

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

May 2008

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Criminal Justice and Public Safety

This amendment replaces the bill. The amendment removes the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place to be a crime. Instead, the amendment specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place.

The amendment also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

Enacted Law Summary

Public Law 2007, chapter 688 removes from the crime visual sexual aggression against a child the requirement that visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person occur in a private place. Instead, Public Law 2007, chapter 688 specifies that a person who, for the purpose of arousing or gratifying sexual desire, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person is guilty of visual sexual aggression regardless of where the surveillance occurs. Surveillance may occur either in a public or private place. Public Law 2007, chapter 688 also clarifies the definition of "private place" in the Maine Revised Statutes, Title 17-A, section 511.

LD 2080 An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

**PUBLIC 653
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM MAJ OTP-AM MIN	H-989 S-658 ROTUNDO

This bill is a concept draft pursuant to Joint Rule 208.

This bill seeks to establish the Maine Jail and Community Corrections Authority. The membership of the authority consists of state, county and municipal officials and representatives of those involved in the criminal justice system. A majority of the members of the authority are representatives of county government.

The authority is established for the following purposes:

1. To coordinate and oversee a cost-efficient system within the State for the operation and maintenance of county and regional jails and community corrections facilities, programs and services;
2. To facilitate the implementation and delivery of corrections programs and services for pretrial defendants and convicted offenders, consistent with best correctional and evidence-based practices and the protection of public safety;
3. To develop and implement plans for the renovation, improvement and redevelopment of existing jail facilities and for the design and construction of new jail facilities through a certificate of need process to better serve the incarcerated and detained populations and the citizens of the State. The authority may issue bonds and enter into agreements with the counties and the Department of Corrections for these purposes; and
4. To provide a consolidated body representing county and regional jails and community corrections facilities to coordinate with the Department of Corrections on corrections matters, including but not limited to the coordination of jail bed space.

Joint Standing Committee on Criminal Justice and Public Safety

The authority shall manage the county and regional jails and community correctional facilities and programs and services to efficiently allocate human and financial resources, establish uniform criteria for the construction and expansion of jail facilities and develop and implement methods by which the purposes of the authority are best served. Specifically, the authority shall:

1. Create and implement standards of care and operation reflective of best correctional practice for jail facilities;
2. Approve purpose and rated capacities for each jail facility, which may include specialized units, based upon established standards and system need and demand;
3. Conduct inspections of and accredit jail facilities;
4. Coordinate bed space availability and utilization among jails and between the Department of Corrections and jails as needed, considering established criteria, inmate classification, gender, pre-conviction and post-conviction status and special needs including mental health and substance abuse;
5. Establish per diem board rates using a predetermined formula;
6. Establish and operate an intercounty jail inmate transportation system consistent with security interests in order to reduce the overall cost of jail inmate transportation;
7. Establish data collection requirements necessary to monitor the status of county and regional jail populations, to project future capacity needs and to develop recommendations for new or expanded facilities, programs and services. The authority shall review and approve or deny requests for construction of new, expanded or renovated jail facilities using a certificate of need process;
8. Develop, implement and fund community corrections programs and services reflective of evidence-based practices and make them available to all counties. These services must be coordinated in collaboration with the criminal justice planning committees established pursuant to the Maine Revised Statutes, Title 30-A, section 1671;
9. Evaluate implementation of pretrial services for desired outcomes. Pretrial services must be funded using money formerly provided through the Community Corrections Fund and County Jail Prisoner Support Fund under Title 34-A, section 1210-B;
10. Monitor county and regional criminal justice system operations to identify system practices that adversely affect jail populations or operating costs, propose improvements in efficiency and effectiveness, and evaluate implementation of the improvements; and
11. Provide information and assistance to jail officials regarding best correctional and evidence-based practices and provide a forum for sharing information on best correctional and evidence-based practices in use within the State.

Committee Amendment "A" (H-989)

This amendment replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment adds an emergency preamble and clause and creates the State Board of Corrections whose purpose is to develop and implement a unified correctional system.

