with the statutory or administrative authority to coordinate all interaction with the Federal government concerning this subpart A, and must notify us in writing of the representative's name and title. A State must notify us immediately of any change in the official representative.

(b) A State must maintain records supporting interest calculations, clearance patterns, Interest Calculation Costs, and other functions directly pertinent to the implementation and administration of this subpart A for audit purposes. A State must retain the records for each fiscal year for three years from the date the State submits its Annual Report, or until any pending dispute or action involving the records and documents is completed, whichever is later. We, the Comptroller General, and the Inspector General or other representative of a Federal Program Agency must have the right of access to, and may require submission of, all records for the purpose of verifying interest calculations, clearance patterns, interest calculation cost claims, and the State's accounting for Federal funds.

(c) A State's implementation of this subpart A is subject to audit in accordance with 31 U.S.C. Chapter 75, "Requirements for Single Audits."

(d) If a State repeatedly or deliberately fails to request funds in accordance with the procedures established for its funding techniques, as set forth in § 205.11, § 205.12, or a Treasury-State agreement, we may deny the State payment or credit for the resulting Federal interest liability, notwithstanding any other provision of this part.

(e) If a State materially fails to comply with this subpart A, we may, in addition to the action described in paragraph (d) of this section, take one or more of the following actions, as appropriate under the circumstances:

(1) Deny the reimbursement of all or a part of the State's interest calculation cost claim;

(2) Send notification of the non-compliance to the affected Federal Program Agency for appropriate action, including, where appropriate, a determination regarding the impact of non-compliance on program funding;

(3) Request a Federal Program Agency or the General Accounting Office to conduct an audit of the State to determine interest owed to the Federal government, and to implement procedures to recover such interest;

(4) Initiate a debt collection process to recover claims owed to the United States; or

(5) Take other remedies legally available.

§ 205.30 What are the Federal oversight and compliance responsibilities?

(a) A Federal Program Agency must designate an official representative to coordinate all interaction with us and the States concerning this subpart A, and must notify us in writing of the representative's name and title. A Federal Program Agency must notify us immediately of any change in the official representative.

(b) A Federal Program Agency's implementation of this subpart A is subject to review pursuant to procedural instructions that we issue.

(c) We will consult with Federal agencies as necessary and appropriate before entering into or amending a Treasury-State agreement.

(d) We will distribute Annual Reports to Federal agencies, as set forth in § 205.26. Upon our request, a Federal Program Agency must review a State's Annual Report for reasonableness and must report its findings to us within 30 days.

(e) A Federal Program Agency must notify us in writing if the program agency has knowledge, at any time, that:

(1) A State's clearance pattern does not correspond to a Federal assistance program's clearance activity; or

(2) Corrective action needs to be taken by a State, us, or another Federal Program Agency, with respect to the implementation of this subpart. We will notify the State or Federal Program Agency as appropriate in writing with a description of the Federal Program Agency's assertion.

(f) A Federal Program Agency must notify us in writing of new Federal assistance programs listed in the Catalog of Federal Domestic Assistance.

(g) If a Federal Program Agency causes an interest liability by failing to comply with this subpart A, we may collect a charge from the Federal Program Agency. A Federal interest liability resulting from circumstances beyond the control of a Federal Program Agency does not constitute noncompliance. We will determine the charge using the following procedures:

(1) We will issue a Notice of Assessment to the Federal Program Agency, indicating the nature of the noncompliance, the amount of the charge, the manner in which it was calculated, and the right to file an appeal.

(2) To the maximum extent practicable, a Federal Program Agency must pay a charge for noncompliance out of appropriations available for the Federal Program Agency's operations and not from the Federal Program Agency's program funds.

(3) If a Federal Program Agency does not pay a charge for noncompliance within 45 days after receiving a Notice of Assessment, we will debit the appropriate Federal Program Agency account.

(4) In the event a Federal Program Agency appeals a charge imposed under the Notice of Assessment, we will defer the charge until we decide the appeal. If we deny the appeal, the effective date of the charge may be retroactive to the date indicated in the Notice of Assessment.

§ 205.31 How does a State or Federal Program Agency appeal a determination made by us and resolve disputes?

(a) This section documents the procedures for:

(1) A State to appeal the net interest charge that we have assessed;

(2) A State to appeal a determination we have made regarding the State's claim for Interest Calculation Costs in accordance with § 205.27;

(3) A Federal Program Agency to appeal a charge for noncompliance that we have assessed in accordance with § 205.30; or

(4) A State or a Federal Program Agency to resolve other disputes with us or between or among each other concerning the implementation of this subpart A.

(b) A State or Federal Program Agency must submit a written petition (Petition) to the Assistant Commissioner, Federal Finance, Financial Management Service, (Assistant Commissioner), within 90 days of the date of the notice of assessment or the event that initiated the appeal or dispute. The Petition must include a concise factual statement, not to exceed 15 pages, with supporting documentation in the appendices, of the conditions forming the basis of the Petition and the action requested of the Assistant Commissioner. In the case of a dispute, the party submitting the petition to us must concurrently provide a copy of the petition to the other concerned parties. The other concerned parties may submit to the Assistant Commissioner a rebuttal within 90 days of the date of the petition. The rebuttal must include a concise factual statement, not to exceed 15 pages, with supporting documentation in the appendices.

(c) The Assistant Commissioner will review the Petition, any rebuttal, and all supporting documentation. As part of the review process, the Assistant Commissioner may request to meet with any or all parties and may request additional information.

(d) The Assistant Commissioner will issue a written decision within the later of 120 days of the date of the Petition or the rebuttal, in case of a dispute, or 120 days from receipt of any additional information. The Assistant Commissioner's decision will be the final program agency action on our part for purposes of judicial review procedures under the Administrative Procedures Act, 5 U.S.C. 701–706 (APA), unless either the State or Federal Program Agency invokes the provisions of the Administrative Dispute Resolution Act of 1990 (ADRA), 5 U.S.C. 581–593.

(e) Either a State or Federal Program Agency may seek to invoke the provisions of the ADRA within 45 days after the date of the Assistant Commissioner's written decision.

(1) The party invoking the ADRA must notify the Assistant Commissioner and any other concerned parties in writing. If all parties, including the Assistant Commissioner, agree in writing, a neutral party appointed under the provisions of the ADRA may assist in resolving the dispute through the use of alternate means of dispute resolution as defined in the ADRA.

(2) If the party invoking the ADRA is unable to reach a satisfactory resolution, the Assistant Commissioner's decision will be the final agency action on our part for purposes of the judicial review procedures under the APA.

(f) Any amount due as a result of an appeal or dispute must be paid within 30 days of the date of the decision of the Assistant Commissioner or the date of the resolution under the ADRA. If a State fails to pay, the State will be subject to collection techniques under 31 U.S.C. 3701 *et seq.*, including accrual of interest on outstanding balances and administrative offset.

Subpart B—Rules Applicable to Federal Assistance Programs Not Included in a Treasury-State Agreement

§ 205.32 What Federal assistance programs are subject to this subpart B?

This subpart B applies to all Federal assistance programs listed in the Catalog of Federal Domestic Assistance that are not subject to subpart A of this part.

§ 205.33 How are funds transfers processed?

(a) A State must minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for Federal program purposes. A Federal Program Agency must limit a funds transfer to a State to the minimum amounts needed by the State and must time the disbursement to be in accord with the actual, immediate cash requirements of the State in carrying out a Federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a State's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs. States should exercise sound cash management in funds transfers to subgrantees in accordance with OMB Circular A–102 (For availability, see 5 CFR 1310.3.).

(b) Neither a State nor the Federal government will incur an interest liability under this part on the transfer of funds for a Federal assistance program subject to this subpart B.

§ 205.34 What are the Federal oversight and compliance responsibilities?

(a) A Federal Program Agency must review the practices of States as necessary to ensure compliance with this subpart B.

(b) A Federal Program Agency must notify us if a State demonstrates an unwillingness or inability to comply with this subpart B.

(c) A Federal Program Agency must formulate procedural instructions specifying the methods for carrying out the responsibilities of this section.

§ 205.35 What is the result of Federal Program Agency or State non-compliance?

We may require a State and a Federal Program Agency to make the affected Federal assistance programs subject to subpart A of this part, consistent with Federal assistance program purposes and regulations, notwithstanding any other provision of this part, if:

(a) A State demonstrates an unwillingness or inability to comply with this subpart B; or

(b) A Federal Program Agency demonstrates an unwillingness or inability to make Federal funds available to a State as needed to carry out a Federal assistance program.

Subpart C—[Reserved]

Richard L. Gregg,

Commissioner.

[FR Doc. 02–11540 Filed 5–9–02; 8:45 am]

BILLING CODE 4810–35–P

II. Budget Data

Treasury Administration FY 1997 - 2007

Fund: 010 Agency: 28A Unit: 002201

Revenue Appropriation by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Fines Forfeits and Penalties	2000	77,380.00	65,890.00	56,610.00	60,809.00	66,181.00	25,750.00	60,000.00	60,000.00	75,000.00	75,000.00	75,000.00
Revenue From Use of Money	2100	9,847,541.00	10,532,721.00	19,759,179.00	20,312,347.00	16,331,793.00	1,636,821.00	1,889,000.00	1,287,885.00	4,896,463.00	6,563,582.00	1,424,000.00
Federal	2200	0.00	0.00	0.00	0.00	39,006.00	0.00	0.00	0.00	0.00	0.00	0.00
Service Charges for Cur	2600	62,170.00	14,340.00	64,996.00	93,292.00	-698.00	178.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00
Contrib and Transfers	2700	0.00	0.00	0.00	10,200,000.00	0.00	1,500,000.00	8,000,000.00	24,117,000.00	19,600,000.00	9,550,000.00	18,703,693.00
Reg Tansfer All Other	2900	0.00	0.00	0.00	0.00	0.00	-2,713.00	-14,449.00	0.00	0.00	0.00	-72,000.00
Totals		9,987,091.00	10,612,951.00	19,880,785.00	30,666,448.00	16,436,282.00	3,160,036.00	9,937,551.00	25,467,885.00	24,574,463.00	16,191,582.00	20,133,693.00

Expenditure Appropriation by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	764,052.00	794,562.00	808,338.00	801,364.00	830,727.00	898,700.00	919,028.00	850,810.00	918,127.00	886,639.00	867,967.00
All Other	2	217,019.00	230,613.00	220,419.00	245,908.00	308,569.00	325,760.00	304,846.00	295,554.00	288,210.00	268,515.00	254,868.75
Capital	3	0.00	55,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		981,071.00	1,080,175.00	1,028,757.00	1,047,272.00	1,139,296.00	1,224,460.00	1,223,874.00	1,146,364.00	1,206,337.00	1,155,154.00	1,122,835.75

Actual Expense Summary by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	759,575.08	782,877.38	752,856.21	775,816.61	781,990.90	822,942.33	850,516.67	826,824.32	911,782.34	856,649.83	866,986.21
Permanent Reg	3110	525,481.06	514,945.54	510,791.69	534,420.94	514,415.74	540,482.13	515,627.48	467,864.67	474,759.92	455,116.17	478,912.86
Health Insurance	3901	67,870.15	70,751.19	71,802.07	81,653.63	88,269.50	104,987.43	122,107.71	101,816.68	154,862.26	142,324.22	137,293.68
Retiree Health	3908	22,129.76	22,803.84	24,706.46	27,201.00	31,739.36	36,872.90	51,422.37	44,866.29	64,364.12	63,342.97	65,947.42
All Other	2	215,697.88	227,702.50	210,332.06	225,421.34	248,309.04	244,598.40	224,757.48	195,887.59	214,109.70	240,126.16	219,227.11
Capital	3	0.00	1,998.60	43,550.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		975,272.96	1,012,578.48	1,006,738.57	1,001,237.95	1,030,299.94	1,067,540.73	1,075,274.15	1,022,711.91	1,125,892.04	1,096,775.99	1,086,213.32

Unclaimed Property FY 1997 - 2007

Fund: 071 Agency: 28A Unit: 002201

Revenue Appropriation Report by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Fines Forfeits and Penalties	2000	1,944,058.00	60,732.00	293,150.00	-364,192.00	2,061,944.00	2,673,712.00	10,067,772.00	10,208,450.00	6,239,781.00	9,753,402.00	13,883,937.00
Revenue From Use of Money	2100	170,033.00	209,092.00	183,807.00	471,378.00	210,387.00	14,214.00	60,000.00	90,000.00	90,000.00	90,000.00	90,000.00
Federal	2200	-75.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contrib and Transfers	2700	0.00	0.00	0.00	0.00	0.00	0.00	-8,000,000.00	-10,000,000.00	-6,000,000.00	-9,550,000.00	-13,703,693.00
Totals		**2,114,016.00**	**269,824.00**	**476,957.00**	**107,186.00**	**2,272,331.00**	**2,687,926.00**	**2,127,772.00**	**298,450.00**	**329,781.00**	**293,402.00**	**270,244.00**

Expenditure Appropriation Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	79,068.00	78,867.00	80,808.00	57,558.00
All Other	2	291,000.00	299,466.00	309,736.00	317,689.00	326,903.00	334,229.00	342,584.00	219,382.00	212,674.45	234,916.00	213,626.00
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		**291,000.00**	**299,466.00**	**309,736.00**	**317,689.00**	**326,903.00**	**334,229.00**	**342,584.00**	**298,450.00**	**291,541.45**	**315,724.00**	**271,184.00**

Actual Expense Summary Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75,578.71	76,651.40	80,536.33	54,903.11
All Other	2	194,578.09	382,682.74	347,875.81	281,286.82	275,676.01	445,822.25	2,127,760.89	176,149.07	125,840.48	219,076.92	209,332.60
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		**194,578.09**	**382,682.74**	**347,875.81**	**281,286.82**	**275,676.01**	**445,822.25**	**2,127,760.89**	**251,727.78**	**202,491.88**	**299,613.25**	**264,235.71**

State Municipal Revenue Sharing FY 1997 - 2007

Fund: 014 Agency: 28A Unit: 002001

Revenue Appropriation Report by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Income Tax	400	48,766,498.00	44,314,521.00	18,177,666.00	0.00	0.00	0.00	72,514,154.00	0.00	0.00	0.00	0.00
Other Sales Tax	600	37,425,120.00	36,691,941.00	14,312,118.00	0.00	0.00	0.00	45,499,029.00	0.00	0.00	0.00	0.00
Service Charges for Cur	2600	0.00	0.00	0.00	0.00	220.00	-220.00	0.00	0.00	0.00	0.00	0.00
Contrib and Transfers	2700	0.00	0.00	79,434,354.00	105,697,653.00	105,733,385.00	110,954,481.00	0.00	113,794,400.00	120,106,999.00	113,571,793.00	106,898,515.00
Totals		86,191,618.00	81,006,462.00	111,924,138.00	105,697,653.00	105,733,605.00	110,954,261.00	118,013,183.00	113,794,400.00	120,106,999.00	113,571,793.00	106,898,515.00

Expenditure Appropriation Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other	2	74,114,818.00	82,598,202.00	83,509,846.00	90,817,931.00	95,006,394.00	109,521,508.00	117,236,836.00	113,794,400.00	120,106,998.00	108,819,592.00	96,733,203.00
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		74,114,818.00	82,598,202.00	83,509,846.00	90,817,931.00	95,006,394.00	109,521,508.00	117,236,836.00	113,794,400.00	120,106,998.00	108,819,592.00	96,733,203.00

Actual Expense Summary Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other	2	77,702,622.58	89,494,820.47	96,177,765.83	107,119,831.05	105,876,925.48	100,611,670.36	102,304,320.82	110,658,989.20	117,591,150.60	121,391,472.10	121,236,618.39
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		77,702,622.58	89,494,820.47	96,177,765.83	107,119,831.05	105,876,925.48	100,611,670.36	102,304,320.82	110,658,989.20	117,591,150.60	121,391,472.10	121,236,618.39

Debt Service Payments FY 1997 - 2007

Fund: 010 Agency: 28A Unit: 002101

Revenue Appropriation Report by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Reg Tansfer All Other	2900	3,507,730.00	4,159,000.00	3,282,912.00	3,156,900.00	2,451,500.00	700,000.00	6,226,491.00	3,180,750.00	150,000.00	1,801,775.00	2,372,750.00
Totals		3,507,730.00	4,159,000.00	3,282,912.00	3,156,900.00	2,451,500.00	700,000.00	6,226,491.00	3,180,750.00	150,000.00	1,801,775.00	2,372,750.00

Expenditure Appropriation Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other	2	90,185,613.00	71,124,172.00	75,442,827.00	74,334,582.00	20,980,600.00	85,320,275.00	83,341,035.00	75,679,419.00	75,960,059.01	78,905,807.00	88,004,339.00
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		90,185,613.00	71,124,172.00	75,442,827.00	74,334,582.00	20,980,600.00	85,320,275.00	83,341,035.00	75,679,419.00	75,960,059.01	78,905,807.00	88,004,339.00

Actual Expense Summary Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
All Other	2	93,693,342.72	75,283,056.17	75,442,825.37	77,491,445.15	84,045,242.72	79,898,841.70	83,320,173.73	74,774,612.68	74,628,743.52	78,905,804.88	88,003,188.53
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		93,693,342.72	75,283,056.17	75,442,825.37	77,491,445.15	84,045,242.72	79,898,841.70	83,320,173.73	74,774,612.68	74,628,743.52	78,905,804.88	88,003,188.53

Cash Management Improvement Act FY 1997 - 2007

Fund: 013 Agency: 28A Unit: 002203

Revenue Appropriation Report by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Service Charges for Cur	2000	0.00	0.00	0.00	0.00	0.00	0.00	50,000.00	0.00	0.00	0.00	0.00
Federal	2200	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50,000.00	0.00	0.00
Misc Income	2600	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50,000.00	0.00	49,000.00	0.00
Totals		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**50,000.00**	**50,000.00**	**50,000.00**	**49,000.00**	**0.00**

Expenditure Appropriation Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	34,452.00	43,131.00	49,607.00	41,948.00	44,769.00
All Other	2	0.00	0.00	0.00	0.00	0.00	0.00	6,922.00	11,413.00	11,811.00	12,077.00	12,379.00
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**41,374.00**	**54,544.00**	**61,418.00**	**54,025.00**	**57,148.00**

Actual Expense Summary Report by Line Category

Line Category	Cat #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Personal Services	1	0.00	0.00	0.00	0.00	0.00	0.00	19,108.40	34,983.16	38,712.85	29,992.39	0.00
All Other	2	0.00	0.00	0.00	0.00	0.00	0.00	695.22	1,935.09	3,492.62	3,550.37	1,989.39
Capital	3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**19,803.62**	**36,918.25**	**42,205.47**	**33,542.76**	**1,989.39**

Passamaquoddy Sales Tax Fund FY 1997 - 2007

Fund: 014 Agency: 28A Unit: 091501

Revenue Appropriation Report by Source

Source Name	Source #	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Other Sales Tax	600	0.00	0.00	0.00	0.00	0.00	0.00	16,771.00	16,800.00	23,294.00	28,809.00	17,607.00
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Totals		0.00	0.00	0.00	0.00	0.00	0.00	16,771.00	16,800.00	23,294.00	28,809.00	17,607.00

III. Office Policies

STATE OF MAINE
OFFICE OF THE STATE TREASURER
39 STATE HOUSE STATION AUGUSTA, MAINE 04333

DAVID G. LEMOINE
STATE TREASURER

BARBARA M. RATHS
DEPUTY TREASURER

POLICY CONCERNING WORKPLACE RESPONSE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING

I. PURPOSE

Given that domestic violence is a serious public policy concern of this State, Governor John E. Baldacci issued Executive Order 25FY04/05 that recognizes the State's obligation as an employer to provide special assistance to victims of domestic violence, sexual assault, and stalking.

