

MAINE STATE LEGISLATURE

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Legislative Document

No. 2608

H. P. 2084 House of Representatives, March 26, 1974
Reported by Mr. Dyar from the Committee on Health and Institutional
Services and printed under Joint Rules No. 18.
E. LOUISE LINCOLN, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Relating to Supplemental Security Income.

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

Whereas, the United States Government through approval of Public Law 92-603 repealed the state administered program of aid to the aged, blind and disabled, and discontinued its federal funding; and effective January 1, 1974 initiated the supplemental security income program administered by the U. S. Social Security Administration, and funded a minimum level of benefits with federal money; and

Whereas, a large number of Maine people who received aid to the aged, blind and disabled in December, 1973 will receive substantially lower benefits in January, 1974 and thereafter under the new supplemental security income program; and Maine people who apply after January 1, 1974 also will be eligible for substantially lower benefits under the new supplemental security income program; and

Whereas, the United States Government through approval of Public Law 93-66 in July, 1973, required action by each state to provide that people who were recipients of aid to the aged, blind and disabled in December, 1973 would continue to receive a level of payment in January, 1974 and thereafter equivalent to their former amount of aid; and the United States Government

authorized each state to provide benefits in addition to the minimum level financed with federal money; and

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

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

Sec. 1. R. S., T. 22, subtitle 3, amended. The first line of subtitle 3 of Title 22 of the Revised Statutes is amended to read as follows:

SUBTITLE 3. ~~WELFARE~~ INCOME SUPPLEMENTATION

Sec. 2. R. S., T. 22, c. 855, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 855, to read as follows:

CHAPTER 855

AID TO NEEDY PERSONS

§ 3170. Bureau of Income Supplementation

There is created within the Department of Health and Welfare the Bureau of Income Supplementation. The bureau shall be under the immediate and full supervision of the commissioner. It shall be a separate and distinct administrative unit, which shall in no way be integrated as a part or function of any other central office administrative unit of the department. The bureau shall be the organizational unit of State Government responsible for administration of these income supplement programs: Aid to families with dependent children, general relief, food stamps and state supplemental income for blind, disabled and elderly people.

All such income supplement programs, excluding any social service programs such as those conducted pursuant to any state law or Titles IV and VI of the United States Social Security Act of 1935, as amended, which heretofore were administered by the Bureau of Social Welfare, by this Act and implementation of it, are reconstituted to be administered by the Bureau of Income Supplementation. All social service programs, including those conducted pursuant to any state law or Titles IV and VI of the United States Social Security Act, as amended, which heretofore were administered by the Bureau of Social Welfare, by this Act and implementation of it are reconstituted to be administered by the Office of Resource Development or whatsoever organization succeeds or supplants it. The Bureau of Social Welfare, as heretofore established, by this Act and implementation of it is abolished.

§ 3171. Director

The bureau shall be administered by a director. The director shall be a person qualified by training and experience in management or public administration, or by satisfactory experience of a comparable nature in the direction, organization and administration of income supplement programs. The director shall be immediately and fully responsible to the commissioner and

shall not be partially or indirectly responsible to any other official of the department.

The director shall serve full time in a position that is separate from and not integrated in any way with another position in the department. He shall perform duties solely germane to the powers and duties of the bureau pursuant to this chapter and shall not concurrently hold another title or perform other duties.

The director shall possess full authority and responsibility for administering all the powers and duties of the bureau subject to the direction of the commissioner. The director shall assume and discharge all responsibilities vested in the bureau.

The director may employ, subject to the Personnel Law and within the limits of available funds, competent professional personnel and other staff necessary to carry out the purposes of this chapter. He shall prescribe the duties of staff and assign to the bureau a sufficient number of full-time staff to achieve its powers and duties.

§ 3172. Definitions

1. Aid. "Aid" means money payments to, or in behalf of, or medical care or any type of remedial care or any related services to needy individuals who qualify for such assistance under this chapter.

§ 3173. Powers and duties of department

The department is authorized to administer programs of aid, medical or remedial care and services for medically indigent persons. It is empowered to employ, subject to the Personnel Law, such assistants as may be necessary to carry out this program and to coordinate their work with that of the other work of the department.