The State Board of Corrections is directed to work with the counties, the Department of Corrections, the Legislature and other stakeholders and interested parties in the criminal justice system to coordinate and oversee a cost-efficient correctional system within the State that promotes and supports the use of evidence-based practices. The board is directed to develop benchmarks for performance in recidivism reduction, pretrial diversion and the rate of incarceration. The board is also charged with managing the cost of corrections by developing a plan to achieve systemic cost savings and cost avoidance throughout the unified correctional system with the goal of operating

Joint Standing Committee on Criminal Justice and Public Safety

efficient correctional services, evaluating and determining correctional facility use and purpose, adopting treatment standards and policies and reviewing and approving any future public or private construction projects after establishing a certificate of need process governed by the Legislature's major substantive rule process. In its work, the board shall consult with the existing entities, including the State Sentencing and Corrections Practices Coordinating Council, and use recent research and reports, including those issued by the Corrections Alternative Advisory Committee.

The board shall assist correctional facilities and county jails where appropriate to establish, achieve and maintain professional correctional accreditation standards; administer the County Jail Prisoner Support and Community Corrections Fund established in the Maine Revised Statutes, Title 34-A, section 1806 and the State Board of Corrections Investment Fund established in Title 34-A, section 1805. The board may allocate available funds from the State Board of Corrections Investment Fund to meet any emergency expenses or for maintenance in emergency conditions of any correctional facility or jail. The board may make allocations for these purposes only upon written request of the Commissioner of Corrections or a county.

The board shall prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution. The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment.

The board receives and reviews recommendations submitted by the Commissioner of Corrections, counties, the corrections working group or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services and other recommendations with respect to the delivery of state and county corrections services. The board shall consult with and seek input from prosecutors; defense attorneys; judges; advocates for victims; providers and advocates who work with persons with mental illness; and other interested parties.

The board does not have authority to exercise jurisdiction over inmate grievances, labor negotiations or contracts, including personnel rules negotiated as part of any collective bargaining agreement, or any aspect of the operation of juvenile facilities or the administration of juvenile community corrections services. If a county or the Department of Corrections is aggrieved by a final decision of the board, the county or the department is entitled to judicial review pursuant to Title 5, section 11001, and any review must be limited to errors of law.

The board shall make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the unified correctional system or the board. The joint standing committee shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.

In addition to establishing the State Board of Corrections, the amendment directs the sheriffs, the county commissioners and the Commissioner of Corrections to work together and in support of the State Board of Corrections by communicating to manage jail and prison capacity and offender placement and by recommending uniform policies and procedures. The Commissioner of Corrections is responsible for the daily management of inmate bed space throughout the unified correctional system and shall develop a process for information sharing between the state correctional facilities and the county jails.

The amendment separates noncorrectional services from correctional services for purposes of preparation of the county budgets. The amendment sets a cap on tax assessments for correctional services for each county, so that the

Joint Standing Committee on Criminal Justice and Public Safety

assessment to municipalities within each county may not be greater than the fiscal year 2007-08 county assessment for correctional-related expenditures. The amendment also directs the counties to collect taxes from municipalities for the purpose of retiring the county jail debt in existence as of July 1, 2008 until the debt is finally retired. The counties may not collect taxes from the municipalities for the purpose of retiring any correctional services debt issued after July 1, 2008, nor may the State pay for future correctional services debt or other correctional services with revenue sources dedicated to the municipalities.

At least 6 months before the beginning of each fiscal year, the State Board of Corrections shall set a growth limitation for the correctional services expenditures in the new fiscal year for each county budget. The county commissioners shall submit itemized correctional services budgets to the board in a format and by a date to be determined annually by the board. The board shall review each county correctional services budget and if the county correctional services budget submitted to the board does not exceed the growth limitation established by the board and is consistent with board directives under Title 34-A, section 1803, the board shall accept the county commissioners' approval of the county's correctional services budget. If the county correctional services budget submitted exceeds the growth limitation established by the board or is inconsistent with board directives, the board shall further review, amend and adopt a correctional services budget for the county.