The Office of the Treasurer of State, consistent with the Executive Order, establishes this policy to create a work environment in which employees are comfortable discussing issues of domestic violence, sexual assault or stalking, and more importantly, an environment in which employees affected by these issues feel comfortable contacting any supervisor or Responder to seek support from the Office and to learn about available resources.

Assistance to employees will be guided by the following policy sections addressing:

- Confidentiality
- Response and Assistance to Employees Who are Victims
- Response and Assistance to Employees Who are Perpetrators
- Training and Outreach
- Domestic Violence, Sexual Assault, Batterers' Intervention, and State of Maine Employee Assistance Program resources are attached to this policy.

This Office will not tolerate any act of domestic violence, sexual assault or stalking in the workplace, and will take action to prevent and correct the misuse of the State's resources in connection with any act of domestic violence, sexual assault or stalking, including harassment or violent or threatening behavior that may result in physical or emotional injury to any State employee, while in State offices, facilities, work sites, vehicles, conducting State business, or traveling on behalf of the State.

II. DEFINITIONS

A. Abuser/Perpetrator: An individual who commits domestic violence, sexual assault or stalking.

B. **Domestic Violence:** A pattern of coercive behavior that is used by a person against family or household members to establish and maintain power and control over the other party in the relationship. This behavior may include physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property.

C. **Responders:** Employees with supervisory responsibility and other designated individuals who will respond to victims and abusers and who will receive comprehensive training on best practices for identifying and responding to domestic violence, sexual assault, and stalking.

D. **Sexual Assault:** An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure, and voyeurism.

E. **Stalking:** Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A.§210-A.

F. **State Resources:** Include are but are not limited to workplace telephones, State cell phones or pagers, facsimile machines, mail, electronic mail, a State vehicle, a State credit card, or other State employees.

G. **Victim:** An individual subjected to domestic violence, sexual assault or stalking.

H. **Workplace:** An employee is considered to be in the workplace when the employee is conducting State business, is in State-owned or leased workspace, is using the facilities or services of the State, is using State resources or equipment, is wearing a uniform, is using a vehicle that is owned or leased by the State or its agencies, is attending a work-related conference, or is traveling on behalf of the State.

I. **Workplace Safety Plan:** A strategy developed in collaboration with a victim to implement workplace safety options, including, but not limited to: setting up procedures for alerting security or police; temporary relocation of the victim to a secure area; voluntary temporary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the work site; responding to telephone, fax, e-mail, or mail harassment; and, keeping a

photograph of the abuser or a copy of an existing court order in a confidential on-site location and providing copies to designated personnel.

III. PERSONS COVERED BY THIS POLICY

Persons covered by this policy include Office employees, interns, contractors, or temporary workers, in any workplace location.

IV. CONFIDENTIALITY

This Office recognizes and respects an employee's right to privacy. The Office will maintain the confidentiality of an employee's disclosure unless the substance of the employee's disclosure demands otherwise. Disclosure will be necessary if an abuser presents a threat to the safety of any employee in the workplace.

Whenever possible, the employee will be given notice of necessary disclosures.

V. RESPONSE AND ASSISTANCE TO EMPLOYEES WHO ARE VICTIMS

The Office seeks to offer support and referrals for assistance to victims who disclose concerns or request help. Disclosures may be made to any supervisor or responder with whom a victim is comfortable.

If an employee of the Office has reason to believe that a co-worker is a victim, the concerned employee is encouraged to contact a Responder.

Where the other party in an incident of domestic violence or sexual assault involving an employee of the Office of the State Treasurer is an employee of another State agency, the Director of Internal Operations will inform that other agency to assure that appropriate responses to the situation are coordinated, when there is reason to believe a workplace issue exists.

If a survivor discloses domestic abuse the person informed should send the following messages: you are not alone, you are not to blame, there is help available, and I am concerned about your safety. The person may wish to refer the survivor to the resources listed below:

A. Resources

A Responder will provide referral information to victims, which may include:

1. Treasurer's Policy Concerning Workplace Response to Domestic Violence, Sexual Assault, and Stalking.
2. Local and State domestic violence resources;
3. Local and State sexual assault resources;
4. Advocacy and legal services;
5. Medical and counseling services;
6. Capitol Security or other law enforcement agencies; and
7. Employee Assistance Program.

B. Security

If any person is in imminent danger in the workplace, that person, a co-worker, the person's supervisor, or any other person in a supervisory or managerial position should notify building security, Capitol Security or local law enforcement.

C. Safety Planning

The Office will work with victims to develop an individualized workplace safety plan when necessary. The safety plan may include, but is not limited to, the following measures:

1. Screening telephone calls;
2. Providing a new work space;
3. Setting an alternate work schedule;
4. Arranging an escort to and from parking areas; and
5. Sharing information concerning the perpetrator with local law enforcement.

D. Reasonable and Necessary Leave

Employees who are victims may need leave time.

Leave will be consistent, at a minimum, with 26 M.R.S.A. §850, which requires employers to grant reasonable and necessary leave from work, with or without pay, for an employee to prepare for and attend court proceedings; receive medical treatment or attend to medical treatment for a victim who is the employee's daughter, son, parent or spouse; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. The leave must be needed because the employee or daughter, son, parent or spouse is a victim of violence, assault, sexual assault, stalking or any act that would support an order for protection.

Leave benefits may include, as applicable:

1. Sick or vacation leave;
2. Family and Medical Leave Act;
3. Unpaid leave; or
4. Catastrophic Leave Bank.

E. Court Orders

Victims are encouraged to disclose the existence of Temporary or Permanent Orders for Protection from Abuse or Harassment to any supervisor or a Responder, particularly where the order includes a provision that the perpetrator is not to have contact with the victim at the victim's place of employment.

The Office of the Treasurer of State will develop and implement necessary protocols related to orders. Under no circumstances will these orders be placed in an employee's personnel file.

F. Work Performance

When a victim has performance or conduct problems as a result of domestic violence, sexual assault or stalking, the Office will offer support and an opportunity to correct the problems. Supervisors may develop a work plan with the employee to assist and support the employee in meeting performance expectations.

Nothing in this policy alters the authority of this Office to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as it deems appropriate.

Information or documents pertaining to a victim's involvement in a domestic violence, sexual assault or stalking situation will be kept separately from the employee's personnel records and will not be considered for purposes of hiring or promotion.

In the event that an employee is ultimately unable to maintain employment with the Office as a result of domestic violence, the employee will be provided with information about Title 26, M.R.S.A., §§1043 and 1193 (Unemployment Compensation Disqualification and Misconduct Clauses) which provides victims with the right to collect unemployment benefits if they leave their employment in order to preserve their own safety, or if they have been terminated because of performance issues stemming from domestic violence.

VI. RESPONSE AND ASSISTANCE TO EMPLOYEES WHO ARE PERPETRATORS

The Office encourages employees who are perpetrators to voluntarily seek assistance from any of the resources listed at the end of this policy or the State's confidential Employee Assistance Program.

An employee who is concerned that a co-worker is a perpetrator should discuss their concern with appropriate human resource staff who will determine the appropriate course of action. The employee should not approach the co-worker directly.

Employees who engage in behaviors on-duty that constitute domestic violence, stalking or sexual assault will be subject to discipline, up to and including termination. In some cases, where there is a connection between off-duty conduct of this nature and one's employment with the State, that off-duty conduct may lead to discipline, up to and including termination.

Any retaliatory action resulting from an employee making a complaint or observation of domestic violence, or otherwise asserting rights or responsibilities under this policy or relevant laws is a serious violation of this policy and will be subject to disciplinary action

A. On Duty

Any employee who commits domestic violence, sexual assault or stalking in the workplace (see definition) will be subject to corrective or disciplinary action, up to and including termination.

In addition, any employee who uses any State resource (see definition) at any time or place to commit domestic violence, sexual assault or stalking will be subject to corrective or disciplinary action, up to and including termination.

B. Off Duty

Any employee who is: (i) found by the Office to have engaged in domestic violence, sexual assault or stalking; or (ii) arrested, convicted, or named as a defendant in a protective order as a result of domestic violence, sexual assault or stalking, may be subject to corrective or disciplinary action, up to and including termination when such action has a nexus/connection to their employment with the State.

C. Protective Orders

Any employee who is named as a defendant must disclose any order from protection from abuse or harassment, or any condition of bail or probation applicable to the employee that includes:

1. Conditions that may interfere with the employee's ability to perform job duties;
2. Conditions prohibiting or limiting contact with other employees of this Office; or
3. Conditions prohibiting or limiting contact with State employees of other Departments/Agencies with whom there is a work relationship.

The employee must disclose the above information to their supervisor or any management or personnel staff in the Office at the beginning of the employee's next scheduled work day.

Failure to provide the above information may result in disciplinary action up to and including termination.

VII. TRAINING AND OUTREACH

A. POLICY DISTRIBUTION

This policy will be distributed to all persons covered by this policy and will be posted at the Office.

Each person covered by this policy shall sign a statement acknowledging that the person has received and read the policy. Employees' statements will be retained in personnel files. Statements signed by other persons covered by this policy will be retained by the person's primary contact at the Office.

B. TRAINING

1. All current employees will receive policy awareness training. All new employees will receive training as part of New Employee Orientation.

2. Persons who must attend specialized training designated by the Office focusing on identifying and responding to issues of domestic violence, sexual assault and stalking in the workplace include:

   a. All employees newly hired or promoted into managerial or supervisory positions;
   b. All current managers and supervisors; and
   c. Responders.

3. To carry out the purpose of this policy, the Office will establish an ongoing Training and Outreach Committee. The committee will provide opportunities for education and discussion on domestic violence, sexual assault, and stalking issues. Such opportunities may include "Lunch and Learn" sessions, speakers, and a lending library.

4. Domestic Violence, Sexual Assault, Batterers' Intervention, and State of Maine Employee Assistance Program resources are provided at the end of this policy.

VIII. POLICIES

The State of Maine also has policies covering Equal Employment Opportunity/ Affirmative Action, Harassment, and E-Mail Usage and Management.

IX. CONCLUSION

The Maine Office of the Treasurer of State is sensitive to the needs of employees affected by domestic violence, sexual assault or stalking. The Office will strive to heighten awareness among staff and provide ongoing training and resource information.

Adopted by: ***/s/ David G. Lemoine*** ***4/10/06***

David G. Lemoine, Treasurer of State — Date

STATE OF MAINE
OFFICE OF THE STATE TREASURER
39 State House Station, Augusta, ME 04333-0039
www.maine.gov/treasurer

DAVID G. LEMOINE
TREASURER OF STATE

CONFIDENTIALITY POLICY AND ACKNOWLEDGEMENT

I hereby acknowledge that a representative of my agency has explained to me the need for safeguarding and keeping confidential certain information to which I may have access in the course of my employment with the State of Maine. I further understand that information that may be legally deemed confidential varies considerably from agency to agency and an individual office, division, bureau, or agency may require that I acknowledge and adhere to additional individual policy statements on confidentiality.

While maintaining the confidentiality of certain information remains a critically important responsibility of each state employee, the principles articulated in Maine's "Freedom of Access" laws with respect to public access to public records should always be considered in the conduct of State business [1 MRSA, Chapter 13]. Therefore, **I understand that if I have any questions or concerns as to whether I am authorized to access, inspect, copy, or release information, it is my responsibility to seek advice and approval from my supervisor prior to such access, inspection, copying, or release of the information.** I understand that failure to adhere to the confidentiality provisions of state law, rule or policy may result in disciplinary action up to and including discharge. I also understand that the unauthorized disclosure of confidential information may also result in civil or criminal penalties established in law.

_____ _____
Employee Name (Print) Date

_____ _____
Employee Signature Date

_____ _____
Supervisor/Designee Date

Office of the State Treasurer
Continuing Employee Education Support Policy

The Maine State Treasurer's Office shall reimburse employees for education costs based on the availability of funds at the time of the request, the work-relevance of the request, and the adequate grade performance of the employee. Both tuition and assigned books related to the course are eligible for reimbursement. No more than one course per semester will be supported.

"Availability of funds" means that the budget for the Office of the State Treasurer, in the Treasurer's sole discretion, has the capacity to provide this support.

"Work-relevance" means that the course must be considered by the Office Personnel Manager either to be relevant to the employee's job or be a requirement in a degree program relevant to the employee's job.

"Adequate grade performance" means obtaining a minimum grade of C or better for formal educational courses, a passing grade for a Pass/Fail course, or a certificate of completion or other proof of credits granted. Transcripts illustrating grade performance must be submitted to the Office Personnel Director upon completion of the course. In the event that the employee does not obtain a minimum grade of C or better, or leaves the Treasurer's Office before completing the course, the employee will be expected to refund the reimbursement amount.

Coursework must happen on the employee's own time.

The employee must receive prior approval from the Office Personnel Director for the course and must submit receipts and an invoice for course material and tuition in order to be reimbursed.

Requests for education reimbursement must be submitted on the attached form.

To: Kristi Carlow

From:

Date:

Subject: Request for education reimbursement

Course title:

School Name:

School Address:

Dates the course is to be completed:

Tuition costs:

Textbook costs:

Total reimbursement request:

My completion of this course will benefit the Office of the State Treasurer because:

Rec'd _____ Approved: Y N Signature: _____

STATE OF MAINE
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DAVID G. LEMOINE
TREASURER OF STATE

E-MAIL USAGE AND MANAGEMENT POLICY

Introduction and Statement of Purpose

Electronic mail (e-mail) refers to the electronic transfer of information typically in the form of electronic messages, memoranda, and attached documents from a sending party to one or more receiving parties via an intermediate telecommunications system. E-mail is a core tool utilized by State agencies to improve the way they conduct business by providing a quick and cost-effective means to create, transmit, and respond to messages and documents electronically. Well-designed and properly managed e-mail systems expedite business communications, reduce paperwork, and automate routine office tasks thereby increasing productivity and reducing costs. These opportunities are, however, at risk if e-mail systems are not used and managed effectively.

The purpose of this policy is to promote the use of e-mail as an efficient communication and data gathering tool, to ensure that State agencies have the information necessary to use e-mail to their best advantage in supporting agency business, to avoid non-work-related distractions of employees, to avoid subjecting the State's e-mail system to computer viruses, and to otherwise avoid interfering with or damaging the effective functioning of the State's e-mail system. By establishing and maintaining compliance with a policy for appropriate use and management of e-mail, risks and costs to agencies can be mitigated while maximizing the potential of this communication tool.

Scope

This policy applies to all State employees, as well as contract staff, who use the State's electronic mail.

General Policy

It is the policy of Maine State Government that e-mail is used for internal and external communications that serve legitimate state government functions and purposes. Any personal use must be of an incidental nature and not interfere with business activities. Personal use must not involve solicitation, must not be associated with any outside business activity or personal gain, must not be libelous or defamatory, must not violate the State of Maine Policy on Employee Harassment, must not potentially embarrass the State of Maine, its residents, its taxpayers, or its employees or be used for any unlawful purpose. Copyright restrictions and regulations shall be observed. The information communicated over agency e-mail systems is subject to the same laws, regulations, policies, and other requirements as information communicated in other written forms and formats and is not to be utilized for political purposes.

Each State agency is responsible for enforcing this policy and establishing management practices consistent with this policy that, among other goals:

. support agency business;

. reduce legal and other potential risks;
. define managerial authority over e-mail communications;
. describe the appropriate use of e-mail communications;
. train employees in e-mail use and policies; and
. provide for necessary records retention, accessibility, and protection.

Agencies with special requirements for information confidentiality (for example, confidential client records) may be required to establish additional safeguards to protect this data.

Access to E-mail Services

E-Mail services are provided to all appropriate staff and contractors within departments. To request access, contact Kristi Carlow, Director of Internal Operations.

Privacy and Access

- **Mail messages are not personal and private. Managers, supervisors, and technical staff may access an employee's e-mail in accordance with the department security policy for reasonable business purposes, including but not limited to:**

for a legitimate business purpose (e.g., the need to access information when an employee is absent);

to diagnose and resolve technical problems involving system hardware, software, or communications; and/or

to investigate possible misuse of e-mail when a reasonable suspicion of abuse exists or in conjunction with an approved investigation.

- An employee, with the exceptions noted above, is prohibited from accessing another user's e-mail without his or her permission.
- **All e-mail messages including personal communications** may be subject to discovery proceedings in legal actions.
- All e-mail messages sent or received and which are not otherwise protected by law, are public documents and may be released to the public under the Freedom of Access Law.