The department is authorized and empowered to make all necessary rules and regulations, consistent with the laws of the State of Maine, for the administration of these programs including, but not limited to, establishing conditions of eligibility and types and amounts of aid to be provided, and defining the term "medically indigent," and the type of medical care to be provided.

The department shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of such records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the law under which they may be furnished.

All moneys made available to fund programs authorized by this chapter shall be expended under the direction of the department, and the department is empowered to direct the expenditures therefrom of such sums as may be necessary for purposes of administration.

Relating to the determination of eligibility for medical care to be provided to a beneficiary of state or federal supplemental income for the blind, disabled and elderly, the department may enter into an agreement with the Secretary, United States Department of Health, Education and Welfare, whereby the Secretary shall determine eligibility on behalf of the department.

§ 3174. Eligibility

The department, under rules and regulations established pursuant to section 3173, shall set forth conditions of eligibility for assistance under this chapter. Such conditions shall provide that aid may be granted only to any applicant who:

1. Income. Has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health;
2. Residence. Is living in the State at the date of the application; and
3. Inmate. Is not an inmate of any public institution, except as a patient in a medical institution, but an inmate of such an institution may file application for aid and any allowance made thereon shall take effect and be paid upon his ceasing to be an inmate of such institution.

§ 3175. Acceptance of federal provisions

The department is authorized, subject to the approval of the Governor and Council, to:

1. Apply for assistance. Apply for federal assistance under the United States Social Security Act, as amended, and to comply with such conditions, not inconsistent with this chapter, as may be required for such assistance; and
2. Reports. Make such reports in such form and containing such information as the Federal Government may from time to time require and comply with such provisions as the Federal Government may from time to time find necessary as to assure the correctness and verification of such reports.

§ 3176. Treasurer of State as agent

The Treasurer of State shall be the appropriate officer of the State to receive available federal grants for programs for which the department may be eligible to receive federal funding in accordance with the Federal Social Security Act and the State Controller shall authorize expenditures therefrom as approved by the department.

§ 3177. Suspension of aid

Appropriations for assistance under this chapter when used in programs entitled to receive federal matching funds shall not lapse but shall be a continuing account so long and as federal grants are available to match the State's contribution. No payments matchable by federal funds shall be made out of said account if federal grants or state appropriations are withdrawn,

except that medical or remedial care or services contracted for before the date of such withdrawal shall be paid. Any money left in said fund in the event of withdrawal of federal grants or state appropriations shall be divided between the State and the Federal Government in proportion to the amount contributed by each.

§ 3178. Payment to conservator or guardian

If an applicant for or a recipient of aid is found by the department to be incapable of taking care of himself or his money, payment shall be made only to a legally appointed guardian or conservator for his benefit.

§ 3179. Change of circumstances

If at any time during the continuance of aid the recipient thereof becomes possessed of any property or income in excess of the amount last disclosed to the department, it shall be the duty of the recipient immediately to notify the department of the receipt or possession of such property or income, and the department may, after investigation, either cancel the aid or change the amount thereof in accordance with the circumstances.

§ 3180. Inalienability of aid

All rights to aid shall be absolutely inalienable by any assignment, execution, pledge or otherwise, and shall not pass, in case of insolvency or bankruptcy, to any trustee, assignee or creditor.

§ 3181. Appeals

1. Any person who is denied aid, or who is not satisfied with the amount of aid allotted to him, or is aggrieved by a decision of the department made under this chapter, or whose application is not acted upon with reasonable promptness, shall have the right of appeal to the commissioner, who shall provide the appellant with reasonable notice and opportunity for a fair hearing. Said commissioner or a member of the department designated and authorized by him shall hear all evidence pertinent to the matter at issue and render a decision thereon within a reasonable period after the date of the hearing. When the evidence in the case is heard by a person other than the commissioner, the decision shall be rendered in the name of the commissioner. Such hearing shall conform to the procedures detailed herein. Review of any action or failure to act under this chapter shall be pursuant to Rule 80B of the Maine Rules of Civil Procedure.