If a county correctional services budget submitted to the board exceeds the growth limitation established or is inconsistent with a directive of the board, the board shall further review the proposed budget together with any supplementary material prepared by the county commissioners, county correctional services administrators, the Department of Corrections or any other person or entity from whom the board chooses to receive supplementary material. The board may hold a hearing and shall hold a hearing if the county requests a hearing. For a county correctional services budget submitted to the board, the board may amend or accept the proposed budget provided that the total estimated revenues, together with the amount of county tax to be levied pursuant to Title 30-A, section 701, subsections 2-A and 2-B, equal the total estimated expenditures. After review of a county correctional services budget submitted to the board, a hearing, if necessary, and the adjustment process, the board shall adopt a final correctional services budget for the county and transmit that budget to the county commissioners.

The property tax assessment for county correctional services expenditures as defined in Title 30-A, section 701, subsection 2-A, and the county jail debt assessment established in Title 30-A, section 701, subsection 2-B, approved by the board processes, are the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized, apportioned and collected.

The amendment also provides counties an opportunity for one-time borrowing, if a county chooses to amend its fiscal year. County commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. The tax anticipation note covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow an amount that does not exceed the taxes anticipated from the transitional budgets and the period of borrowing may not exceed 5 years.

The amendment requires that the County Jail Prisoner Support and Community Corrections Fund pursuant to Title 34-A, section 1210-A be distributed to the counties using the existing process for fiscal year 2008-09. The appropriation may be no less than the appropriation for fiscal year 2007-08. Beginning July 1, 2009, the board shall administer the County Jail Prisoner Support and Community Corrections Fund, using the current distribution schedule and procedures described in Title 34-A, section 1210-A.

The amendment also creates the State Board of Corrections Investment Fund, which is an enterprise fund that may be expended only to compensate county governments and the Department of Corrections for costs approved by the board and the Legislature. The State Controller shall credit to the fund any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives have reduced jail expenses; funds appropriated by the Legislature; money from any other source, whether public or private, designated into or

Joint Standing Committee on Criminal Justice and Public Safety

credited to the fund; and interest earned or other investment income on balances in the fund. Any unencumbered balance remaining at the end of any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.

The amendment establishes a corrections working group consisting of representatives of the department, sheriffs and county commissioners. The commissioner shall name 2 cochairs to convene and lead the working group. One chair must represent the department and one chair must represent county government. The cochairs shall select the remaining members of the working group based on criteria established by the parties in a memorandum of understanding. The working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the unified correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the unified correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

The amendment establishes temporary boarding rates for state prisoners in county jails. The boarding rate charged to the Department of Corrections for housing state prisoners in the following county jails for the fiscal year 2008-09 may not be greater on a daily basis than \$20 in Cumberland County jail; \$21.16 in York County jail; and \$21.16 in Somerset County jail. The Commissioner of Corrections may also negotiate agreements with other counties to board state prisoners at other county jails at marginal rates as agreed upon with those counties. The temporary boarding rates are repealed July 1, 2009.

The amendment specifies that nothing in the legislation may be construed to confer to the State ownership, either now or in the future, of any real or personal property owned by a county. Any correctional facility or county jail downsized or closed pursuant to Title 34-A, section 1803, subsection 2, paragraph C remains the property of the State or county, respectively.

The amendment also establishes an operating reserve account within the State Board of Corrections Investment Fund for county jail budget growth during the counties' 2009-10 fiscal year. The Commissioner of Corrections shall submit a plan to the Governor and Commissioner of Administrative and Financial Services for the inclusion of a \$1,500,000 appropriation to the operating reserve account of the State Board of Corrections Investment Fund in a supplemental or biennial budget bill authorizing appropriations and allocations for the 2009-10 fiscal year.

The amendment also corrects cross-references and adds an appropriations and allocations section.