Security

E-mail security is a joint responsibility of technical staff and e-mail users. Users must take all reasonable precautions, including safeguarding and changing passwords, to prevent the use of their e-mail account by unauthorized individuals.

Management and Retention of E-mail Communications

A. Applicable to all e-mail messages and attachments

Since e-mail is a communications system, messages should not be retained for extended periods of time.

Users should:

- remove or archive all e-mail communications in a timely fashion.
- delete records of transitory or little value that are not normally retained in record keeping systems as evidence of an agency's activity.

B. Applicable to records communicated via e-mail

E-mail created in the normal course of official business and retained as evidence of official policies, actions, decisions or transactions are records and are subject to the records management requirements documented by the Maine State Archives. (A copy of the Maine State Archives' guide to e-mail retention is attached.) Records communicated using e-mail need to be identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements.

For agency specific questions surrounding record retention requirements contact Records Management at the Maine State Archives for assistance.

Examples of messages sent by e-mail that **typically are records** include:

- policies and directives
- correspondence or memoranda related to official business
- work schedules and assignments
- agendas and minutes of meetings
- drafts of documents that are circulated for comment or approval
- any document that initiates, authorizes, or completes a business transaction
- final reports or recommendations

Some examples of messages that typically do not constitute records are:

- personal messages and announcements
- copies or extracts of documents distributed for convenience or reference
- phone message notes

Roles and Responsibilities

- **Executive management** will ensure that the policy is implemented by program unit management and unit supervisors.
- **Unit managers and supervisors** will develop and/or publicize record keeping practices in their area of responsibility including the routing, formatting, and filing of records communicated via e-mail. They will train staff in appropriate use, including appropriate personal use of e-mail that does not result in performance issues, and be responsible for ensuring the security of physical devices and passwords.
- **Network administrators** and internal control (and/or internal audit) staff are responsible for e-mail security, backup, and disaster recovery.
- **Users** are responsible for adherence to this policy.

Proper Usage

All e-mail users will understand and comply with this policy, including but not limited to:

- understand that personal use must be of an incidental nature only
- comply with agency and unit policies, procedures, and standards
- protect confidentiality
- be aware that sending e-mail of a political nature (supporting candidates, soliciting contributions, etc.) is against the law and subject to criminal penalties (5 U.S.C. §1501 et seq., and 5 M.R.S.A. §7056-A 5 M.R.S.A §1976)
- immediately delete any chain letters received through the State's e-mail system
- consider organizational access before sending, filing, or destroying e-mail messages.
- protect their passwords
- receive approval of supervisor and permission from the Commissioner of the Department of Administrative and Financial Services, or her designee, before sending state wide communications http://inet.state.me.us/dafs/e-mail%20policy%2009-17-02.htm
- respond to e-mail in a timely fashion
- do not in any way use e-mail access or transmit prohibited content of a sexual nature
- delete any messages that may contain offensive material and report to management
- remove personal messages, transient records, and reference copies in a timely manner.
- not use e-mail for outside business activity or personal gain
- observe all copyright restrictions and regulations
- not use e-mail for any unlawful or illegal purpose
- not use e-mail to promote discrimination on the basis of race, religion, national origin, disability, sexual orientation, age, marital status, gender, or political affiliation
- not create e-mails that may be defamatory or libelous
- consider organizational access and retention requirements before sending, filing, or destroying e-mail messages
- be courteous and follow accepted standards of etiquette
- must not use the e-mail system to solicit for causes unrelated to state business
- must not knowingly send or receive e-mails that contain a virus

Violations of this policy

Any violation of this policy could result in disciplinary action up to and including termination.

Policy Review and Update

The Office of Chief Information Officer and the Office of the State Treasurer will periodically review and update this policy as new technologies and organizational changes are planned and implemented. Questions concerning this policy should be directed to Kristi Carlow, Director of Internal Operations.

Code of Ethics and Conduct
Maine State Government

Reviewed and adopted by the State Treasurer - 07/23/07

1. Be guided by the highest standards of honor, personal integrity, and fortitude in all public activities in order to merit the respect of other officials, employees and the public. Strive to inspire public confidence and trust in Maine State Government and its related institutions.

2. Serve the citizens of the State with respect, concern, courtesy, and responsiveness, recognizing that government service means service to the people of Maine; keep the Legislature and public informed on pertinent issues.

3. Strive for professional excellence and encourage the professional development of associates and those seeking to enter the field of public administration in order to provide effective and responsible government to the citizens of Maine. The primary role is to provide the best possible and most cost effective service to the citizens of Maine.

4. Approach organizational and operational duties with a positive attitude and constructively support open communication, cooperation, creativity, dedication and compassion.

5. Avoid any interest or activity which is in conflict with the conduct of official duties. Serve in a manner as to avoid inappropriate personal gain resulting from the performance of official duties.

6. Respect and protect the privileged information to which there is access in the course of official duties.

7. Use discretionary authority to promote the public interest.

8. Accept as a personal duty the responsibility to be informed of emerging issues and to administer the public's business with professional competence, fairness, impartiality, efficiency and effectiveness.

9. Support, implement, and promote programs of affirmative action to assure equal opportunity in the recruitment, selection, and advancement of qualified persons from all elements of society.

10. Respect and value the work done by the employees of Maine State Government and its related institutions.

State of Maine
Office of the Treasurer of State
Domestic Proxy Voting Policies

Revisions – April 2004

The Maine Trust Funds Proxy Voting Policy conforms to common law fiduciary standards including Maine statutes pertinent to fiduciary conduct such as the Uniform Prudent Investor Act.

Exercising proxy-voting rights is a required duty of the Treasurer and hence the Maine Trust Funds by virtue of the rights and responsibilities related to the Treasurer's role as fiduciary. Fiduciaries have a responsibility to vote proxies on issues that may affect the value of the shares held in a portfolio since proxies are considered assets and have economic value.[1]

Proxy voting rights must be exercised in accordance with the fiduciary duties of loyalty and prudence. The duty of loyalty requires that the fiduciary exercise proxy voting for the long-term economic benefit of participants and beneficiaries. The duty of prudence includes considerations based on financial criteria and that a clear process exists for evaluating proxy issues.

The voting policy contained herein is carefully crafted to meet those requirements by promoting long-term shareholder value, emphasizing the "economic best interests" of participants and beneficiaries. The voting fiduciary will assess the short-term and long-

[1] Many public sector pension plans, regulatory bodies, and professional associations have adopted the views of the U.S. Department of Labor on fiduciary duties related to proxy voting. The Department of Labor's Pension and Welfare Benefits Administration has stated in opinion letters and an interpretative bulletin that the voting rights related to shares of stock held by pension plans are plans assets. Therefore, according to the Department, "the fiduciary act of managing plan assets which are shares of corporate stock would include the voting of proxies appurtenant to those shares of stock." Sources include: the Department of Labor Opinion Letter (Feb.23, 1988), reprinted in 15 Pens. Rep. (BNA), 391, the Department of Labor Opinion Letter (Jan.23, 1990), reprinted in 17 Pens. Rep. (BNA), 244 and the Interpretative Bulletin, 94-2. In addition, the Securities and Exchange Commission in a letter from Chairman Harvey Pitt dated February 12, 2002 stated that investment advisors have a fiduciary duty to vote proxies.

term impact of a vote, and will promote a position that is consistent with the long-term economic best interests of participants and beneficiaries. In accordance with state law, the policies take into consideration actions, which promote good corporate citizenship through the proxy process. A number of recent studies have looked at the relationship between some specific corporate governance practices, such as take over defenses and board diversity and their ability to enhance shareholder value. These studies have found a positive relationship between good corporate citizenship and shareholder value. The Maine Trust Funds proxy voting policies reflect the findings of those studies. Many companies realize that it is in their financial interests to pursue business practices that are ethically, environmentally, legally and socially responsible.

The proxy voting guidelines address a broad range of issues, including election of directors, executive compensation, proxy contests and tender offer defenses—significant voting items that affect long-term shareholder value. In addition, these guidelines address broader issues of corporate citizenship that can have an impact on corporate performance and important stakeholder interests.

Corporate citizenship encompasses the principle that a company's financial security and growth is dependent not only on profits and short-term performance, but on the responsible conduct of business and a commitment to support the long-term development of the local community in which a company resides and the workforce on which it relies.

Corporate citizenship addresses a number of concepts including:

- Executive compensation
- Diversity of the board, top management, and all employees, including race and gender diversity
- Corporate philanthropy
- Community reinvestment
- Global Workplace Labor Standards and Human Rights
- The Environment including Global Warming, Greenhouse Gas Emissions and the impact on Public Health
- Workplace issues, including job security and health and safety
- Transparency and full disclosure to investors of relevant financial and other information that describes risks and opportunities of the particular company inherent to their investment

The Maine Trust Funds proxy voting policy reflects the benefits to shareholders whose portfolio companies have exemplary corporate governance, to have policies and provisions for a commitment to corporate responsibility and active corporate citizenship. To that end, these policies not only look at specific elements of each, but also look at these issues from an integrated approach. Corporate responsibility is a mix of financial integrity and transparency along with responsible business policies that require ethical

behavior and a commitment to the community To that end, in addition to focusing on the issues outlined above, we generally will support shareholder proposals that:

- Ask for business sustainability reports
- Ask for reports on discrete issues related to responsible business practices
- Ask for Business codes of ethics

All votes will be reviewed on a company-by-company basis and no issues will be considered routine. Each issue will be considered in the context of the company under review and subject to a rigorous analysis of the economic impact an issue may have on the long-term shareholder value.

The Maine Trust Funds also actively engages companies on issues of concern in an effort to increase shareholder value. At times the fund will itself sponsor shareholder resolutions. These proxy voting policies provide guidance for these activities as well.

I. THE BOARD OF DIRECTORS

Electing directors is the most important stock ownership right that shareholders can exercise. By electing directors who share their views, shareholders can help to define performance standards against which management can be held accountable.

According to the Report of the National Association of Corporate Directors' Blue Ribbon Commission on Director Professionalism (1996):

The accepted governance paradigm is simple: management is accountable to the board, and the board is accountable to shareholders. In the view of the Commission, the board does more than mechanically link those who manage the corporation and those who own it. Rather, as a surrogate for dispersed ownership, the board is at the very center of corporate governance itself.

The New York Stock Exchange (NYSE) on August 1, 2002 adopted listing standards that require all listed companies to meet certain standards – which include requirements for board membership and responsibilities. Maine policies meet those standards, and in some areas call for higher standards – such as in the definition of *independence* for board members.
In July 2003 the Securities and Exchange Commission (SEC) received a report which it requested from its staff concerning the nominating process for board members which included recommendations for consideration on transparency of the nominating process and shareholder access to the proxy ballot. The Commission during the fall of 2003 is in the process of considering proposed rules in this area. In general the Maine Trust Funds believes that these rules, while an improvement to previous rules, do not set standards high enough. The Maine Trust Funds' proxy voting guidelines look to hold companies to a higher standard – as delineated herein.

The Maine Trust Funds believes that it is very important that a substantial majority of the board be independent and essential that at least a majority of board members be independent of management, and that all members of key board committees – nominating, compensation, and audit – be independent. For these purposes we define independent as:

An independent director is someone whose only nontrivial professional, familial or financial connection to the corporation, its chairman, CEO or any other executive officer is his or her directorship.

A director will not generally be considered independent if he or she:

(a) Is, or formerly was employed by the corporation or an affiliate company;

(b) Is, or during the past five years was an employee or owner of a firm that is one of the corporation's or its affiliate's paid advisers or consultants, including their auditor and outside counsel;

(c) Is, or during the past five years was employed by a significant customer or supplier;

(d) Has or during the past five years had a personal services contract with the corporation, its chairman, CEO or other executive officer or any affiliate of the corporation;

(e) Is, or during the past five years was an employee, officer or director of a foundation, university or other non-profit organization that receives significant grants or endowments from the corporation or one of its affiliates;

(f) Is, or during the past five years was, a relative of an employee of the corporation or one of its affiliates;

(g) Is, or during the past five years was, part of an interlocking directorate in which the CEO or other executive officer of the corporation serves on the board of another corporation that employs the director.

The Maine Trust Funds holds directors to a high standard when voting on their election, qualifications, and compensation. Maine Trust Funds will evaluate directors fairly, rewarding them for significant contributions and holding them ultimately accountable to shareholders for corporate performance. Generally, the election of directors is uncontested. Institutional investors should use their voting rights in uncontested elections to influence financial performance and corporate strategies for achieving long

term shareholder value.
The Maine Trust Funds may in some cases, in coordination with other shareholders, propose and support their own nominees for corporate boards.

A. Voting on Director Nominees in Uncontested Elections

Votes on director nominees are made on a case-by-case basis and the Maine Trust Funds will withhold votes for the entire board of directors in some cases based on the examination of the following factors:

- Poor long-term corporate performance record relative to its peer index;
- While we believe a substantial majority of directors should be independent, we will withhold votes for all directors for a lack of majority of independent directors on the full board and lack of all independent members on key board committees including audit committees, nominating committees and compensation committees
- Lack of a nominating committee – where the full board acts as the nominating committee (and is not comprised solely of independent directors);
- Executive compensation: including excessive compensation or a history of repricing underwater stock options (e.g. adjusting the stock price for executives above the strike price);
- No action taken by the board in response to shareholder proposals that received a majority of the votes.
- Historic lack of diversity on the board, particularly race and gender diversity
- Lack of an independent lead director, unless the Chairman of the Board is an independent director.
- Lack of a process for shareholders to communicate effectively with – including receiving responses from - independent directors, and in particular the lead independent director;

In addition, shareholders have asked boards to make greater efforts to search for qualified female and minority candidates for nomination to the board of directors, to endorse a policy of board inclusiveness, and to issue reports to shareholders on their efforts to increase diversity on their boards. The Maine Trust Funds would vote in favor of such resolutions

Votes on individual directors are done on a case by case basis, and, the Maine Trust Funds will withhold votes from directors in some cases based on examination of the following factors:

- nominee is both the CEO and Chairman of the Board of Directors (except for certain situations as cited in sub-Section C below);nominee's attendance at less than 75 percent of meetings without valid reason;

- non-independent nominee being a member of a key board committees (audit, nominating and compensation committee);

- director's serving on an excessive number of other boards;

- Chapter 7 bankruptcy, SEC violations, and criminal offense related to the nominee due to actions on the company's board or in relation to any other board or executive position held by the nominee;
- nominee is or was a director of a company which filed for bankruptcy and where there are allegations of fraud

- interlocking directorships; and

performance of individual directors related to the performance of key committees of which the nominee is a member; for example the Maine Trust Funds will review the nominating committee's actions to promote board diversity, the compensation committee's actions to link executive compensation (including stock option grants and severance agreements) to long term company performance, and the audit committee's oversight of the company's finances and procedures to assure independence of the auditors.

B. Voting for Director Nominees in Contested Elections

Contested elections of directors frequently occur when a board candidate or slate runs for the purpose of seeking a significant change in corporate policy or control. While the nominees proposed by the current Board's nominating committee are automatically placed on the proxy ballot, alternate slates of directors do not get automatic access to the proxy ballot. The Maine Trust Funds supports proxy ballot access for shareholders nominees to the Board, provided that a significant number of shareholders have shown support for each such nominee. Competing slates will be evaluated based upon the personal qualifications of the candidates, the economic impact of the policies that they advance, and their expressed and demonstrated commitment to the interests of all shareholders and stakeholders (e.g. employees, customers, and communities in which a company resides), as well as using the criteria outlined above for non-contested elections.

Votes in a contested election of directors are evaluated on a case-by-case basis, considering the following factors:

- Long-term financial performance of the target company relative to its industry;
- Management's track record;
- Performance evaluation of any directors standing for re-election
- Background to the proxy contest;
- Qualifications of director nominees (both slates);
- Evaluation of what each side is offering shareholders as well as the likelihood that the proposed objectives and goals can be met;
- Stock ownership positions of individual directors; and
- Impact on stakeholders.

C. Chairman and CEO is the Same Person

One of the principal functions of the board is to monitor and evaluate the performance of the CEO. The chairman's duty to oversee management is obviously compromised when he is required to monitor himself. Generally, the Maine Trust Funds believes that the positions of chairman and CEO should be held by different persons. Generally we will also withhold our vote for a director nominee who holds both positions (see sub-section A above). However, in certain circumstances, such as a small-cap company with a limited group of leaders, it may be appropriate for these positions to be combined for some period of time.

D. Substantial Majority of Independent Directors

Maine Trust Funds believes that a board independent from management is of vital importance to a company and its shareholders. The New York Stock Exchange (NYSE) on August 1, 2002 adopted listing standards that require all listed companies to have a majority of independent directors on their board, and to have all independent directors on the audit, nominating, and compensation committees. The NYSE also called for the designation of an independent director to preside over executive sessions of the independent directors. We believe all companies should be held to these standards (not only NYSE listed companies)[2]. The Maine Trust Funds policies meet those standards, and in some areas call for higher standards – such as in the definition of *independence* for board members, and in supporting the appointment of a lead independent director in cases when the Chairman of the Board is not an independent director. Accordingly, Maine Trust Funds will cast votes in a manner that shall

[2] The NASDAQ adopted new listing standards on July 24 requiring a majority of board members to be independent. However, while they strengthened the role of independent directors in the nominating and compensation process, they do not require fully independent nominating and compensation committees.

encourage the independence of boards and their key committees. Independence will be evaluated based upon a number of factors, as enumerated in sub-Section A above.

The Maine Trust Funds would:

- Vote for shareholder proposals that request that the board be comprised of a substantial majority of independent directors, including resolutions that call for two-thirds of the directors to be independent.

- Vote for shareholder proposals that request that the board audit, compensation and/or nominating committees include independent directors exclusively.

- Vote for shareholder proposals that call for the separation of the positions of Chairman and CEO and that the Chairman of the Board of Directors to be an independent outside director.

- Vote for shareholder proposals that request that the board appoint a lead independent director in cases when the Chairman of the Board is not an independent director.