2. Any action relative to the grant, denial, reduction, suspension or termination of aid provided under this chapter must be communicated to the applicant or recipient in writing and shall include the specific reason or reasons for such action and shall state that the person affected has a right to a hearing.

3. In any instance when it is proposed to terminate, suspend or reduce aid being provided, when it is evident that termination, suspension or reduction of aid is necessary, the recipient shall be given timely and advanced notice detailing the reasons for the proposed action and informing the re-

recipient of his right to request an evidentiary hearing to be held within 2 working days within receipt of the notice by the recipient unless the recipient requests a postponement of the hearing. Said hearing shall not be held before the person or subunit of the department proposing the termination, suspension or reduction. The person requesting the hearing shall be afforded the right to confront and cross-examine any witnesses against him, present witnesses in his own behalf and be represented by counsel or other spokesman, and advised of these rights in writing. The decision of such a hearing shall be based solely on evidence adduced at the hearing. The person requesting the hearing shall, within a reasonable time after the hearing, be furnished with a written decision detailing the reasons for such decision. The impending action of termination, suspension or reduction shall not be carried out until the evidentiary hearing has been offered or held, or both, and written notice of the decision has been given.

§ 3182. Fraudulent representations; penalty

Any person who by means of a willfully false statement or representation, or by impersonation or other fraudulent devices, obtains or attempts to obtain, or aids or abets any person to obtain:

1. Assistance not entitled. Aid to which he is not entitled;
2. Larger assistance. A larger amount of aid than that to which he is entitled; or
3. Forfeited assistance. Payment of any forfeited installment of aid; and any person who knowingly buys or aids or abets in buying or in any way disposing of property of a recipient in such a way as to constitute a fraud upon the department shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both.

§ 3183. General penalty

Any person who violates any of the provisions of this chapter for which no penalty is specifically provided shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both. If a recipient of aid is convicted of an offense under this chapter, the department may cancel the aid.

§ 3184. Recovery of illegal payments

The department may recover the amount expended for aid in a civil action from a recipient or a former recipient who has failed to disclose assets which would have rendered him ineligible had he disclosed the assets. Such actions shall be prosecuted by the Attorney General in the name of the State of Maine, and the amount recovered shall be credited to the account for aid, medical or remedial care and services for the medically indigent.

Sec. 3. R. S., T. 22, sub-T. 3, Part 1-A, additional. Subtitle 3 of Title 22 of the Revised Statutes is amended by adding a new Part 1-A to read as follows:

PART 1-A
STATE SUPPLEMENTAL INCOME FOR
BLIND, DISABLED AND ELDERLY PEOPLE
CHAPTER 855-A
GENERAL PROVISIONS

§ 3200. Short title

This chapter may be cited as the 1974 State Supplemental Income Act.

§ 3201. Declaration of objectives and purpose

1. Objective. In keeping with the American heritage that each person in our society has an inherent human dignity, it is declared that blind, disabled and elderly people of our State of Maine are entitled to sufficient income to attain a reasonable standard of living, which will encourage the pursuit of a meaningful life of greatest value to the nation, State of Maine, and fellow human beings. It is the mutual and shared duty of first, the individual and his family, second the community and private agencies of the community, and ultimately the governments of the political subdivisions of this State, the State of Maine, and the United States of America to enable blind, disabled and elderly people to secure income. The objective of this Part is to reduce income barriers to personal and economic independence by encouraging blind, disabled and elderly people to secure and maintain maximum dignity, independence, and self care in a home environment, and if needed, with an appropriate state supplemental income.

2. Purpose. It is further declared that many blind, disabled and elderly people in the State of Maine do not have income sufficient to meet the minimum cost of living budget relating to Maine as determined by the United States Department of Labor, Bureau of Labor Statistics. It is therefore the purpose of this Act, in support of the above objective, to make available to blind, disabled and elderly people a program of state supplemental income.

§ 3202. Definitions

For purposes of this Part, unless the context otherwise indicates, the following words shall have the following meanings.

1. Agreement. "Agreement" means a legally binding document between the Maine Department of Health and Welfare and the United States Department of Health, Education and Welfare.