Committee Amendment "B" (H-990)

This amendment, which is the minority report, is the same as the majority report, except that it includes a provision that ensures that if the Legislature appropriates in any biennial or supplemental budget an amount for the County Jail Prisoner Support and Community Corrections Fund established in the Maine Revised Statutes, Title 34-A, section 1806 that is less than the amount appropriated for the County Jail Prisoner Support and Community Corrections Fund under Title 34-A, section 1210-A in fiscal year 2007-08, then the Legislature shall allocate funds to the State Board of Corrections Investment Fund established in Title 34-A, section 1805 sufficient to make up the difference from the Fund for a Healthy Maine, notwithstanding the provisions of Title 22, section 1511, subsection 6.

This amendment was not adopted.

House Amendment "A" (H-1003)

This amendment requires the State Board of Corrections to determine a proportionate share of annual debt service for those counties that have county jail debt on July 1, 2008.

Joint Standing Committee on Criminal Justice and Public Safety

This amendment was not adopted.

Senate Amendment "A" (S-658)

This amendment funds the provisions in Committee Amendment "A". Specifically, the amendment:

1. Increases from \$1,117,799 to \$1,317,826 the amount transferred from the Accident, Sickness and Health Insurance Internal Service Fund to the unappropriated surplus of the General Fund;
2. Increases from \$185,196 to \$244,944 the amount transferred from the Retiree Health Insurance Internal Service Fund to the unappropriated surplus of the General Fund; and
3. Repeals that Part of Public Law 2007, chapter 539 that requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify positions to be eliminated to achieve a minimum savings of \$1,000,000 in the General Fund and replaces it with similar language that increases from 20 to 25 the positions to be identified.

Enacted Law Summary

Public Law 2007, chapter 653 creates a plan for a unified correctional system that coordinates services and resources of the county jails and the state correctional facilities.

Public Law 2007, chapter 653 establishes the State Board of Corrections whose purpose is to develop and implement a unified correctional system. The State Board of Corrections is directed to work with the counties, the Department of Corrections, the Legislature and other stakeholders and interested parties in the criminal justice system to coordinate and oversee a cost-efficient correctional system within the State that promotes and supports the use of evidence-based practices. The board is directed to develop benchmarks for performance in recidivism reduction, pretrial diversion and the rate of incarceration. The board is also charged with managing the cost of corrections by developing a plan to achieve systemic cost savings and cost avoidance throughout the unified correctional system with the goal of operating efficient correctional services, evaluating and determining correctional facility use and purpose, adopting treatment standards and policies and reviewing and approving any future public or private construction projects after establishing a certificate of need process governed by the Legislature's major substantive rule process.

Public Law 2007, chapter 653 directs the board to identify opportunities for and approve cost-saving agreements and efficiencies and report those opportunities identified to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The board shall assist correctional facilities and county jails where appropriate to establish, achieve and maintain professional correctional accreditation standards; administer the County Jail Prisoner Support and Community Corrections Fund established and the State Board of Corrections Investment Fund. The board may allocate available funds from the State Board of Corrections Investment Fund to meet any emergency expenses or for maintenance in emergency conditions of any correctional facility or jail. The board may make allocations for these purposes only upon written request of the Commissioner of Corrections or a county.

Public Law 2007, chapter 653 directs the board to prepare and submit to the Governor a budget for the State Board of Corrections Investment Fund biennially that clearly identifies the financial contribution required by the State to support the actual costs of corrections in addition to the capped property tax contribution. The board shall also propose in its budget an appropriation to the State Board of Corrections Investment Fund of an amount equal to the difference between the 2007-08 fiscal year's county jail debt and the amount of that year's debt payment.

Pursuant to Public Law 2007, chapter 653, the board receives and reviews recommendations submitted by the Commissioner of Corrections, counties, the corrections working group or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services and other recommendations with respect to the delivery of state and county

Joint Standing Committee on Criminal Justice and Public Safety

corrections services. The board shall consult with and seek input from prosecutors; defense attorneys; judges; advocates for victims; providers and advocates who work with persons with mental illness; and other interested parties.