E. Stock Ownership Requirements

Corporate directors should own some amount of stock of the companies on which they serve as board members. It is a simple way to align the interests of directors and shareholders. However, many highly qualified individuals such as academics and clergy might not be able to meet this requirement. A preferred solution is to look at the board nominees individually and take stock ownership into consideration when voting on candidates.

Generally, the Maine Trust Funds would:

- Vote against shareholder proposals requiring directors to own a minimum amount of company stock in order to qualify as a director, or to remain on the board.

F. Board Structure

The ability to elect directors is the single most important use of the shareholder franchise, and all directors should be accountable on an annual basis. A classified board is a board that is divided into separate classes, with directors serving overlapping terms. A company with a classified board usually divides the board into three classes; for example, each year, one-third of the directors stand for election. A classified board makes it difficult to change control of the board through a proxy contest, since it would normally take two years to gain control of a majority of board seats.

Many in management believe that staggered boards provide continuity but empirical evidence suggests that staggered boards may not in all cases be in the shareholders' best interests. A classified board can entrench management and effectively preclude most takeover bids or proxy contests

The Maine Trust Funds would:

- Vote for shareholder proposals to declassify boards.

G. Committee Structure

The Maine Trust Funds believes that all boards should have at minimum a Nominating Committee, a Compensation Committee, and an Audit Committee, and each of these committees should be comprised of only independent directors (as defined above). Each committee should have a Charter and policies, which should be available to all shareholders (such as being posted on the company's website). The charter of the nominating committee should commit the company to seeking a diverse slate of candidates, including ethnic and gender diversity, along the lines of the Calvert model charter language.

- The Maine Trust Funds will support shareholder resolutions seeking disclosure and dissemination of committee charters and policies.

- The Maine Trust Funds will support shareholder resolutions calling for the Nominating committee to include in its Charter a commitment to seek out diverse candidates for nomination to the board.

H. Term of Office

Those who support term limits argue that this requirement would bring new ideas and approaches to a board. Here again, we prefer to look at directors as individuals rather than impose a strict rule.

Generally, the Maine Trust Funds would:

- Vote against shareholder proposals to limit the tenure of outside directors [only].

I. Cumulative Voting

Most corporations provide that shareholders are entitled to cast one vote for each share owned. Under a cumulative voting scheme the shareholder is permitted to have one

vote per share for each director to be elected. Shareholders are permitted to apportion those votes in any manner they wish among the director candidates. Shareholders have the opportunity to elect a minority shareholder to a board not controlled by a majority shareholder through cumulative voting, thereby ensuring representation for all sizes of shareholders. For example, if there is a company with a ten-member board and 500 shares outstanding—the total number of votes that may be cast is 5,000. In this case a shareholder with 51 shares (10.2 percent of the outstanding shares) would be guaranteed one board seat because all votes may be cast for one candidate. Without cumulative voting anyone controlling 51 percent of shares would control the election of all 10 directors.

Shareholders need to have flexibility in supporting candidates for a company's board of directors. This is the only mechanism that minority shareholders can use to be represented on a company's board.

The Maine Trust Funds would:

- Vote against proposals to eliminate cumulative voting.
- Vote for proposals to permit cumulative voting.

J. Director and Officer Indemnification and Liability Protection

Management proposals typically seek shareholder approval to adopt an amendment to the company's charter to eliminate or limit the personal liability of directors to the company and its shareholders for monetary damages for any breach of fiduciary duty to the fullest extent permitted by state law. In contrast, shareholder proposals seek to provide for personal monetary liability for fiduciary breaches arising from gross negligence. While Maine Trust Funds recognizes that a company may have a more difficult time attracting and retaining directors if they are subject to personal monetary liability, Maine Trust Funds believes the great responsibility and authority of directors justifies holding them accountable for their actions. Each proposal addressing director liability will be evaluated consistent with this philosophy. Maine Trust Funds may support these proposals when the company persuasively argues that such action is necessary to attract and retain directors, but Maine Trust Funds may often oppose management proposals and support shareholder proposals in light of our philosophy of promoting director accountability.

Generally, the Maine Trust Funds would:

- Vote against proposals to limit or eliminate entirely director and officer liability for (i) a breach of the duty of loyalty, (ii) acts or omissions not in good faith or involving intentional misconduct or knowing violations of the law, (iii) acts involving the unlawful purchases or redemptions of stock, (iv) the payment of unlawful dividends, or (v) use of the position as director for receipt of improper personal benefits.

K. Indemnification

Indemnification is the payment by a company of the expenses of directors who become involved in litigation as a result of their service to a company. Proposals to indemnify a company's directors differ from those to eliminate or reduce their liability because with indemnification directors may still be liable for an act or omission, but the company will bear the expense. Maine Trust Funds may support these proposals when the company persuasively argues that such action is necessary to attract and retain directors, but will generally oppose indemnification when it is being proposed to insulate directors from actions they have already taken.

Generally, the Maine Trust Funds would:

- Vote against indemnification proposals that would expand coverage beyond just legal expenses to acts, such as negligence that are more serious violations of fiduciary obligations than mere carelessness.

- Vote for only those proposals that provide such expanded coverage in cases when a director's or officer's legal defense was unsuccessful if: (1) the director was found to have acted in good faith and in a manner that he reasonably believed was in the best interests of the company, and (2) if the director's legal expenses would be covered.

II. COMPANY RESPONSIVENESS TO SHAREHOLDERS

Shareholders are the owners of the company. The members of the Board of Directors oversee the company for the benefit of the shareholders and to protect their interests. Boards of directors need to be responsive to shareholder interests.

A. Response to Majority Votes

When a shareholder resolution receives the support of a majority of the shareholders voting the Board of Directors and management have an obligation to affirmatively consider the wishes of the shareholders. All too often majority votes have been ignored by the board and management.

- The Maine Trust Funds will support shareholder resolutions requesting that a company adopt a policy that creates a mechanism and an obligation for the

board of directors to take action on any shareholder resolution that receives an affirmative vote of a majority of those shareholders voting.

B. Communication with shareholders

Members of the Board of Directors have a responsibility to listen to shareholders and to be responsive to their concerns.

The new NYSE rules require the appointment of a lead independent director when the board chairman is not an independent director. This person is the point person for communication with shareholders.

Beyond appointing a lead independent director, companies must have a process by which independent directors can receive communications directly from shareholders – without intervention by management. In addition, on issues of importance, directors have an obligation to respond to shareholders, particularly if those shareholders represent a significant percentage of the ownership of the company.

At a minimum all directors should attend the Annual Meeting of shareholders and be available to respond to shareholder questions at that time.

- The Maine Trust Funds will support shareholder proposals that request that the company create a formal mechanism for shareholder communication with independent directors.

- The Maine Trust Funds will support shareholder proposals that request that all directors be present at the annual meeting of shareholders and that there be a period set aside at the annual meeting for the independent directors to meet with shareholders and answers questions on issues of concern.

C. Shareholder access to the proxy

Under SEC rules currently in effect (until new rules currently under consideration are acted upon), it is often difficult for shareholders to get an issue before other shareholders for a vote. SEC rules limit what shareholder issues the company must include in its printed proxy statement. Management often challenges the right of shareholders to present issues in the proxy statement through the "no-action letter" process, at the SEC.

Particularly difficult is nominating candidates for the Board of Directors to challenge those recommended by the current Board's nominating committee. Under current rules challenges must be brought outside of the company's printed proxy statement process, considerably raising the cost of bringing a challenge – so high in fact that it often stops a challenge before it is mounted.

While shareholders and management should be spared from having to address every frivolous issue, and should not have to select a board from hundreds of nominees, the current rules go far beyond this protection, to the point of blocking the debate on many issues crucial to the performance of the company for the benefit of shareholders.

The Maine Trust Funds supports efforts to improve access of shareholders to the proxy ballot.

- The Maine Trust Funds encourages companies not to seek SEC no-action letters to block issues of concern to shareholders from the proxy ballot.
- The Maine Trust Funds supports proxy ballot access for shareholders' nominees to the Board, provided that a significant number of shareholders have shown support for each such nominee.

In addition the Maine Trust Funds encourages the SEC to amend its rules to provide better access to the proxy for corporate governance issues. The Maine Trust Funds also encourages the SEC to address the issue of formal procedure for direct communication between shareholders and independent directors. The Maine Trust Funds will support efforts of shareholders and other institutional investors to work with the SEC to change these rules.

III. PROXY CONTEST DEFENSES

A. Poison Pills

Shareholder rights plans, typically known as poison pills, take the form of rights or warrants issued to shareholders and are triggered when a potential acquiring stockholder reaches a certain threshold of ownership. When triggered, poison pills generally allow shareholders to purchase shares from, or sell shares back to, the target company (flip in pill) and/or the potential acquirer (flip-out pill) at a price far out of line with the fair market value. Depending on the type of pill, the triggering event can either transfer wealth from the target company or dilute the equity holdings of current shareholders. Poison pills insulate management from the threat of a change in control and provide the target board with veto power over takeover bids. Because poison pills greatly alter the balance of power between shareholders and management, shareholders should be allowed to make their own evaluation of such plans.

The Maine Trust Funds would:

- Vote for shareholder proposals that ask a company to submit its poison pill for shareholder ratification.

- Review on a case-by-case basis shareholder proposals to redeem a company's poison pill.

- Review on a case-by-case basis management proposals to ratify a poison pill.

B. Greenmail

Greenmail payments are targeted share repurchases by management of company stock from individuals or groups seeking control of the company. Since only the hostile party receives payment, usually at a substantial premium over the market value of shares, the practice discriminates against most shareholders. This transferred cash, absent the greenmail payment, could be put to much better use for reinvestment in the company, payment of dividends, or to fund a public share repurchase program.

The Maine Trust Funds would:

- Vote for proposals to adopt anti-greenmail charter or bylaw amendments or otherwise restrict a company's ability to make greenmail payments.

- Review on a case-by-case basis anti-greenmail proposals when they are bundled with other charter or bylaw amendments.

C. Shareholder Ability to Remove Directors

Shareholder ability to remove directors, with or without cause, is either prescribed by a state's business corporation law, individual company's articles of incorporation, or its bylaws. Many companies have sought shareholder approval for charter or bylaw amendments that would prohibit the removal of directors except for cause, thus ensuring that directors would retain their directorship for their full-term unless found guilty of self-dealing. By requiring cause to be demonstrated through due process, management insulates the directors from removal even if a director has been performing poorly, not attending meetings, or not acting in the best interests of shareholders.

The Maine Trust Funds would:

- Vote against proposals that provide that directors may be removed only for cause.

- Vote for proposals to restore shareholder ability to remove directors with or without cause.

- Vote against proposals that provide that only continuing directors may elect replacements to fill board vacancies.

- Vote for proposals that permit shareholders to elect directors to fill board vacancies.

D. Shareholder Ability to Alter the Size of the Board

Proposals, which would allow management to increase or decrease the size of the board at its own discretion, are often used by companies as a takeover defense. Maine Trust Funds supports management proposals to fix the size of the board at a specific number, thus preventing management when facing a proxy contest from increasing the board size without shareholder approval. By increasing the size of the board, management can make it more difficult for dissidents to gain control of the board. Fixing the size of the board also prevents a reduction in the size of the board as a strategy to oust independent directors. Fixing board size also prevents management from increasing the number of directors in order to dilute the effects of cumulative voting.

The Maine Trust Funds would:

- Vote for proposals that seek to fix the size of the board.

- Vote against proposals that give management the ability to alter the size of the board without shareholder approval.

IV. AUDITORS

Ratifying Auditors and Audit Committee oversight of the audit function

The Maine Trust Funds believes that a company's auditors should not perform non-audit related consulting work. Much of this is now prohibited by federal statute under PL 107-204 "The Sarbanes Oxley Act of 2002". The Act does give some discretion to a company's audit committee to define audit related consulting, and to grant exceptions. The Act also gives direct specific responsibility to the Audit Committee to oversee a company's finances, including the internal and external audit functions.

The Maine Trust Funds would:

- Vote for proposals to ratify auditors, unless an auditor has a financial interest in or association with the company, and is therefore not independent, or there is reason to believe that the independent auditor has rendered an opinion which is neither accurate nor indicative of the company's financial position.

- Vote for proposals requesting that a company's audit committee define "non-audit" consulting services in a way that clearly eliminates the possibility of any perceived conflict of interest by the company's auditors, and permits no exceptions to the prohibition of the auditors performing these non-audit services.

- Vote for shareholder proposals calling for adoption and disclosure of audit committee policies to implement the provision of the Sarbanes Oxley Act, and related issues – such as policies which provide the conditions under which the committee would approve non-audit consulting contracts with the company's auditors.

- Vote for shareholder proposals calling for increased transparency and disclosure of audit committee policies, through dissemination of the audit committee charter and operating policies in proxy materials and / or on the company's website.

- Vote for resolutions that encourage strengthening the Audit Committee's role in overseeing the company's finances

V. ACQUISITIONS AND MERGERS

Votes on mergers and acquisitions are considered on a case-by-case basis, taking into account at least the following:

- Anticipated financial and operating benefits;

- Offer price (cost vs. premium);

- Prospects of the combined companies;

- How the deal was negotiated; and

- Fairness opinion (or the lack of one)

- Changes in corporate governance and their impact on shareholder rights.

- Impact on community stakeholders and workforce.

A. Fair Price Provisions

Fair price provisions were originally designed to specifically defend against the most coercive of takeover devices, the two-tiered, front-end loaded tender offer. In such a hostile takeover, the bidder offers cash for enough shares to gain control of the target. At the same time the acquirer states that once

control has been obtained, the target's remaining shares will be purchased with cash, cash and securities or only securities. Since the payment offered for the remaining stock is, by design less valuable than the original offer for the controlling shares, shareholders are forced to sell out early to maximize their value. Standard fair price provisions require that, absent board or shareholder approval of the acquisition, the bidder must pay the remaining shareholders the same price for their shares that brought control.

The Maine Trust Funds would:

- Vote for fair price proposals, as long as the shareholder vote requirement embedded in the provision is no more than a majority of disinterested shares.

- Vote for proposals to lower the shareholder vote requirement in existing fair price provisions.

B. Corporate Restructuring

Votes on corporate restructuring proposals, including minority squeezeouts, leveraged buyouts, spin-offs, liquidations, and asset sales are considered on a case-by-case basis.

C. Appraisal Rights

Rights of appraisal provide shareholders who do not approve of the terms of certain corporate transactions the right to demand a judicial review in order to determine the fair value for their shares. The right of appraisal generally applies to mergers, sales of essentially all assets of the corporation, and charter amendments that may have a materially adverse effect on the rights of dissenting shareholders.

The Maine Trust Funds would:

- Vote for proposals to restore, or provide shareholders with, rights of appraisal.

D. Spin-offs

Votes on spin-offs are considered on a case-by-case basis depending on the tax and regulatory advantages, planned use of sale proceeds, market focus, and managerial incentives.

E. Asset Sales

Votes on asset sales are made on a case-by-case basis after considering the impact on the balance sheet/working capital, value received for the asset, and potential elimination of diseconomies.

F. Liquidations

Votes on liquidations are made on a case-by-case basis after reviewing management's efforts to pursue other alternatives, appraisal value of assets, and the compensation plan for executives managing the liquidation.

G. Changing Corporate Name

The Maine Trust Funds would vote for changing the corporate name if proposed or supported by management.

VI. SHAREHOLDER RIGHTS

A. Confidential Voting

The confidential ballot ensures that voters are not subject to real or perceived coercion. In an open voting system management can determine who has voted against its nominees or proposals before a final vote count. As a result, shareholders can be pressured to vote with management at companies with which they maintain or would like to establish a business relationship.

The Maine Trust Funds would:

- Vote for shareholder proposals that request corporations to adopt confidential voting, use independent tabulators and use independent inspectors of election as long as the proposals include clauses for proxy contests as follows: In the case of a contested election, management is permitted to request that the dissident group honor its confidential voting policy. If the dissidents agree, the policy remains in place. If the dissidents do not agree, the confidential voting policy is waived.

- Vote for management proposals to adopt confidential voting.

B. Shareholder Ability to Call Special Meetings

Most state corporation statutes allow shareholders to call a special meeting when they want to take action on certain matters that arise between regularly scheduled annual meetings. Sometimes this right applies only if a shareholder or a group of shareholders own a specified percentage of shares, with 10 percent being the most common. Shareholders may lose the ability to remove directors, initiate a shareholder resolution, or respond to a beneficial offer without having to wait for the next scheduled meeting, if they are unable to act at a special meeting of their own calling.

The Maine Trust Funds would:

- Vote against proposals to restrict or prohibit shareholder ability to call special meetings.

- Vote for proposals that remove restrictions on the right of shareholders to act independently of management.

C. Shareholder Ability to Act by Written Consent

Consent solicitations allow shareholders to vote on and respond to shareholder and management proposals by mail without having to act at a physical meeting. A consent card is sent by mail for shareholder approval and only requires a signature for action. Some corporate bylaws require supermajority votes for consents while at others standard annual meeting rules apply. Shareholders may lose the ability to remove directors, initiate a shareholder resolution, or respond to a beneficial offer without having to wait for the next scheduled meeting if they are unable to act at a special meeting of their own calling.

The Maine Trust Funds would:

- Vote against proposals to restrict or prohibit shareholder ability to take action by written consent.

- Vote for proposals to allow or make easier shareholder action by written consent.

D. Equal Access

- Vote for shareholder proposals that would allow significant company shareholders equal access to management's proxy material in order to evaluate and propose voting recommendations on proxy proposals and director nominees, and in order to nominate their own candidates to the board.

E. Unequal Voting Rights

Incumbent managers use unequal voting rights assigned to them of their common shares to make those rights superior to other shareholders in order to concentrate their power and insulate themselves from the wishes of the majority of shareholders. This also can occur in a company that was previously owned by a family which wishes to retain voting control after reducing their economic holding. This practice is what is known as a dual class voting structure. Dual class exchange offers involve a transfer of

voting rights from one group of shareholders to another group of shareholders typically through the payment of a preferential dividend. A dual class recapitalization also establishes two classes of common stock with unequal voting rights, but initially involves an equal distribution of preferential and inferior voting shares to current shareholders.