2. Blind person. "Blind person" means a blind individual as defined in section 1614, Title XVI of the United States Social Security Act, as amended.

3. Category. "Category" means a subclassification of state supplemental income benefits for any one of the following: Blind, disabled or elderly person.

4. Commissioner. "Commissioner" means the Commissioner of the Maine Department of Health and Welfare or his successors.

5. Department. "Department" means the Maine Department of Health and Welfare.

6. Disabled person. "Disabled person" means a disabled individual as defined in section 1614, Title XVI of the United States Social Security Act, as amended.

7. Elderly person. "Elderly person" means an aged individual as defined in section 1614, Title XVI of the United States Social Security Act, as amended.

8. Secretary. "Secretary" means the Secretary, United States Department of Health, Education and Welfare.

9. Social Security Act. "Social Security Act" means the United States Social Security Act of 1935, as amended.

10. Social Security Administration. "Social Security Administration" means the Social Security Administration, United States Department of Health, Education and Welfare.

11. Title XVI. "Title XVI" means Title XVI of the United States Social Security Act of 1935, as amended.

§ 3203. Report

On or before February 1, 1975, and thereafter annually, on or before September 1st, the department shall submit a detailed report on the federal supplemental income program and the state supplemental income program to the Governor in accordance with Title 5, sections 43, 44, 45 and 46 and to the Legislative Council. The report shall include copies of all pertinent state and federal rules and regulations, recommendations for policy, budgetary and legislative action, and any advisory recommendations as may be recommended by the Maine Committee on Aging and the Maine Human Services Council.

CHAPTER 855-B ADMINISTRATION

§ 3261. Agreement for Federal Administration

1. The department shall enter into an agreement with the Secretary of the United States Department of Health, Education and Welfare or its successors, under which the secretary, through the Social Security Administration, on behalf of the State of Maine, shall administer the program of state supplemental income benefits authorized in sections 3271 and 3274. The agreement shall contain all requirements for, and limitations and qualifications on, state supplemental income benefits which Title XVI of the United States Social Security Act, as amended, or regulations adopted thereunder, make necessary in order to qualify the State for administration of state supplemental income benefits by the secretary. The agreement may include, but need not be limited to, provisions to implement the programs of state supplemental benefits pursuant to this Part.

2. The department shall take any and all reasonable action necessary to effect an agreement with the secretary of administration of all state supplemental income benefits. Insofar as an agreement pertains to so-called "optional" state supplemental income benefits provided pursuant to section 3271, such administration by the secretary on behalf of the State shall be effective for benefits payable July 1, 1974 and thereafter.

The department shall take any and all reasonable action to assure that such agreement shall contain provisions that the secretary shall administer the program, particularly as relates to processing of applications, receipt of benefits by eligible applicants, and hearing and reviews, in a manner which is timely and convenient to the applicant and beneficiary.

§ 3262. Applying for benefits

An individual who is a resident of the State of Maine and who applies to the Social Security Administration for supplemental security income benefits pursuant to Title XVI of the Social Security Act shall be deemed to be applying for state supplemental income benefits provided pursuant to this Part and for medical care benefits provided by the State of Maine pursuant to Title XIX of the Social Security Act. Eligibility of a person for any benefit shall be determined in accordance with applicable laws of the United States and State of Maine.

§ 3263. Hearings and review

Regarding state supplemental income benefits administered by the secretary, any individual who is or claims to be an eligible individual or eligible spouse pursuant to this Part and is in disagreement with any determination concerning this Part by the United States Department of Health, Education and Welfare shall be provided a hearing before the secretary in accordance with the hearings and review provisions of subsection (C), section 1631 of Title XVI.

§ 3264. Fiscal procedures

There shall be advanced with the authorization of the department, from the State Treasury to the secretary, prior to the first day of each month, an amount equal to the secretary's estimate of state supplemental benefits authorized pursuant to this Part for such month corrected for any adjustments resulting from benefits relating to any other month. The department shall conduct, at least once each fiscal year, an audit of such benefits paid by the secretary on behalf of the State.