Public Law 2007, chapter 653 prohibits the board from exercising jurisdiction over inmate grievances, labor negotiations or contracts, including personnel rules negotiated as part of any collective bargaining agreement, or any aspect of the operation of juvenile facilities or the administration of juvenile community corrections services. If a county or the Department of Corrections is aggrieved by a final decision of the board, the county or the department is entitled to judicial review, and any review must be limited to errors of law.

Public Law 2007, chapter 653 requires the board to make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the unified correctional system or the board. The joint standing committee shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.

In addition to establishing the State Board of Corrections, Public Law 2007, chapter 653 directs the sheriffs, the county commissioners and the Commissioner of Corrections to work together and in support of the State Board of Corrections by communicating to manage jail and prison capacity and offender placement and by recommending uniform policies and procedures. The Commissioner of Corrections is responsible for the daily management of inmate bed space throughout the unified correctional system and shall develop a process for information sharing between the state correctional facilities and the county jails.

Public Law 2007, chapter 653 separates noncorrectional services from correctional services for purposes of preparation of the county budgets and sets a cap on tax assessments for correctional services for each county, so that the assessment to municipalities within each county may not be greater than the fiscal year 2007-08 county assessment for correctional-related expenditures. The amendment also directs the counties to collect taxes from municipalities for the purpose of retiring the county jail debt in existence as of July 1, 2008 until the debt is finally retired. The counties may not collect taxes from the municipalities for the purpose of retiring any correctional services debt issued after July 1, 2008, nor may the State pay for future correctional services debt or other correctional services with revenue sources dedicated to the municipalities.

At least 6 months before the beginning of each fiscal year, the State Board of Corrections shall set a growth limitation for the correctional services expenditures in the new fiscal year for each county budget. The county commissioners shall submit itemized correctional services budgets to the board in a format and by a date to be determined annually by the board. The board shall review each county correctional services budget and if the county correctional services budget submitted to the board does not exceed the growth limitation established by the board and is consistent with board directives, the board shall accept the county commissioners' approval of the county's correctional services budget. If the county correctional services budget submitted exceeds the growth limitation established by the board or is inconsistent with board directives, the board shall further review, amend and adopt a correctional services budget for the county.

If a county correctional services budget submitted to the board exceeds the growth limitation established or is inconsistent with a directive of the board, the board shall further review the proposed budget together with any supplementary material prepared by the county commissioners, county correctional services administrators, the Department of Corrections or any other person or entity from whom the board chooses to receive supplementary material. The board may hold a hearing and shall hold a hearing if the county requests a hearing. For a county correctional services budget submitted to the board, the board may amend or accept the proposed budget provided

Joint Standing Committee on Criminal Justice and Public Safety

that the total estimated revenues, together with the amount of county tax to be levied pursuant to Title 30-A, section 701, subsections 2-A and 2-B, equal the total estimated expenditures. After review of a county correctional services budget submitted to the board, a hearing, if necessary, and the adjustment process, the board shall adopt a final correctional services budget for the county and transmit that budget to the county commissioners.

The property tax assessment for county correctional services expenditures as defined in Title 30-A, section 701, subsection 2-A, and the county jail debt assessment established in Title 30-A, section 701, subsection 2-B, approved by the board processes, are the final authorization for the assessment of county taxes. The budget must be sent to the county commissioners and the county tax authorized, apportioned and collected.

Public Law 2007, chapter 653 also provides counties an opportunity for one-time borrowing, if a county chooses to amend its fiscal year. County commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. The tax anticipation note covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow an amount that does not exceed the taxes anticipated from the transitional budgets and the period of borrowing may not exceed 5 years.

Public Law 2007, chapter 653 requires that the County Jail Prisoner Support and Community Corrections Fund pursuant to Title 34-A, section 1210-A be distributed to the counties using the existing process for fiscal year 2008-09. The appropriation may be no less than the appropriation for fiscal year 2007-08. Beginning July 1, 2009, the board shall administer the County Jail Prisoner Support and Community Corrections Fund, using the current distribution schedule and procedures described in Title 34-A, section 1210-A.