The Maine Trust Funds would:

- Vote against dual class exchange offers.
- Vote against dual class recapitalizations.
- Support shareholder resolutions that call for one share, one vote.

F. Supermajority Shareholder Vote Requirement to Amend the Charter or Bylaws

Supermajority shareholder vote requirements for charter or bylaw amendments are often the result of "lock-in" votes, which are the votes, required to amend new provisions to the corporate charter. Supermajority provisions violate the principle that a simple majority of voting shares should be all that is necessary to affect change regarding a company and its corporate governance provisions. Requiring more than this may entrench managers by blocking actions that are in the best interests of shareholders.

The Maine Trust Funds would:

- Vote against management proposals to require a supermajority shareholder vote to approve charter and bylaw amendments.
- Vote for shareholder proposals to lower supermajority shareholder vote requirements for charter and bylaw amendments.

G. Supermajority Shareholder Vote Requirement to Approve Mergers

Supermajority provisions violate the principle that a simple majority of voting shares should be all that is necessary to effect change regarding a company and its corporate governance provisions. Requiring more than this may entrench managers by blocking actions that are in the best interests of shareholders.

The Maine Trust Funds would:

- Vote against management proposals to require a supermajority shareholder vote to approve mergers and other significant business combinations.
- Vote for shareholder proposals to lower supermajority shareholder vote requirements for mergers and other significant business combinations.

H. Reimburse Proxy Solicitation Expenses

Decisions to provide full reimbursement for dissidents waging a proxy contest are made on a case-by-case basis.

I. Access to the Proxy Ballot

See Section II. Above -- COMPANY RESPONSIVENESS TO SHAREHOLDERS

VII. CAPITAL STRUCTURE

The management of a corporation's capital structure involves a number of important issues, including dividend policy, types of assets, and opportunities for growth, ability to finance new projects internally and the cost of obtaining additional capital. Many financing decisions have a significant impact on shareholder value, particularly when they involve the issuance of additional common stock, preferred stock or debt.

A. Common Stock Authorization

State statutes and stock exchanges require shareholder approval for increases in the number of common shares. Corporations increase their supply of common stock for a variety of ordinary business purposes: raising new capital, funding stock compensation programs, business acquisitions, and implementation of stock splits or payment of stock dividends.

Maine Trust Funds supports management proposals requesting shareholder approval to increase authorized common stock when management provides persuasive justification for the increase. For example, Maine Trust Funds will support increases in authorized common stock to fund stock splits that are in shareholders' interests. Maine Trust Funds will evaluate on a case-by-case basis proposals when the company intends to use the additional stock to implement a poison pill or other takeover defense. Maine Trust Funds will evaluate the amount of additional stock requested in comparison to the requests of the company's peers as well as the company's articulated reason for the increase.

Generally, the Maine Trust Funds would:

- Review on a case-by-case basis proposals to increase the number of shares of common stock authorized for issue.
- Vote against proposed common stock authorizations that increase the existing authorization by more than 50 percent unless a clear need for the

excess shares is presented by the company.

B. Reverse Stock Splits

Reverse splits exchange multiple shares for a lesser amount to increase share price. Increasing share price is sometimes necessary to restore a company's share price to a level that will allow it to be traded on the national stock exchanges. In addition, some brokerage houses have a policy of not monitoring or investing in very low priced shares. Reverse stock splits help maintain stock liquidity. We will review management proposals to implement a reverse stock split on a case-by-case basis, taking into account whether there is a corresponding proportional decrease in authorized shares. We will generally support a reverse stock split if management provides a reasonable justification for the split and reduces authorized shares accordingly. Without a corresponding decrease, a reverse stock split is effectively an increase in authorized shares by reducing the number of shares outstanding while leaving the number of authorized shares to be issued at the pre-split level.

Generally, the Maine Trust Funds would:

- Vote to support a reverse stock split if management provides a reasonable justification for the split and reduces authorized shares accordingly.

C. Blank Check Preferred Authorization

Preferred stock is an equity security, which has certain features similar to debt instruments, such as fixed dividend payments, seniority of claims to common stock, and in most cases no voting rights. The terms of blank check preferred stock give the board of directors the power to issue shares of preferred stock at their discretion—with voting rights, conversion, distribution and other rights to be determined by the board at time of issue. Blank check preferred stock can be used for sound corporate purposes, but could be used as a devise to thwart hostile takeovers without shareholder approval.

Generally the Maine Trust Funds would:

- Vote for proposals to create blank check preferred stock in cases when the company expressly states that the stock will not be used as a takeover defense or carry superior voting rights.

  Review on a case-by-case basis proposals that would authorize the creation of new classes of preferred stock with unspecified voting, conversion, dividend and distribution, and other rights.

- Review on a case-by-case basis, proposals to increase the number of authorized blank check preferred shares. If the company does not have any preferred shares outstanding we will vote against the requested increase.

- Vote for shareholder proposals to have blank check preferred stock placements, other than those shares issued for the purpose of raising capital or making acquisitions in the normal course of business, submitted for shareholder ratification.

D. Adjust Par Value of Common Stock

Stock that has a fixed per share value that is on its certificate is called par value stock. The purpose of par value stock is to establish the maximum responsibility of a stockholder in the event that a corporation becomes insolvent. Proposals to reduce par value come from certain state level requirements for regulatory industries such as banks, and other legal requirements relating to the payment of dividends.

The Maine Trust Funds would:

- Vote for management proposals to reduce the par value of common stock.

E. Preemptive Rights

Preemptive rights permit shareholders to share proportionately in any new issues of stock of the same class. These rights guarantee existing shareholders the first opportunity to purchase shares of new issues of stock in the same class as their own and in the same proportion. The absence of these rights could cause stockholders' interest in a company to be reduced by the sale of additional shares without their knowledge and at prices unfavorable to them. Preemptive rights, however, can make it difficult for corporations to issue large blocks of stock for general corporate purposes. Both corporations and shareholders benefit when corporations are able to arrange issues without preemptive rights that do not result in a substantial transfer of control.

Generally, the Maine Trust Funds would:

- Review on a case-by-case basis proposals to create or abolish preemptive rights. In evaluating proposals on preemptive rights, we look at the size of a company and the characteristics of its shareholder base.

F. Debt Restructuring

We review on a case-by-case basis proposals to increase common and/or preferred shares and to issue shares as part of a debt restructuring plan. Consider the following issues:

- Dilution—How much will ownership interests of existing shareholders be reduced and how extreme will dilution to any future earnings be?

- Change in Control—Will the transaction result in a change in control of the company?

- Bankruptcy—Is the threat of bankruptcy, which would result in severe losses in shareholder value, the main factor driving the debt restructuring?

Generally, the Maine Trust Funds would:

- Vote to approve proposals that facilitate debt restructuring unless there are clear signs of self-dealing or other abuses.

VII. EXECUTIVE AND DIRECTOR COMPENSATION

Executive Compensation is comprised of three basis components – salary, bonus, and equity compensation. In addition there are other forms of compensation such as retirement benefits, severance benefits, basic employee benefits (such as health and life insurance), loans (and forgiveness of loans), payment of taxes on certain compensation, personal use of company facilities (such as company aircraft), and other "perks".

A good compensation policy balances these different forms of compensation to provide incentives for employee effort, and compensation that ties pay to performance. Developing measures of performance for the CEO and other executives is another key component of a compensation plan.

Unfortunately the bull market of the 1990s and the recent corporate scandals have shown that some compensation plans have resulted in exorbitant CEO pay, some plans have not paid for success (and in some cases paid for failure), and some forms of compensation have been abused by management without adequate board oversight.

It is the role of the Compensation Committee to set the compensation for top management and set compensation policy for the company as a whole. Shareholders look to the compensation committee to align management's interests with shareholder interest, while providing incentives for long term performance.

Exorbitant pay, unwarranted severance packages, abuse of "perks", and corporate scandals where executives have been highly paid while shareholders have lost billions of dollars, and employees have lost their jobs and much of their life savings have shown that many compensation committees have not been doing their jobs. This has provided a wake up call to all compensation committee members on the importance of their job to provide compensation incentives while protecting the financial interests of shareholders.

The Maine Trust Funds proxy voting policies are based on pay for long term sustained performance, and the responsibility of the Compensation Committee to make this happen.

A. Equity Compensation

Maine Trust Funds support compensating executives at a reasonable rate and believes that executive compensation should be strongly correlated to the long term performance of the company. The Maine Trust Funds have supported stock options as a significant component of compensation. However, volatile stock markets and excessive ('mega') grants to top executives have resulted in some executive compensation far beyond the value that the executive has added to the company. In addition, some executives have been accused of inappropriately (and in some cases illegally) managing company earnings to achieve short term financial gain from their option grants at the expense of long term interests of the company and its shareholders. Other forms of equity compensation – such as restricted stock that is not vested for a number of years, and cannot be sold until after the executive has retired – may more closely align long term shareholder interest with that of the executive.

Stock option and other forms of compensation should be performance-based with an eye toward improving shareholder value and maintaining that value over the long term. Well-designed stock option plans align the interests of executives and shareholders by providing that executives benefit when stock prices rise as the company—and shareholders—prosper over the long term.

- Maine Trust Funds will support equity compensation plans that provide challenging performance objectives and serve to motivate executives to excellent long term performance, and oppose plans that offer unreasonable benefits to executives that are not available to any other shareholders.

Stock option plans

- The NYSE and the NASDAQ now require that shareholders be given the opportunity to vote on all stock option plans (with some limited exceptions such as ESOPs and 401(k)s. When evaluating executive and director compensation The Maine Trust Funds will review the following factors: whether the proposed plan is being offered at fair market value, or at a discount; excessively dilutes the earnings per share of the outstanding shares; potential voting power dilution of 10 percent of shares outstanding; awards must be granted at 100 percent of fair market value or greater on the date of grant (however, exceptions up to a fifteen percent discount are allowable for broad-based employee participation); repricing underwater stock options and the company's history of repricing;

- The Maine Trust Funds will oppose any plan that gives management the ability to replace or reprice "underwater" options. Repricing is an amendment to a previously granted stock option contract that reduces the option exercise price. Options are "underwater" when market price of the common stock is below the current option contract price. Options can also be repriced through cancellations and regrants. The typical new grant would have a ten-year term, new vesting restrictions, and a lower exercise price reflecting the current lower market price. Maine Trust Funds will also consider any other features of the plan that may not be in shareholders' best interest.

- The Maine Trust Funds will support shareholder resolutions calling stock option grants to be treated as an expense for accounting and earnings calculation purposes.

B. OBRA-Related Compensation Proposals

Section 162(m) of Omnibus Budget Reconciliation Act (OBRA) limits the tax deductibility of compensation in excess of $1 million to a named executive officer unless certain prescribed actions are taken including shareholder approval and the establishment of performance goals.

The Maine Trust Funds would:

- Vote for plans that simply amend shareholder-approved plans to include administrative features or place a cap on the annual grants any one participant may receive to comply with the provisions of Section 162(m) of OBRA

- Vote for amendments to add performance goals to existing compensation plans to comply with the provisions of Section 162(m) of OBRA

- Generally, the Maine Trust Funds would:

  - Evaluate on a case-by-case basis a vote for amendments to existing plans to increase shares reserved and to qualify the plan for favorable tax treatment under the provisions of Section 162(m).

  - Vote against cash or cash-and-stock bonus plans to exempt the compensation from taxes under the provisions of Section 162(m) of OBRA if the plan provides for awards to individual participants in excess of $2 million a year.

  - Vote against plans that are deemed to be excessive because they are not justified by performance measures.

C. Shareholder Proposals to Limit Executive and Director Pay

Shareholder proposals to limit executive and director pay need to be evaluated on a case-by-case basis.

Generally, the Maine Trust Funds would:

- Vote for shareholder proposals that seek additional disclosure of executive and director pay information. Current SEC requirements only call for the disclosure of the top 5 most highly compensated executives and only if they earn more than $100,000 in salary and benefits.

- Vote for shareholder proposals that seek to eliminate outside directors' retirement benefits.

- Vote for shareholder proposals that seek to provide for indexed and/or premium priced options.

- Vote for shareholder proposals that seek non-discrimination in retirement benefits, and which address retirement benefits and pension plans for top management that are in excess [to] of that provided for other employees

- Vote for shareholder resolutions that request that earnings from a company's pension plan not be included in earnings for the purpose of evaluating whether an executive met performance targets in their compensation agreement (i.e. earnings per share)

- Review on a case-by-case basis all other shareholder proposals that seek to tie executive compensation to non-financial performance goals. This includes shareholder proposals that seek to link executive compensation to customer, employee, or stakeholder satisfaction, environmental concerns, etc.

D. Golden and Tin Parachutes and other severance agreements

Golden and tin parachutes are designed to protect the employees of a corporation in the event of a change in control. With Golden Parachutes senior level management employees receive a pay out during a change in control at usually two to three times base salary. Increasingly companies that have golden parachute agreements for executives are extending coverage for all their employees via tin parachutes The SEC requires disclosure of all golden parachutes arrangements in the proxy, such disclosure is not required of tin parachutes.

Also, many contract change of control provisions also apply to severance when the Board terminates the CEO. In addition, many CEO's have "evergreen" contracts that automatically extend every day so that the contract always has the same amount of time remaining (typically three years). This impacts golden parachutes in that there is always an extended financial obligation to the CEO that must be paid in the case of severance.

The Maine Trust Funds would:

- Vote for shareholder proposals to have golden and tin parachutes submitted for shareholder ratification.
- Vote for shareholder proposals that would request that severance agreements over a certain amount (such as over three times annual compensation) be brought before shareholders for approval.
- Vote for shareholder proposals that request that the CEO contract not be an evergreen contract.

Generally, the Maine Trust Funds would:

- Vote against all proposals to ratify golden parachutes; vote on tin parachutes on a case by case basis

E. Employee Stock Ownership Plans (ESOPs)

We vote for proposals that request shareholder approval in order to implement an ESOP or to increase authorized shares for existing ESOPs, except in cases when the number of shares allocated to the ESOP is "excessive" (i.e., generally greater than five percent of outstanding shares).

IX. STATE AND COUNTRY OF INCORPORATION

A. Voting on State Takeover Statutes

We review on a case-by-case basis proposals to opt in or out of state takeover statutes (including control share acquisition statutes, control share cash-out statutes, freezeout provisions, fair price provisions, stakeholder laws, poison pill endorsements, severance pay and labor contract provisions, anti-greenmail provisions, and disgorgement provisions). We generally support opting into stakeholder protection statutes if they provide comprehensive protections for employees and community stakeholders. We would be less supportive of takeover statutes that only serve to protect incumbent management from accountability to shareholders and which negatively influence shareholder value.

B. Voting on Reincorporation Proposals

Proposals to change a company's state of incorporation are examined on a case-by-case basis.

Proposals to reincorporate outside of the United States and proposals to expatriated companies to reincorporate back in the US will be examined closely.

- The Maine Trust Funds will vote against any reincorporation proposal that is found to reduce the rights of shareholders.
- The Maine Trust Funds will vote for shareholder proposals that request an expatriated company to study re-incorporation back in the US and report back to shareholders.
- The Maine Trust Funds will vote for proposals to re-incorporate back in the US if those proposals are found to increase rights of shareholders, and / or have financial benefits to shareholders.

IX. CORPORATE CITIZENSHIP AND ENVIRONMENTAL ISSUES

In general we vote for shareholder resolutions on responsible business practices, workforce, and environmental proposals that create good corporate citizens while enhancing long-term shareholder value.

In most cases we vote for disclosure reports that seek additional information that is not available elsewhere and that is not proprietary, particularly when it appears companies have not adequately addressed shareholders' social, workforce, and environmental concerns.

In determining our vote on shareholder social, workforce, and environmental proposals, we also analyze the following factors:

- Whether adoption of the proposal would have either a positive or negative impact on the company's short-term or long-term share value;
- The percentage of sales, assets and earnings affected;

- The degree to which the company's stated position on the issues could affect its reputation or sales, or leave it vulnerable to boycott or selective purchasing;

- Whether the issues presented should be dealt with through government or company-specific action;

- Whether the company has already responded in some appropriate manner to the request embodied in a proposal;

- Whether the company's analysis and voting recommendation to shareholders is persuasive;

- What other companies have done in response to the issue;

- Whether the proposal itself is well framed and reasonable;

- Whether implementation of the proposal would achieve the objectives sought in the proposal; and

- Whether the subject of the proposal is best left to the discretion of the board.

In general, we support proposals that request the company to furnish information helpful to shareholders in evaluating the company's operations. In order to be able to intelligently monitor their investments, shareholders often need information best provided by the company in which they have invested. Requests to report such information merit support. We will evaluate proposals seeking the company to cease taking certain actions that the proponent believes is harmful to society or some segment of society with special attention to the company's legal and ethical obligations, its ability to remain profitable, and potential negative publicity if the company fails to honor the request.

A. Special Policy Review and Shareholder Advisory Committees

These resolutions propose the establishment of special committees of the board to address broad corporate policy and provide forums for ongoing dialogue on issues including, but not limited to shareholder relations, the environment, occupational health and safety, and executive compensation.

The Maine Trust Funds would:

- Vote to support special committees when they appear to offer a potentially effective method for enhancing shareholder value.

B. Military Sales

Shareholder proposals from church groups ask companies for detailed reports on foreign military sales. These proposals often can be created at reasonable cost to the company and contain no proprietary data. Large companies can supply this information without undue burden and provide shareholders with information affecting corporate performance and decision making.

Generally, the Maine Trust Funds would:

- Vote to support reports on foreign military sales and economic conversion of facilities.

- Generally vote against proposals asking a company to develop specific military contracting criteria.

C. Equal Employment Opportunity and other work place practice reporting issues

These proposals generally request that a company establish a policy of reporting to shareholders its progress with equal opportunity and affirmative action programs. The costs of violating federal laws that prohibit discrimination by corporations are high and can affect corporate earnings. The Equal Opportunities Employment Commission does not release the companies' filings to the public, unless it is involved in litigation, and it is difficult to obtain from other sources. Companies need to be very sensitive to minority employment issues as the new evolving work force becomes increasingly diverse. This information can be provided with little cost to the company and does not create an unreasonable burden on management.