An agreement shall specify procedures for making payments to the secretary and limitations on such payments, limits on state supplemental payments for patients in health care facilities, provision for recoupment of overpayments, or payments unlawfully procured, of state supplementary payments, adjustments against future state payments on account of such recoupment, and any other fiscal and quality control provision deemed advisable by the department.

§ 3265. Confidentiality

Information concerning an applicant or beneficiary under this Part shall be held in strict confidence. The department and secretary shall disclose or use such information only for purposes directly relating to administration of this Part.

§ 3266. Acceptance of federal provisions

All provisions of sections 1611, 1612, 1613, 1614 and 1615 relating to determination of benefits, and sections 1631, 1632 and 1633 relating to procedural and general provisions, of Title XVI of the United States Social Security Act, as amended, are accepted and are deemed to apply to the program of state supplemental security income benefits to the extent that they may be required to conduct a state supplemental income program as pursuant to this Part.

CHAPTER 855-C

BENEFITS

§ 3271. Program

1. A program of regular monthly state supplemental income for blind, disabled and elderly people shall be provided for residents of the State of Maine. Benefits under the state supplemental income program shall be based on need and provided in supplementation of benefits provided by the United States Government to aged, blind and disabled individuals pursuant to Title XVI of the United States Social Security Act, as amended. Benefits shall be provided to any person who, on account of blindness, disability or age, qualify for supplemental security income provided pursuant to Title XVI of the United States Social Security Act, as amended, and may, based on need, be provided to individuals who would, but for their income, be eligible for such supplemental security income benefits.

2. The department, to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder, shall establish, with the advice of the Maine Committee on Aging and the Maine Human Services Council, standard levels of state supplemental income benefits for blind, disabled and elderly people. The benefits shall be provided under a modified flat benefit system, and may vary by marital status, and by living arrangements to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder. The benefits shall not be based on individual budgeted need and shall not vary by category or geographical area. Benefits for a couple, except as provided under section 3273, subsection 1, paragraph B, shall be equal to the sum of the amount of benefit for an individual and 50% of the benefit for an individual.

3. The department may also require, as a condition of eligibility, that any applicant for benefits or beneficiary under this Part must apply for any income supplementation that may be available under any other federal or state programs operated pursuant to the provisions of the Social Security Act, if

it reasonably appears that such applicant or beneficiary is likely to be eligible for income supplementation under such other programs.

§ 3272. Standard

1. The standard utilized to determine need shall be the current annual budget at the lower level of living for a retired couple as most recently determined by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine, or budgets which are consistent with such a budget at the lower level of living, taking into account budget variances by marital status and living arrangements permitted pursuant to Title XVI and regulations promulgated thereunder.

§ 3273. Types of benefits

1. The department shall take action, as necessary, to assure that, within the limits of available funds, a state supplemental income benefit, when combined with a federal supplemental security income benefit, shall consist of such amounts that the sum shall:

A. Increase the minimum monthly federal payment standard, in addition to that established pursuant to federal law, by an amount of at least \$8 per month for an individual and \$12 per month for a couple;

B. For an individual who resides in an adult foster home or boarding home, in addition to the benefits provided herein under subsections A and C, provide sufficient income to allow the individual for personal needs an amount equal to the rates set in subsection (e) (i) (B) of section 1611 of Title XVI of the United States Social Security Act, as amended, plus an amount sufficient to meet the monthly per resident payment rate as established by the department for such home in which the individual resides; and

C. For a beneficiary who resides in a living arrangement which meets a living arrangement classification established by the department, but who does not reside in an adult foster home or boarding home, in addition to the minimum federal payment level as adjusted pursuant to paragraph A, provide, based on such living arrangement classification, an amount not to exceed \$42 per month for an individual and \$63 per month for a couple.

2. Participation limited

A. The limitation on eligibility of certain individuals established in subsections (e) (i) (A) and (e) (i) (B) of section 1611 of Title XVI of the United States Social Security Act, as amended, shall apply to benefits provided pursuant to this section. Benefits to patients in health care facilities shall be limited to those provided under the Federal Supplemental Security Income Program.