Public Law 2007, chapter 653 also creates the State Board of Corrections Investment Fund, which is an enterprise fund that may be expended only to compensate county governments and the Department of Corrections for costs approved by the board and the Legislature. The State Controller shall credit to the fund any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives have reduced jail expenses; funds appropriated by the Legislature; money from any other source, whether public or private, designated into or credited to the fund; and interest earned or other investment income on balances in the fund. Any unencumbered balance remaining at the end of any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.

Public Law 2007, chapter 653 establishes a corrections working group consisting of representatives of the department, sheriffs and county commissioners. The working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the unified correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the unified correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board.

Public Law 2007, chapter 653 establishes temporary boarding rates for state prisoners in county jails. The boarding rate charged to the Department of Corrections for housing state prisoners in the following county jails for the fiscal year 2008-09 may not be greater on a daily basis than \$20 in Cumberland County jail; \$21.16 in York County jail; and \$21.16 in Somerset County jail. The Commissioner of Corrections may also negotiate agreements with other counties to board state prisoners at other county jails at marginal rates as agreed upon with those counties. The temporary boarding rates are repealed July 1, 2009.

Public Law 2007, chapter 653 specifies that nothing in the legislation may be construed to confer to the State ownership, either now or in the future, of any real or personal property owned by a county. Any correctional facility

Joint Standing Committee on Criminal Justice and Public Safety

or county jail downsized or closed pursuant to Title 34-A, section 1803, subsection 2, paragraph C remains the property of the State or county, respectively.

Public Law 2007, chapter 653 also establishes an operating reserve account within the State Board of Corrections Investment Fund for county jail budget growth during the counties' 2009-10 fiscal year. The Commissioner of Corrections shall submit a plan to the Governor and Commissioner of Administrative and Financial Services for the inclusion of a \$1,500,000 appropriation to the operating reserve account of the State Board of Corrections Investment Fund in a supplemental or biennial budget bill authorizing appropriations and allocations for the 2009-10 fiscal year.

Public Law 2007, chapter 653 was enacted as an emergency measure effective April 18, 2008.

LD 2081 An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters

**PUBLIC 510
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-704

LD 2081 prohibits a person from selling or distributing for retail sale in Maine novelty lighters, which are lighters that are designed to appear to be a toy, feature a flashing light or make musical sounds. Violation is a civil infraction.

Committee Amendment "A" (H-704)

This amendment clarifies that a novelty lighter does not include a lighter incapable of being fueled. The bill stated that a lighter lacking fuel was not a novelty lighter, which allowed for the possibility that such a lighter and a device to light it could be sold separately. The amendment also clarifies that a novelty lighter does not include a device that is primarily used to light a fireplace or grill. The amendment adds language to prohibit stocking the product on retail shelves and on offering a novelty lighter as a promotion with another retail product.

Enacted Law Summary

Public Law 2007, chapter 510 prohibits a person from selling, stocking or distributing for retail sale in Maine novelty lighters, which are lighters that are designed to appear to be a toy, feature a flashing light or make musical sounds. The prohibition does not apply to a lighter incapable of being fueled or a device that is primarily used to light a fireplace or grill. A novelty lighter may not be offered as a promotion with another retail product. Violation is a civil infraction.

Public Law 2007, chapter 510 was enacted as an emergency measure effective March 24, 2008.

LD 2113 An Act To Implement the Recommendations of the Committee To Study the Prison Industries Program

**PUBLIC 503
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-705

LD 2113 creates the Prison Industries Advisory Council to help the Department of Corrections develop new marketing strategies and more diversified product lines and to identify methods to enhance programs and improve efficiency of operations throughout the prison industries system. It is the recommendation of the Committee To Study the Prison Industries Program pursuant to Joint Order 2007, H.P. 1334.

Committee Amendment "A" (H-705)