The Maine Trust Funds would:

- Vote for proposals calling for action on equal employment opportunity and anti-discrimination.

- Vote for legal and regulatory compliance and public reporting related to non-discrimination, affirmative action, workplace health and safety, environmental issues, and labor policies and practices that effect long-term corporate performance.

- Vote for resolutions asking boards to make greater efforts to search for qualified female and minority candidates for nomination to the board of directors, to endorse a policy of board inclusiveness, and to issue reports to shareholders on their efforts to increase diversity on their boards.

- Vote for nondiscrimination in salary, wages and all benefits

- Vote for resolutions asking for disclosure of statistical information and policy statements regarding non-discriminatory hiring, performance evaluation and advancement, and workforce composition.

- Vote for resolutions asking for disclosure of a company's EEO-1 consolidated data report that is filed with the Equal Employment Opportunity Commission (EEOC).

- Vote for resolutions asking a company to create policy statements regarding nondiscriminatory hiring, performance evaluations, advancement and affirmative action.

- Vote for resolutions that ask companies to add the terms "sexual orientation", "gender identity", and /or "gender expression" to written nondiscrimination policies

- Vote for resolutions that ask a company to adopt written prohibitions against discrimination in employment based on sexual orientation.

D. Tobacco

Maine Trust Funds' votes on tobacco related shareholder resolutions would be based on the financial impact of such resolutions on the fund. Shareholder resolutions fall into a number of categories: 1) companies doing business with tobacco related companies are asked to change or end these relationships; 2) media and tobacco companies to change their marketing practices; and 3) companies asked to change their structure to minimize the impact of tobacco operations.

Generally, the Maine Trust Funds would:

- View spin-off of tobacco related businesses on a case-by-case basis and analysis as any other corporate restructuring.

The Maine Trust Funds would:

- Vote to support increased disclosure with tobacco-related issues.

E. Non-Discrimination in Retirement Benefits

A cash balance plan is a defined benefit plan that treats an earned retirement benefit as if it were a credit from a defined contribution plan, but which provides a stated benefit at

the end of its term. Because employer contributions to these plans are credited evenly over the life of a plan, and not based on a seniority formula they may reduce pay-outs to long term employees who are currently vested in plans.

Cash-balance pension conversions are undergoing congressional and federal agency scrutiny in the wake of high-profile EEOC complaints on age discrimination and employee anger at companies like IBM. While significant change is unlikely in the short-term, business interests are worried enough that the National Association of Manufacturers and other business lobbies are forming a Capitol Hill coalition to preserve the essential features of the plans and to overturn a recent IRS ruling. Driving the push behind conversions from traditional pension plans to cash-balance plans are the substantial savings that companies generate in the process. Critics point out that this saving is gained at the expense of the most senior employees. Resolutions call on corporate boards to establish a committee of outside directors to prepare a report to shareholders on the potential impact of pension-related proposals now being considered by national policymakers in reaction to the controversy spawned by the plans.

The Maine Trust Funds would:

- Vote to support non-discrimination in retirement benefits.

F. "CERES Principles"

These resolutions call for the adoption of principles that encourage the company to protect the environment and the safety and health of its employees.

The CERES Principles, formulated by the Coalition of Environmentally Responsible Economies, require signing companies to address environmental issues, including protection of the biosphere, sustainable use of natural resources, reduction and disposal of wastes, energy conservation, and employee and community risk reduction. A signatory to the CERES Principles would disclose its efforts in such areas through a standardized report submitted to CERES and made available to the public.

Evidence suggests that environmentally conscious companies may realize long-term savings by implementing programs to pollute less and conserve resources. In addition, environmentally responsible companies stand to benefit from good public relations and new marketing opportunities. Moreover, the reports that are required of signing companies provide shareholders with more information concerning topics they may deem relevant to their company's financial well being.

Many companies have voluntarily adopted these principles. Maine Trust Funds supports proposals that improve the company's public image, reduces exposure to liabilities, and establishes standards so that environmentally responsible companies and markets are not at a competitive financial disadvantage.

The Maine Trust Funds would:

- Vote for the adoption of the CERES Principles.
- Vote for resolutions aimed at matters of specific ecological impact, e.g. sustainable use of natural resources, waste reduction, wiser use of energy, reduction of health and safety risks, marketing of safer products and services, reduction or elimination of chlorine in production processes, responsible environmental restoration, etc.
- Vote for resolutions asking companies to report on, assess the impact of and curtail environmental hazards to communities that result from their activities
- Vote for resolutions that seek to prevent oil companies from exploration and oil and gas extraction in areas where there is a significant danger of permanent damage to the environment.

G. Global Warming and Climate Change

According to the CERES report *Value at Risk: Climate Change and the Future of Governance* "Climate change is rapidly becoming one of the core challenges of the 21st century for corporate directors and institutional investors. ...The risks here are two-fold: (1) the economic/financial risk from the damages and remediation due to climate change itself (directly to companies and indirectly through general socio-economic disruptions in the US and abroad), and (2) exposure to the costs of greenhouse gas emissions in any regime to mitigate climate change. These are not necessarily applicable to the same corporate entities. The first set of risks affects companies vulnerable to factors including sea level rise, weather extremes, temperature and precipitation changes, etc.; the second set of risks affects carbon-intensive companies, which would face the costs of any mitigation regimes."

Maine law (38 MSRA chapter 3-A section 574-578) requires new sources of greenhouse gases to be reported to the Department of Environmental Protection; the creation of an inventory of greenhouse gas emissions associated with state-owned facilities and state-funded programs; a plan for reducing those emissions in accordance with levels cited in the Kyoto Treaty; carbon emission reduction agreements with non-profit organizations and businesses; and a long-term climate action plan for the State Of Maine.

The Maine Trust Funds supports examination of the risks that companies face due to climate change. The Maine Trust Funds will:

- Vote for resolutions that ask companies to report on greenhouse gas emissions from company operations and of the company's products in

relation to their impact on global climate change. Support resolutions that call for a standard reporting format and data baseline so that data from the company can be accurately compared to data from other companies, and compared to recognized measurement standards.

- Vote for resolutions that request a company to prepare a report that evaluates the risks that the company may be facing due to climate change

- Vote for resolutions that request a company to prepare a "sustainability report" – such as the Global Reporting Initiative – that describes how the company plans to address issues of climate change and other long term social, economic and environmental issues in order to maintain the long term financial health of the company in a changing environment.

H. Environmental Justice

Quite often, corporate activities that damage the environment have a disproportional impact on poor people, people of color, indigenous peoples and other marginalized groups. For example, companies will sometimes locate environmentally damaging operations in poor communities, or in developing countries where poor or indigenous people have little or no voice in political and economic affairs.

- The Maine Trust Funds will ordinarily **support** proposals asking companies to report on whether environmental and health risks posed by their activities fall disproportionately on any one group or groups, and to take action to reduce those risks at reasonable cost to the company.

- The Maine Trust Funds will ordinarily **support** proposals asking companies to respect the rights of local and indigenous communities to participate in decisions affecting their local environment.

I. MacBride Principles

These resolutions call for the implementation of the MacBride Principles for operations located in Northern Ireland. They request companies operating abroad to support the equal employment opportunity policies that apply in facilities they operate domestically. State of Maine statutes require such a policy of companies in which it is invested. The principles were established to address the sectarian hiring problems between Protestants and Catholics in Northern Ireland. It is well documented that Northern Ireland's Catholic community faces much higher unemployment figures than the Protestant community. In response to this problem, the U.K. government instituted the New Fair Employment Act of 1989 (and subsequent amendments) to address the sectarian hiring problems. Many companies believe that the Act adequately addresses the problems and that further action, including implementation of the MacBride

Principles, only duplicates the efforts already underway. Because Maine statutes (Title 5 section 1955) prohibit the Maine Trust Funds from holding stocks in companies doing business in Northern Ireland that have not implemented the MacBride principles, the Maine Trust Funds has notified its investment managers to not invest in companies that have not adopted the MacBride Principles.

The Maine Trust Funds will look for alternate ways to support resolutions to these companies – such as writing letters to these companies urging them to implement the MacBride principles, thus enabling the Maine Trust Funds to own stock in their company.

J. Contract Supplier Standards

These resolutions call for compliance with governmental mandates and corporate policies regarding nondiscrimination, affirmative action, work place safety and health and other basic labor protections.

Other resolutions address global labor and human rights issues, particularly in relation to international operations of companies and the use of international suppliers. These resolutions call for global companies to implement comprehensive codes of conduct, to abide by conventions of the International Labor Organization (ILO) on workplace human rights, in order to assure that their products are made under humane conditions and workers are paid a living wage. We believe that adopting these policies are not only worthy goals in and of themselves, but are also good business practice to protect shareholder value by avoiding negative publicity, public protests and a loss of consumer confidence.

Maine has adopted a State Purchasing Code of Conduct (Title 5 section 1825) that requires that all companies contracting with the State shall comply with:

> A. all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes and laws relating to discrimination in hiring, promotion or compensation on the basis of race, disability, national origin, gender, sexual orientation or affiliation with any political, nongovernmental or civic group except when federal law precludes the State from attaching the procurement conditions provided in Title 5 section 1825.
>
> B. Comply with all human and labor rights treaty obligations that are shared by the United States and the country in which the goods are assembled. These may include obligations with regard to forced labor, indentured labor, slave labor, child labor, involuntary prison labor, physical and sexual abuse and freedom of association.

Generally, the Maine Trust Funds would:

- Vote for resolutions asking companies to ensure that their products are not made in sweatshops.

- Vote for resolutions that ask companies to help eradicate forced labor and child labor, promote the right of workers to form and join labor unions and to bargain collectively, seek to ensure that all workers are paid a living wage, and require that company contractors submit to independent monitoring of their factories.

- Vote to support proposals that seek publication of a "Code of Conduct" to the company's foreign suppliers and licensees, requiring they satisfy all applicable standards and laws protecting employees' wages, benefits, working conditions, freedom of association, and other rights.

- Vote to support proposals that would request a report summarizing the company's current practices for enforcement of its Code of Conduct.

- Vote to support proposals that would establish independent monitoring programs in conjunction with local and respected non-governmental religious and human rights groups to monitor suppliers and licensee compliance with the Code of Conduct.

- Vote to support proposals that would create incentives to encourage suppliers to raise standards rather than terminate contracts.

- Vote to support proposals that would implement policies for ongoing wage adjustments, ensuring adequate purchasing power and a sustainable living wage for employees of foreign suppliers and licensees.

- Vote to support proposals that would request public disclosure of contract supplier reviews on a regular basis.

- Vote to support proposals that would adopt labor standards for foreign and domestic suppliers to ensure that the company will not do business with foreign suppliers that manufacture products for sale in the U.S. using forced labor, child labor, or that fail to comply with applicable laws protecting employee's wages and working conditions.

K. Corporate Conduct and Human Rights

Maine Trust Funds will generally support proposals that call for the adoption and/or enforcement of principles or codes relating to countries in which there are systematic

violations of human rights; such as the use of slave, child, or prison labor; a government that is illegitimate; or there is a call by human rights advocates, pro-democracy organizations, or legitimately-elected representatives for economic sanctions.

Generally, the Maine Trust Funds would:

- Vote for proposals that support Principles or Codes of Conduct relating to company investment in countries with patterns of human rights abuses (Northern Ireland, Burma, former Soviet Union, and China).

- Vote for proposals that reflect the provisions of the General statutes of Maine.

L. Equal Credit and Insurance Opportunity

Access to capital and insurance is essential to participating in our society. The Equal Credit Opportunity Act prohibits lenders from discriminating with regard to race, religion, national origin, sex, age and the like. "Redlining" -- the systematic denial of services in an area based on its economic or ethnic profile – has similar negative impact on denying participation in our society. The Maine Trust Funds will

- Vote for resolutions requesting reports on landing practices in low/moderate income or minority areas and on steps to remedy mortgage lending discrimination

- Vote for resolutions requesting the development of fair "lending policies" that would assure access to credit for major disadvantaged groups and require annual reports to shareholders on their implementation

- Vote for resolutions that preclude predatory lending practices

- Vote for resolutions that ask insurance companies and banks to appraise their practices and develop policies to avoid redlining.

M. Political Contributions

Shareholders concerned about the influence of corporate funds on the political process have called attention to the use of "soft money"—funds that are not given directly to candidates, but to political parties for "party-building" activities. Resolutions typically call for greater disclosure of corporate campaign financing and policies to protect employees from unwanted political solicitations and the reputation of the company from potential scandal.

- The Maine Trust Funds will generally **support** resolutions asking companies for greater disclosure of corporate campaign financing.

M. Business Strategy.

Shareholders have introduced proposals asking boards of directors to examine the impact of particular business strategies on long-term corporate value in light of changing market conditions, and to report back to shareholders. The Maine Trust Funds generally support enhanced disclosure to shareholders on how the company addresses issues that may present significant risk to long-term corporate value.

Office of the Maine State Treasurer
Investment and Distribution Policy Statement for State Held Trusts

April 2007

I. Trust Purposes and Directives

The governance structure and basic investment-vehicle restrictions for the State's permanent trusts (the "Trusts") are set forth in 5 M.R.S.A §138, which says in part:

> "The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, shall invest all permanent funds held in trust by the State in such securities as are legal investments for savings banks under Title 9-B, except as provided in chapter 161. For purposes of this section, those investments include, without limitation, shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section does not apply to the fund of the Employees' Retirement System or the fund arising from the lands reserved for public uses."

The Trusts of the State of Maine are the Baxter State Park Trust, Lands Reserved Trust, MacWorth Island Trust, Permanent School Trust and a collection of many individual trusts, hereinafter referred to as the Several Trusts, in which the settler has named the State of Maine as trustee. The Baxter Trust was initially funded by gifts from Governor Percival Procter Baxter and formally established by Private and Special Law 1961, Chapter 21 and Private and Special Law 1965, Chapter 30. These laws state that the purpose of the trust funds is to "share with the State in part the cost of caring for, protecting and operating" the Baxter State Park. The laws further direct that the trust funds be managed as follows:

> "[T]the principal thereof to be invested and reinvested, the income therefrom to be used by said State for the care, protection and operation of said 201,018 acres of forest land known as BAXTER STATE PARK as

provided in Laws of Maine (1961), Chapter 21, and administered according to the provisions of said Baxter State Park Trust Fund."

II. Trust Investment Objectives

1. To provide as much income as possible for the Trusts now and in the future, with neither period favored at the expense of other.

2. To have the income be somewhat predictable in the near term, and to have the income not decline significantly at any time.

3. To keep the market value of the endowment assets whole, after inflation, while recognizing that normal security price gyrations may keep market values over or under-priced for several years at a time.

4. To avoid risks which might reasonably impair the ability to meet Objectives 1, 2, and 3.

III. Trust Administration

The Trusts are administered by the Maine State Treasurer, with advice and assistance from the above-referenced state employees and from investment advisors selected from time to time by the Treasurer. Management of the Trusts' investment portfolio is handled by the designee(s) of the Treasurer.

IV. Investment Strategy

Because of the very long term nature of their liabilities, and the need for growing income and market values to offset inflation, the trust funds ordinarily will be invested mostly in equities. The investment manager(s) may deviate from this standard whenever they deem it advisable, but only within the limits set down below in Section IV.

The normal asset allocation for this Fund will be 25% bonds, 75% equities, and a negligible amount of cash.

The objective of the equity portion of the portfolio will be to provide a dividend stream that grows at least as fast as the inflation rate.

The objective of the bond portfolio will be, first, to dampen overall portfolio price volatility, and second, to provide a high but stagnant income stream to supplement the modest current income from stocks.

V. Restrictions

While realizing that all investments involve both uncertainty and risk, and that bearing some (but not all) kinds of risk may bring long term rewards, the Treasurer does

not wish to take unnecessary risks with the endowment portfolio. In addition to complying with the statutory guidelines referenced above, asset allocation will be bound by the following limits:

The asset allocation target is 75% stocks and 25% bonds with an allowance for a 10% fluctuation on either side (for example, stocks may range from 65% to 85% of total value).

At least 85% of the debt securities must be rated A or better by major national rating service. If this restriction is exceeded because of a downgrading of securities already in the portfolio or because of price appreciation, those securities may remain in the portfolio; however, the manager may not purchase any more such issues until those in the portfolio fall back below these limits.

The Treasurer expects the equity portfolio to be fairly diversified across industries as well as individual issues. No single stock may represent more than 10% of the equity portfolio, and the norm should be considerably less than 10%.

VI. Trust Distributions

Income and authorized disbursements shall be remitted from the manager(s) upon request of the Treasurer. The Treasurer shall distribute to the beneficiary, on a regular basis, net income earned on the trust principal. Less than 100% of net earnings may be distributed if the beneficiary requests the Treasurer to reinvest all or a portion of those earnings.

VII. Responsibilities of the Investment Managers

Best Interests: Each investment manager shall contact the Treasurer whenever any policy or procedure set forth in this Statement is, in the manager's professional judgment, antithetical to the best interests of the Trusts.

Notice: The manager(s) shall promptly notify the Treasurer whenever it (they) experience an organizational change that might affect the management of these funds. Such changes would include, without limitation, changes in key personnel, company policy regarding number of accounts managed per individual, firm ownership, or in the approach used to manage the Trust Funds. The Treasurer shall also receive prompt notice of any deviations from the restrictions outlined in section V.

Reporting: The manager(s) shall provide quarterly statements showing the separate performance of the stock and bond portions of the accounts, as well as results for the whole portfolio and policy compliance. Such figures must follow the standards of the Committee for Performance Presentation Standards of the Financial Analysts Federation. In addition, each quarterly report should include a summary of activity during the period, the reason for such activity, and a statement concerning the tactics currently in use for

carrying out the mandate of the Treasurer. The latter two items (reason & statement) may be presented orally rather than in writing. Each quarterly report also should set forth clearly the intermediate and long-term performance of the Investment Fund so that the Treasurer may easily compare the investment manager's results to a baseline portfolio invested 25% in the Lehman Bros. Aggregate Bond Index and 75% in the Standard & Poor's 500.