B. A beneficiary of the federal supplemental security income program or of the state supplemental security income program shall not be eligible for elderly householders tax and rent refunds pursuant to Title 36, Part 9, chapter 901.

3. Payments for boarding home care

A. If an agreement cannot include payment levels and variations thereof to provide the individual sufficient income to meet the monthly per resident payment rate for boarding home care, the department shall take any and all reasonable action necessary to the goal of achieving, within a reasonable time, a payment structure for each boarding home that will permit execution of an agreement with the secretary for administration of all state supplemental income benefits.

B. In the unfortunate and unlikely event that such an agreement cannot be effected to provide the individual sufficient income as specified in subsection 1, paragraph B, the department may provide a special grant whenever the benefit pursuant to subsection 1, subsection B, is insufficient to meet the rate set for a boarding home. The department shall make such special grant preferably via a vendor payment system or via payment to a payee designated by the individual, or if necessary, via payment to the individual. Noting the intent of Title XVI of the United States Social Security Act, as amended, the administrative efficiencies, and the substantial cost savings to Maine taxpayers, it is the intent of the Legislature that the department shall take any and all reasonable action to obtain the approval of the secretary for a system of vendor payments for such special grants.

4. Appropriations available for benefits provided in subsection 1 shall be budgeted and authorized for expenditure by the department in a priority sequence. First, the available appropriation shall be budgeted and expended to increase the minimum monthly federal payment, as specified in subsection 1, paragraph A. Second, any balance of the appropriation remaining after such budgeting, shall be budgeted and expended to provide an individual sufficient income to meet the monthly per resident payment rate for adult foster and boarding home care as provided in subsection 1, paragraph B and subsection 3. Finally, any balance of the appropriations remaining after such budgeting shall be budgeted and expended to provide benefits related to variations by living arrangements as provided in subsection 1, paragraph C.

5. Retroactive payments relating to benefits provided in subsection 1, paragraph B, and subsection 3 shall not be made for any care provided prior to April 1, 1974. Retroactive payments relating to benefits provided in subsection 1, paragraphs A and C, shall not be provided for any period of time prior to July 1, 1974.

6. Future changes in types of benefits

A. It is the declared intent of this Act that, if it is proposed that benefits provided pursuant to subsection 1 are to be increased on any future date, that such proposal shall recommend, and implementation of such increases shall provide, that the benefits pursuant to subsection 1, paragraph A, shall be increased, and the benefits pursuant to subsection 1, paragraph B, shall be increased, rather than increasing benefits pursuant to subsection 1, paragraph C.

B. Effective July 1st of every year, after the year 1974, the sum of the monthly amount of any state supplemental income benefit authorized by

subsection 1, paragraphs A and C, plus the amount of the minimum monthly federal supplemental security income in effect at such time shall be increased by a percentage amount equal to the percentage rise in the United States Consumer Price Index for April first of that year over the level of the Index for April first of the previous year plus such additional percentage amount as is recommended annually by the department. Such an increase shall be made only insofar as appropriations are available. In determining the additional percentage amount, consideration shall be given to the goal of reaching, within a reasonable time, a benefit level equal to or consistent with the current budget at the lower level of living for a retired couple established by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine.

If, on April 1st of any year, the sum of the monthly amount of any state supplemental payment authorized by subsection 1, paragraphs A and C, plus the amount of the minimum monthly federal supplemental security income in effect at such time, is equal to or exceeds the amount resulting from 12 divided into the current annual budget at the lower level of living for a retired couple as most recently established by the United States Department of Labor, Bureau of Labor Statistics, for Portland, Maine, or taking into account variances by marital status and living arrangements as established by the department, a budget which is not inconsistent with said annual budget divided by 12, such increase provided on July 1st next following shall be limited to the percentage rise in the Index.

§ 3274. Mandatory payments

1. Amount of payment. The department shall provide so-called "mandatory" state supplemental income payments to beneficiaries of the supplemental security income program who receive payments under the state's former aid to the aged, blind and disabled program based on eligibility established for the month of December, 1973.