The manager(s) shall submit monthly account statements which report the value of the account(s), holdings and transactions. Additional 'sub accounting' reports may be required to assist with income distribution and component values of the trust funds.

VIII. Performance Measurement

The managers shall report Trust Fund investment performance whenever requested by the Treasurer and at least semiannually in any reasonable format requested by the Treasurer.

Ultimately, the success of these Funds will be measured by comparison with their stated objectives. The long term performance will be the result partly of the constraints and guidelines established in this Statement, and partly the results of the investment manager's actions.

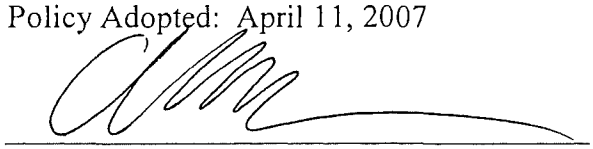
The inflation measure will be the Consumer Price Index for Urban Consumers or its successor.

To monitor the intermediate term performance of the Investment Fund, the Treasurer intends to compare the investment manager's results to a baseline portfolio invested 25% in the Lehman Bros. Aggregate Bond Index and 75% in the Standard & Poor's 500.

IX. Policy Review

This policy statement shall be reviewed by the investment manager(s) and Treasurer at least once a year to ensure that it remains appropriate and complete.

Policy Adopted: April 11, 2007



David G. Lemoine, Treasurer

Office of the State Treasurer
Investment and Distribution Policy Statement
for the Baxter Park Trust

I. Trust Purpose and Directive

The Baxter State Park Trust Fund (the "Trust") was initially funded by gifts from Governor Percival Procter Baxter and formally established by Private and Special Law 1961, Chapter 21 and Private and Special Law 1965, Chapter 30. These laws state that the purpose of the trust funds is to "share with the State in part the cost of caring for, protecting and operating" the Baxter State Park. The laws further direct that the trust funds be managed as follows:

> "[T]the principal thereof to be invested and reinvested, the income therefrom to be used by said State for the care, protection and operation of said 201,018 acres of forest land known as BAXTER STATE PARK as provided in Laws of Maine (1961), Chapter 21, and administered according to the provisions of said Baxter State Park Trust Fund."

II. Trust Investment Objectives

1. To provide as much income as possible for the Baxter State Park ("Park") now and in the future, with neither period favored at the expense of other.

2. To have the income be somewhat predictable in the near term, and to have the income not decline significantly at any time.

3. To keep the market value of the endowment assets whole, after inflation, while recognizing that normal security price gyrations may keep market values over or underpriced for several years at a time.

4. To avoid risks which might reasonably impair the ability to meet Objectives 1, 2, and 3.

III. Trust Administration

The Trust is administered by the Maine State Treasurer, with advice and assistance from state employees and from investment advisors selected by the Treasurer. Management of the Trust's investment portfolio is handled by the designee(s) of the Treasurer.

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IV. Strategy

Because of the very long term nature of its liabilities, and the need for growing income and market values to offset inflation, the Funds ordinarily will be invested mostly in equities. The investment manager(s) may deviate from this standard whenever they deem it advisable, but only within the limits set down below in Section IV.

The normal asset allocation for this Fund will be 25% bonds, 75% equities, and a negligible amount of cash.

The objective of the equity portion of the portfolio will be to provide a dividend stream that grows at least as fast as the inflation rate.

The objective of the bond portfolio will be, first, to dampen overall portfolio price volatility, and second, to provide a high but stagnant income stream to supplement the modest current income from stocks.

V. Restrictions

While realizing that all investments involve both uncertainty and risk, and that bearing some (but not all) kinds of risk brings long term rewards, the Treasurer does not wish to take unnecessary risks with the endowment portfolio. Asset allocation will be bound by the following limits:

The asset allocation target for this fund is 75% stocks and 25% bonds with an allowance for a 10% fluctuation on either side (for example, stocks may range from 65% to 85% of total value).

At least 85% of the debt securities must be rated A or better by major national rating service. If this restriction is exceeded because of a downgrading of securities already in the portfolio or because of price appreciation, those securities may remain in the portfolio; however, the manager may not purchase any more such issues until those in the portfolio fall back below these limits.

The Treasurer expects the equity portfolio to be fairly diversified across industries as well as individual issues. No single stock may represent more than 10% of the equity portfolio, and the norm should be considerably less than 10%.

VI. Trust Distributions

Income and authorized disbursements shall be remitted from the manager(s) upon request of the Treasurer. The Treasurer shall distribute to the beneficiary, on a regular basis, net income earned on the trust principal. Less than 100% of net earnings may be distributed if the beneficiary requests the Treasurer to reinvest all or a portion of those earnings.

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VII. Responsibilities of the Investment Managers

Best Interests: Each investment manager shall contact the Treasurer whenever any of the policies and procedures set forth in this Statement are, in the manager's professional judgment, antithetical to the best interests of the Trust.

Notice: The manager(s) shall promptly notify the Treasurer whenever they experience an organizational change that might affect the management of these funds. Such changes would include, without limitation, changes in key personnel, company policy regarding number of accounts managed per individual, firm ownership, or in the approach used to manage the Trust Funds. The Treasurer shall also receive prompt notice of any deviations from the restrictions outlined in section V.

Reporting: The manager(s) shall provide semi annual statements showing the separate performance of the stock and bond portions of the accounts, as well as results for the whole portfolio and policy compliance. Such figures must follow the standards of the Committee for Performance Presentation Standards of the Financial Analysts Federation. In addition, each quarterly report should include a summary of activity during the period, the reason for such activity, and a statement concerning the tactics currently in use for carrying out the mandate of the Treasurer. The latter two items (reason & statement) may be presented orally rather than in writing.

The manager(s) shall submit monthly account statements which report the value of the account(s), holdings and transactions. Additional 'sub accounting' reports may be required to assist with income distribution and component values of the trust funds.

VIII. Performance Measurement

The managers shall report Trust Fund investment performance whenever requested by the Treasurer and at least semi annually in any reasonable format requested by the Treasurer.

Ultimately, the success of these Funds will be measured by comparison with their stated objectives. The long term performance will be the result partly of the constraints and guidelines established in this Statement, and partly the results of the investment manager's actions.

The inflation measure will be the Consumer Price Index for Urban Consumers or its successor.

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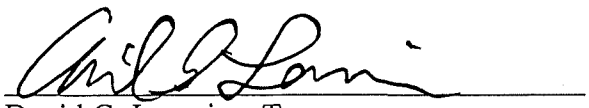
To monitor the intermediate term performance of the Investment Fund, the Treasurer intends to compare the investment manager's results to a baseline portfolio invested 25% in the Lehman Bros. Aggregate Bond Index and 75% in the Standard & Poor's 500, with annual rebalancing.

IX. Policy Review

This policy statement shall be reviewed by the investment manager(s) and Treasurer at least once a year to ensure that it remains appropriate and complete.

Policy Adopted: April 12, 2005



David G. Lemoine, Treasurer

Maine State Treasurer

Cash Pool Investment Policy

Revised: July 1, 2007

The Maine State Treasurer (the "Treasurer") has established the State Treasurer's Cash Pool for the investment of funds of State agencies and participating public sector entities. The purpose of this Investment Policy is to establish the investment scope, objectives, delegation of authority, internal controls, standards of prudence, authorized investments and transactions, diversification requirements, risk tolerance, safekeeping and custodial procedures, and reporting requirements for the investment of funds by the Treasurer.

SCOPE

The provisions of this Investment Policy shall apply to all investable funds included in the State Treasurer's Cash Pool.

All excess cash, including daily cash balances, shall be pooled for investment purposes. The investment income derived from the pooled investment account shall be allocated monthly in accordance with applicable state statutes and the Treasurer's Cash Pool Earnings Distribution Policy. Investments shall be in conformance with all applicable state and federal regulations.

OBJECTIVES

The principal investment objectives are, in descending order of priority, as follows:

- Preservation of capital and protection of investment principal.
- Maintenance of sufficient liquidity to meet anticipated cash flow needs.
- Diversification to avoid unreasonable market risks.
- Attainment of a competitive rate of return.

DELEGATION OF AUTHORITY AND INTERNAL CONTROLS

It is the responsibility of the Treasurer to invest all funds not needed to meet current obligations in accordance with Title 5: Administrative Procedures and Services, Part 1: State Departments, Chapter 7: Treasurer of State, Section 135: Deposit of State Funds; limitations (5MRSA§135).

The Treasurer may delegate the authority to conduct investment transactions and manage the operation of the investment portfolio to the Deputy Treasurer and to other specifically authorized staff members. The Treasurer shall maintain a list of persons authorized to transact securities business for the State of Maine (Annex I). Authorized persons may engage in an investment transaction as expressly provided under the terms of this Investment Policy.

The Treasurer may engage the support services of outside professionals in regard to its investment program, so long as it can be clearly demonstrated that these services produce a net financial advantage or necessary financial protection of the State's financial resources.

The Treasurer shall maintain written administrative procedures and internal controls, consistent with this Investment Policy, for the operation of the State's investment program. Such

procedures shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the State.

PRUDENCE AND INDEMNIFICATION

The standard of prudence to be used for managing the State's assets is the "prudent investor" rule, which states, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived."

The Treasurer's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust and is a matter of public record.

In general, securities will be held to maturity, but from time to time, in the pursuit of the stated objectives of this policy, securities may be sold below book value in order to maximize the return on the portfolio, to protect the credit quality of the portfolio, and to meet unforeseen cash flow needs. The Treasurer and authorized investment personnel acting in accordance with written policy and procedures and exercising due diligence shall be relieved of personal responsibility including but not limited to an individual security's credit risk or market price changes.

ETHICS AND CONFLICTS OF INTEREST

Treasurer's Office personnel involved in the investment process shall refrain from any activity that could conflict with proper execution of the investment program or which could impair or create the appearance of an impairment of their ability to make impartial investment decisions, and shall comply with the mandates of the Treasurer's Ethics Policy. The Treasurer and investment officials shall disclose annually in writing any material financial interests they have in financial institutions that conduct business with the State and they shall subordinate their personal investment transactions to those of the State.

AUTHORIZED SECURITIES AND TRANSACTIONS

All investments of the State shall be made in accordance with Maine Statute: Title 5: Administrative Procedures and Services, Part 1: State Departments, Chapter 7: Treasurer of State, Section 135: Deposit of State Funds; limitations (5MRSA§135). Any revisions or extensions of these sections of the statute shall be deemed incorporated into this Investment Policy immediately upon becoming effective.

The State has further defined the eligible types of securities and transactions as follows:

1. U.S. Treasury Obligations: Treasury Bills, Treasury Notes, Treasury Bonds and Treasury Strips with a final maturity not exceeding 36 months from the date of purchase.

2. Federal Agency Securities: Bonds, notes, certificates of indebtedness or other obligations with a final maturity not exceeding 36 months from the date of purchase.

3. Federal Instrumentality Securities: Debentures, discount notes, step-up and callable securities with a final maturity not exceeding 36 months from the date of purchase issued by

the following only: Federal National Mortgage Association (FNMA), Federal Farm Credit Banks (FFCB), Federal Home Loan Banks (FHLB), and Federal Home Loan Mortgage Corporation (FHLMC).

4. Prime Commercial Paper with a maturity not exceeding 180 days from the date of purchase which is rated by at least two rating agencies, and the ratings must be at least A-1 by Standard and Poor's, P-1 by Moody's, or F-1 by Fitch at the time of purchase. If the commercial paper issuer has senior debt outstanding, the senior debt must be rated by each service that publishes a rating on the issuer of at least A by Standard and Poor's, A2 by Moody's, or A by Fitch.

5. Eligible Bankers Acceptances with an original maturity not exceeding 180 days, issued by a FDIC insured state or national bank with combined capital and surplus of at least $250 million, whose senior long-term debt is rated, at the time of purchase A by Standard and Poor's, A2 by Moody's, or A by Fitch.

6. Money Market Mutual Funds registered under the Investment Company Act of 1940 that: are "no-load" (i.e., no commission or fee shall be charged on purchases or sales of shares); have a constant share price; and comply with Rule 2a-7 of the Investment Company Act of 1940.

7. Money Market Deposit Accounts offered by a financial institution with which the State has an enforceable banking services contract. Deposits that (1) exceed the FDIC insured amount, or (2) exceed 25% of the capital, surplus and undivided profits of any bank, or (3) exceed 25% of the reserve fund and undivided profit account of any savings and loan association or mutual savings bank may be made only in financial institutions meeting the credit criteria set forth in the section of this Investment Policy relating to Selection of Banks, and shall be collateralized in accordance with 5MRSA§135.

8. Time Certificates of Deposit with a maturity not exceeding two years from the date of purchase in FDIC insured state or nationally chartered banks, savings and loan associations or mutual savings banks that qualify as a depository for State funds as set forth in 5MRSA§135. Certificates of Deposit that (1) exceed the FDIC insured amount, or (2) exceed 25% of the capital, surplus and undivided profits of any bank, or (3) exceed 25% of the reserve fund and undivided profit account of any savings and loan association or mutual savings bank may be purchased only from financial institutions meeting the credit criteria set forth in the section of this Investment Policy relating to Selection of Banks, and shall be collateralized in accordance with 5MRSA§135.

9. Repurchase Agreements with a termination date not exceeding 12 months, collateralized by U.S. Treasury, Agency or Instrumentality debenture or discount note securities with a maturity of the collateral not exceeding 10 years. For the purpose of this section, the term collateral shall mean purchased securities under the terms of the State approved Master Repurchase Agreement. The purchased securities shall have an original minimum market value including accrued interest of 102 percent of the dollar value of the transaction and the collateral maintenance level shall be 101 percent. Collateral securities shall be marked-to-the-market daily.

   Repurchase Agreements shall be entered into only with Primary Dealers reporting to the Federal Reserve Bank of New York, or with firms that have a Primary Dealer within their

holding company structure, or with banks meeting the credit criteria set forth in the section of this Investment Policy relating to Selection of Banks. Primary Dealers approved as Repurchase Agreement counterparties shall have a short-term credit rating of at least A-1 or the equivalent and a long-term credit rating of at least A or the equivalent. The Treasurer shall maintain a copy of the State's approved Master Repurchase Agreement along with a list of the broker/dealers and banks that have executed same.

10. Corporate Bonds issued by corporations organized and operated within the United States with a final maturity not exceeding 36 months from the date of purchase, rated at least AAA by Standard & Poor's, Aaa by Moody's or AAA by Fitch at the time of purchase.

11. Tax Exempt Obligations: Tax-exempt commercial paper or bonds with a maturity not exceeding 36 months from the date of purchase that have a long-term rating of AA or the equivalent or better, or are rated in the highest category for short-term municipal debt by a nationally recognized rating agency at the time of purchase.

12. Securities Lending: The Treasurer may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the federal government, only if loans are fully collateralized by Treasury Bills or cash.

Investment risk shall be minimized by monitoring the credit ratings of securities held in the State's portfolio. Current credit ratings on securities shall be provided in the advisor's monthly reports and reviewed by the Treasurer. Collateralization requirements may exceed the minimums set forth in 5 M.R.S.A. §135 whenever the Treasurer deems prudent such modifications.

PORTFOLIO MATURITIES AND LIQUIDITY

To the extent possible, investments shall be made to meet anticipated cash flow requirements and known future liabilities. The State will not invest in securities maturing more than 36 months from the date of purchase.

INVESTMENT DIVERSIFICATION

The Treasurer shall diversify investments within the portfolio to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities. The asset allocation in the portfolio should be flexible depending upon the outlook for the economy, the securities market, and the State's anticipated cash flow needs.

SELECTION OF BROKER/DEALERS

The Treasurer will work with its investment advisors to compile a list of broker/dealers approved for investment purposes (Annex II) and it shall be the policy of the State to purchase securities only from those authorized firms. To be eligible, a firm must meet at least one of the following criteria as confirmed by the investment advisors

1. be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a Primary Dealer within its holding company structure; or
2. report voluntarily to the Federal Reserve Bank of New York; or

3. qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (Uniform Net Capital Rule); or
4. be approved by the Treasurer after a comprehensive credit and capitalization analysis indicates the firm is adequately financed to conduct public business.

Broker/dealers will be selected by the Treasurer on the basis of their expertise in public cash management and their ability to provide services for the State's account. Each authorized broker/dealer shall be required to comply with the following:

1. annually update and submit a State approved Broker/Dealer Information Request form;
2. annually submit the firm's most recent financial statements; and
3. attest in writing that they have received a copy of this Investment Policy.

The Treasurer shall maintain copies of each approved broker's most recent Broker/Dealer Information Request form and the firm's financial statements. The Treasurer shall annually review and update the list of approved broker/dealers.

The State may purchase Commercial Paper from direct issuers even though they are not on the approved broker/dealer list as long as they meet the criteria outlined in Item 4 of the Authorized Securities and Transactions section of this Policy.

COMPETITIVE TRANSACTIONS

Each investment transaction shall be competitively transacted with authorized broker/dealers. If the State is offered a security for which there is no other readily available competitive offering, then the Treasurer will document quotations for comparable or alternative securities.

SELECTION OF BANKS

The Treasurer shall maintain a list of FDIC insured banks, mutual savings banks and savings and loan associations ("banks"), approved to provide depository and other banking services and from which the State may purchase Certificates of Deposit. To be eligible for authorization, a bank must meet the minimum credit criteria (described below) of credit analysis provided by commercially available bank rating services. Banks failing to meet the minimum criteria, or in the judgment of the Treasurer no longer offering adequate safety to the State, will be removed from the list. Banks in the Treasurer's depository network for which deposits do not normally exceed $100,000 shall be exempt from these requirements.

The State shall utilize the commercially available bank rating services of Highline Banking Data Services or Veribanc to perform credit analyses on banks seeking authorization. Data obtained from the bank rating services will include a composite rating, and individual ratings of liquidity, asset quality, profitability and capital adequacy. To be eligible for designation to provide banking services, a financial institution shall meet the following criteria:

1. have a Highline Data Rating of 20 or better for the most recent reporting quarter before the time of selection; or
2. have a Veribanc color rating of yellow or higher and a star rating of 2 or higher at the time of selection; and
3. qualify as a depository of public funds in the State of Maine as defined in 5MRSA§135.

The Treasurer shall maintain a file of the most recent credit rating analysis reports performed for each approved financial institution by one of the above listed rating firms. Independent credit analysis shall be performed on a semi-annual basis.

In addition, the Treasurer shall consider the rating of each bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901 (5MRSA§125).

SAFEKEEPING AND CUSTODY

The Treasurer shall select one or more banks to provide safekeeping and custodial services for the State. A State approved Safekeeping Agreement shall be executed with each custodian bank prior to utilizing that bank's safekeeping services. To be eligible for designation as the State's safekeeping and custodian bank, a financial institution shall meet the following criteria:

1. have a Highline Data Rating of 20 or better for the four most recent reporting quarters before the time of selection; or
2. have a Veribanc color rating of yellow or higher and a star rating of 2 or higher at the time of selection.

Custodian banks shall be selected on the basis of their ability to provide services for the State's account and the competitive pricing of their safekeeping related services.

The Treasurer shall maintain a file of the credit rating analysis reports performed for each approved financial institution by one of the above listed rating firms. Independent credit analysis shall be performed on a semi-annual basis.

The purchase and sale of securities and Repurchase Agreement transactions shall be settled on a delivery versus payment basis. It is the intent of the State that all securities be perfected in the name of the State. Sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investment securities purchased by the State, except Certificates of Deposit, Money Market Mutual Funds, collateral for overnight sweep Repurchase Agreements with banks and collateral for Certificates of Deposit, will be delivered by either book-entry or physical delivery and will be held in third-party safekeeping by a State approved custodian bank, its correspondent bank or the Depository Trust Company (DTC).

All fed wireable book-entry securities owned by the State shall be evidenced by a safekeeping receipt or a customer confirmation issued to the State by the custodian bank stating that the securities are held in the Federal Reserve system in a Customer Account or Trust Account for the custodian bank which will name the State as "customer."

All securities which are eligible for delivery through the Depository Trust Company (DTC) shall be held in the custodian bank's DTC participant account and the custodian bank shall issue a safekeeping receipt to the State evidencing that the securities are held by the DTC for the State as "customer."

All non-book-entry (physical delivery) securities shall be held by the custodian bank or its correspondent bank and the custodian bank shall issue a safekeeping receipt to the State evidencing that the securities are held by the correspondent bank for the State as "customer."

PORTFOLIO PERFORMANCE

The investment and cash management portfolio shall be designed to attain a competitive rate of return throughout budgetary and economic cycles, taking into account prevailing market conditions, risk constraints for eligible securities, and cash flow requirements. The performance of the portfolio shall be compared to the Standard and Poor's Government Investment Pool Index for AAA and AA rated pools on a 30 day net return basis.

REPORTING

A monthly investment report shall be prepared for the Treasurer that includes the following information: a listing of individual investments in the portfolio, including the date of purchase, maturity, original cost and market value and income earned for the period. Summary information of portfolio holdings, asset allocation, return for the period, return benchmarks and weighted average maturity shall also be included.

POLICY REVISIONS

This Investment Policy revokes and replaces all previous cash pool investment policies and has an effective date of July 1, 2007. This Investment Policy should be reviewed annually by the Treasurer.

David G. Lemoine, Treasurer

7-2-07

Date

ANNEX I

AUTHORIZED PERSONS

The following persons are authorized to conduct investment transactions on behalf of the State of Maine:

State Treasurer	David G. Lemoine
Deputy State Treasurer	Barbara M. Raths
Director of Internal Operations	Kristi L. Carlow
Assistant Director of Internal Operations	Timothy J. Rodriguez

ANNEX II

APPROVED BROKER/DEALERS

The following firms have been authorized to conduct investment transactions with the State of Maine:

Banc of America Securities, LLC
Bear, Stearns & Co. Inc.
Citigroup Global Markets, Inc.
FTN Financial Securities Corp.
Fundamental Capital Markets
Lehman Brothers Inc.
Merrill Lynch
Mizuho Securities USA Inc.
Morgan Keegan & Company, Inc.
Morgan Stanley
UBS Financial Services Inc.

GLOSSARY

Bankers' Acceptance (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Broker: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides.

Callable Bond: A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Certificate of Deposit: A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs are typically negotiable.

Collateral: Securities or property pledged by a borrower to secure payment.

Commercial Paper: An unsecured promissory note with a fixed maturity of no more than 270 days. Commercial paper is normally sold at a discount from face value.

Dealer: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his/her own account.

Debenture: A bond secured only by the general credit of the issuer.

Delivery Versus Payment: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

Discount Securities: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value.

Diversification: Dividing investment funds among a variety of securities offering independent returns.

Federal Agency Security: A debt security issued by a federal agency that is backed by the full faith and credit of the U.S. Government.

Federal Deposit Insurance Corporation (FDIC): A federal institution that insures bank and savings and loan deposits, currently up to $100,000.

Federal Funds Rate: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

Federal Instrumentality Security: A debt security issued by a federally sponsored agency, also known as a government sponsored enterprise (GSE). There is no government guarantee of Instrumentality securities.

Fed Wire: A computer system linking member banks and other financial institutions to the Fed, used for making inter-bank payments of Fed funds and for making deliveries of and payments for Treasury, agency and book-entry mortgage backed securities.

Investment Adviser's Act: Legislation passed by Congress in 1940 that requires all investment advisers to register with the Securities and Exchange Commission. The Act is designed to protect the public from fraud or misrepresentation by investment advisers.

Liquidity: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value.

Mark-to-market: The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Value: Current market price of a security.

Master Repurchase Agreement: A written contract covering all future transactions between the parties to repurchase or reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity: The date upon which the principal or stated value of an investment becomes due and payable.

Money Market Mutual Fund: A mutual fund that limits its investments to some or all types of money market instruments.

Net Asset Value: The market value of one share of an investment company, such as a mutual fund.

No Load Fund: A mutual fund which does not levy a sales charge on the purchase of its shares.

Portfolio: Collection of securities held by an investor.

Primary Dealer: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

Prudent Person Rule: Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Rate of Return: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Ratings: An evaluation of an issuer of securities by Moody's, Standard & Poor's, Fitch, or other rating services of a security's credit worthiness.

Repurchase Agreements: A holder of securities sells securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him/her. Dealers use repurchase agreements extensively to finance their positions.

Rule 2a-7 of the Investment Company Act: Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar ($1.00).

Safekeeping: Holding of assets (e.g., securities) by a financial institution.

Treasury Bills: A non-interest bearing discount security issued by the U.S. Treasury and backed by the full faith and credit of the U.S. Government. Most bills are issued to mature in one month, three months or six months.

Treasury Bonds: Long-term coupon bearing U.S. Treasury securities backed by the full faith and credit of the U.S. Government having initial maturities of more than ten years.

Treasury Notes: Intermediate term coupon bearing U.S. Treasury securities backed by the full faith and credit of the U.S. Government having initial maturities of from two to ten years.

Yield: The rate of annual income return on an investment, expressed as a percentage.

Office of the State Treasurer
Shutdown Day Procedures

In the event that the Office of the State Treasurer is subject to a State shutdown day notice, the process for covering the cash needs of the State shall be as follows:

The Deputy Treasurer shall acquire from the State's bank both the current balance in the State's checking account and the total of the electronic payments issued overnight on that account. The Deputy Treasurer shall confirm the bank's electronic payments number through email as reported by the State Office of Accounts and Controls. In the event of an unresolved discrepancy, the Deputy Treasurer shall assume as accurate the number from the Office of Accounts and Controls.

The Deputy Treasurer then shall estimate the dollar volume of checks expected to clear on that day using information generated the day before, if the shutdown day was anticipated. If estimated clearings are not available for the particular day at issue, the Deputy Treasurer shall assume $15 million as the appropriate number. The Deputy Treasurer, with the agreement of the Treasurer, may alter the $15 million assumption as circumstances mandate in order to avoid an overdraft event with the bank.

The Deputy Treasurer then shall notify the Treasurer of the amount needed, if any, to cover the cash needs of the State on the shutdown day at issue. When agreement is reached between the Deputy Treasurer and the Treasurer, both shall contact the bank and authorize the transfer from money market accounts of needed funds.

In the event that the Deputy Treasurer is unable to perform these tasks, the Fiscal Assistant shall perform the tasks in her place. In the event that the Treasurer is unavailable to perform these tasks, the Fiscal Assistant shall act in the place of the Deputy Treasurer and the Deputy Treasurer shall act in the place of the Treasurer.

NOTE:

2x/moth overdraft coverage for $100,000 or less is included in the basic bank contract. Other overdr

12/12/05 dc

Office of the State Treasurer
SHORT-TERM GENERAL FUND BORROWING and TRANSFER GUIDELINES

I. Authority for Internal Cash Pool Transfers:

1. "The Treasurer of State may transfer funds into and out of the respective funds in the cash pool as circumstances may require to meet current obligations and shall request the State Controller to effect such transfers by journal entry as set forth in section 131-B" of Title 5. see PL 386 s. CC-2; (2005) (LD 1677 as amended in the 122nd Legislature).

2. 5 M.R.S.A. s. 131-B says that "[I]n order that state obligations may be paid as they come due, the State Treasurer may request the State Controller to transfer funds on deposit among the various funds in the cash pool of State Government by journal entry in such manner as to best manage the available funds to meet current obligations of the various funds and accounts. PL 386 (2005) (LD 1677 as amended in the 122nd Legislature).

3. The "prudent banker" rule and precedent.

II. Authority for External Short Term Borrowing:

1. "Temporary loans to be paid out of moneys raised by taxation during any fiscal year shall not exceed in the aggregate during the fiscal year in question an amount greater than 10% of all the moneys appropriated, authorized and allocated by the Legislature from undedicated revenues to the General Fund and dedicated revenues to the Highway Fund for that fiscal year, exclusive of proceeds or expenditures from the sale of bonds, or greater than 1% of the total valuation of the State of Maine, whichever is the lesser." Maine Constitution, Article IX, Section 14.

2. Temporary loans, under the limits set forth above, are allowed absent a 2/3 vote of both Houses when "paid out of money raised by taxation during the fiscal year in which they are made."

III. Approach

1. Review the history of the "014" funds to determine stability and to project balances.

2. Determine minimum cash balance needs for the 014 fund throughout the fiscal year, and identify those sub-funds within the 014 fund that pay their earnings entirely to the general fund, (i.e. feeder funds.)

3. Acquire and review general fund cash flow projections for the coming fiscal year.

4. Project general fund cash flows if borrowing is allowed from the 014 funds at levels not to exceed 50% at the time of borrowing of the aggregate value of the feeder funds and without reducing the aggregate value of those feeder funds to less than $65 million.

5. Project TAN borrowing amount that, combined with internal borrowing from the 014 "feeder funds" as set forth in #4 above, maintains a positive general fund balance.

6. Identify, in cooperation with the Office of the State Controller, all interfund transfers needed by the general fund on a weekly basis and timely make appropriate interfund transfers.

7. If general fund borrowing exceeds the limits set forth in #4 above, the Treasurer may borrow from other cash pool resources, to be repaid with lost earnings, and shall explore further external borrowing strategies.

8. The effective date of these guidelines shall be July 1, 2005.

Treasurer's Office
Sale Protocols for Unclaimed Securities

Introduction

The State Treasurer is adopting this policy for the sale of unclaimed securities in order to provide fairness and predictability in the frequency and method of such sales. In particular, this policy will give the Treasurer the ability (1) to stagger sales of securities to avoid adverse impacts on the market; (2) to capture cost efficiencies by bulking together common CUSIP numbers; (3) to maintain discretion to sell securities where permitted by statute, and where financially feasible; and (4) to secure the value of securities within a reasonable time of their coming into the custody of the Treasurer. This policy is not intended to be judicially enforceable. The purpose of its adoption is solely as advice to assist Treasury staff and all those interested in determining, exercising and complying with their legal rights, duties and privileges with respect to unclaimed securities under Maine's Uniform Unclaimed Property Act, 33 M.R.S.A. §1951 et seq.

A. **Price When Sold:** In accordance with 33 M.R.S.A. §1963(2), any securities held by the Treasurer as unclaimed property and listed on an established stock exchange must receive prices prevailing on the exchange at the time of sale. Other securities may be sold over-the-counter at prices prevailing at the time of sale. If no over-the-counter prevailing price is established at the time of sale, the price shall be determined by bid to the Treasurer.

B. **No Sale of Securities Held for Periods of One Year or Less:** Securities shall not be sold before the expiration of one year after their delivery to the Treasurer, except that the Treasurer may sell securities held for one year or less when 1) the securities are of a single issue, 2) the custodial costs of the securities are expected to exceed their value, and 3) the names of the securities' owners were advertised pursuant to 33 M.R.S.A. §1960 at least 90 days prior to sale.

C. **Claims on Securities Held for Periods of Less than One Year:** Any person making a valid claim upon securities advertised pursuant to 33 M.R.S.A. §1960 at least 90 days prior to sale and less than one year after the securities were delivered to the Treasurer is entitled to receive either the securities delivered to the Treasurer by the holder, if they still remain in the custody of the Treasurer, or the net proceeds received from sale. Claims made on securities not advertised pursuant to 33 M.R.S.A. . §1960 at least 90 days prior to sale shall be paid pursuant to statute.

D. **Sale of Securities Held for Periods of Between One Year and 36 Months:** Securities may be sold after the expiration of one year after their delivery to the Treasurer, but must be advertised according to 33 M.R.S.A. §1960 at least 90 days prior to sale.

E. **Sale of Securities Held for a Period of at Least 36 months:** The Treasurer shall sell securities that have been held for at least thirty-six (36) months and advertised according to 33 M.R.S.A. §1960 at least 90 days prior to sale.

F. **Claims on Securities Held for Periods of More than One Year:** Any person making a valid claim upon securities more than one year after the securities were delivered to the Treasurer is entitled to receive either the securities delivered to the Treasurer by the holder, if they still remain in the custody of the Treasurer, or the net proceeds received from sale. The claimant is not entitled to receive any appreciation in the value of the property occurring after delivery to the Treasurer.

G. **Timing for Sale of Securities following Advertisements:** Once ripe for sale, as set forth in Sections B, D or E above, an advertised security shall be marketed on or about the 15th day of the following month, with sale proceeds allocated to owners based on the sales price per share. The Treasurer may aggregate sales over several months if the costs of marketing are expected to consume an unreasonable portion of any monthly sales proceeds. Whenever shares of the same security (CUSIP) mature to 36 months at different times throughout a fiscal year, the Treasurer may hold them for sale until the last maturity and then sell them together.

H. **Compliance with Statute and Unallocated Budget Language:** Nothing herein shall be interpreted as violating and statute or unallocated budget language.

Policy Adopted: March 28, 2005

David G. Lemoine, State Treasurer

Office of the State Treasurer
Flex-time Guidelines

- The Office of the State Treasurer will be open for business from 8:00 a.m. until 5:00 p.m. each working day, and all core functions will have planned coverage during those hours. The core functions may be covered by one person if reasonably likely to succeed. Claim calls to Unclaimed Property shall be answered from 8:30 a.m. to 4:30 p.m.

- The burden of staffing core functions from 8:00 a.m. until 5:00 p.m. will be shared as equally as is reasonably possible amongst the entire staff.

- Core functions have been very generally categorized by Groups. (Listed below)

- The earliest scheduled start time shall be 7:30 a.m. and the latest scheduled exit time shall be 5:30 p.m. for all but the Legislature/Board coverage group.

- Everyone must take at least 1/2 hour off for lunch during the day and all are strongly encouraged to take advantage of the lunch room or to otherwise leave your desk at that time.

- Extended lunch times, late starts and early exits are available for use in attending scheduled health care appointments, dealing with unforeseen events, and the like no more than once each calendar month. The lost time may be made up by an earlier start, later exit or reduced or skipped lunch that same day so long as the beginning and ending times are within the 7:30 a.m. and 5:30 p.m. limits. Notice of use of the extended/skipped lunch option, late start and early exit option must be given as soon as possible to other members of the group and to their manager, and coverage must be planned from within the group whenever possible.

- Each group is encouraged to work out their own flex-time schedules and to amend these schedules from time to time as needed.

- If any member of a group cannot agree to the majority schedule, that member's schedule shall default to the hours of 8:00 a.m. to 5:00 p.m. with a one hour lunch.

- The targeted start date for the new policy remains January 2, 2006.

GROUPS

Front Office
Jane Adams
Michelle Toulouse
Kathy Zenalik

Cash Management
Kristi Carlow
Michelle Kimball
Tim Rodriguez

Legislature/Boards
David Lemoine
Barbara Raths
Kevin Thurston

Reconciliations
Alma Hazzard
Rose McGibney
Patricia Sanborn

Unclaimed Property
Sherry Belka
Bonnie Delano
Cathy Brown
Jeff Chetkauskas

Revised: 10/01/2007

STATE OF MAINE
OFFICE OF THE STATE TREASURER
39 State House Station, Augusta, ME 04333-0039
www.maine.gov/treasurer

DAVID G. LEMOINE
Treasurer of State

BARBARA M. RATHS
Deputy Treasurer

Stale-dated State-issued Checks Information Release Policy

Statutory Authority:

1. "Any records created by or provided to the State containing information about outstanding, unpaid checks issued by the State are confidential and not available for public inspection to the extent that the State Controller and the Treasurer of State determine that confidentiality is necessary to protect the interests of the payee, the State and the public welfare." 5 M.R.S.A. s. 1545

2. "An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim." 33 M.R.S.A. s 1976(1)

Policy: The primary check-issuance policy goals of the State Treasurer, developed in coordination with the State Controller, are to honor all valid checks issued in the name of the State of Maine and to ensure to the fullest extent practicable that appropriate check recipients receive the full value of each instrument. To this end, all records created by the State containing information about outstanding, unpaid checks issued by the State are deemed confidential and shall not be made available for public inspection until published by the State Treasurer as unclaimed property pursuant to 33 M.R.S.A. ch. 41.

Effective: September 1, 2005