A so-called "mandatory" state supplemental income benefit, when combined with a federal supplemental security income benefit, shall, to the extent required by federal law to qualify the State of Maine to receive federal matching funds for medical care pursuant to Title XIX of the United States Social Security Act, as amended, and in so far as funds are available, be at least equal to and in no event less than the level of payment to such a recipient effective for December, 1973, under the former state aid to the aged, blind and disabled program, based on eligibility for December, 1973, in accordance with standards of payment applicable to such aid.

2. Administration. Insofar as an agreement made pursuant to section 3261 pertains to so-called "mandatory" payments, it shall provide that the department enter into an agreement with the secretary under which the secretary, through the Social Security Administration, on behalf of the State of Maine, shall administer, effective with payments issued on January 1, 1974 and thereafter the program of so-called "mandatory" state supplemental income benefits authorized in subsection 1.

3. Applying for benefits. Persons who receive payments under the state's former aid to aged, blind and disabled Program based on eligibility established for the month of December, 1973, shall, if eligible, receive benefits provided pursuant to this Part and for medical care benefits provided by the State of Maine pursuant to Title XIX of the United States Social Security Act, as amended, without filing an application for supplemental security income with the Social Security Administration.

4. Inconsistent provisions. The provisions of sections 3271, 3272 and 3273 do not apply to so-called "mandatory" payments. If any provision of these sections is inconsistent with this section, this section, as it relates to mandatory payments, shall prevail.

CHAPTER 855-D SPECIAL PROVISIONS

§ 3275. Applicability of chapter

The provisions of this chapter apply only to so much of state supplemental income to the blind, disabled and elderly as is administered directly by the department, and not to so much thereof as is administered by the secretary. When the administration of any portion of the state supplemental income program is transferred to the secretary, these provisions shall no longer apply to such portion of the state supplemental income program.

§ 3276. Disqualification

Any beneficiary of state supplemental income not administered by the secretary shall be disqualified from receiving benefits unless he files with the department, whenever the department may require it, information concerning his income, assets and other conditions relating to his financial circumstances.

§ 3277. Regulations

The department shall promulgate such temporary rules and regulations, consistent with the laws of the State of Maine, which are necessary or desirable for administration of this Part. The effect of such rules shall terminate on July 1, 1975.

§ 3278. Applicability of other sections

Sections 3178, 3179, 3180, 3181, 3182, 3183 and 3184 apply to this Part.

§ 3279. Unindorsed checks; procedure

When, for any reason whatsoever, a person who has been determined to be eligible for state supplemental income is unable to indorse the check for the last payment approved for him prior to his death, the department may approve payment by the State of obligations incurred by the recipient for board and room in anticipation of the receipt of such check, such payments to be authorized in accordance with the rules and regulations of the department. Any claim which may be paid under this section must be pre-

sent to the department in writing within 60 days of the date of the death of the eligible person.

§ 3280. Liability of relatives

The spouse of a beneficiary of state supplemental income shall, if of sufficient ability, be responsible for the partial or total support of such persons. In determining the ability of such spouse, his assets as well as his income shall be considered.

The Attorney General shall bring proceedings in the name of the State of Maine in any court of competent jurisdiction to compel any person liable under this section to contribute to the support of any recipient of such benefit, if, after reasonable efforts on the part of the department, voluntary contributions have not been made. The court shall determine a fair and reasonable amount for support to be paid by the defendant to the department as reimbursement for moneys furnished to a recipient.

The action shall be brought as a petition for support upon not less than 7 days' notice. Upon failure to pay the support ordered, execution shall issue. The State shall pay the expense of commitment and support when the defendant is committed to jail on execution and he may be discharged in the same manner as provided by Title 19, section 722.

The department shall encourage and stimulate voluntary contributions from the parents and adult children of the recipients of such aid, if such relatives are of sufficient ability to contribute toward the support of such recipients.

§ 3281. Civil rights

The state supplemental income program shall be conducted in accordance with Title VI of the Civil Rights Act, as amended.

§ 3282. Provisions severable

The provisions of chapters 855, 855-A, 855-B, 855-C and 855-D are severable and, if any of the provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect nor impair any of the remaining provisions. If any of the provisions of said chapters shall be in violation of the provisions of the Federal Social Security Act as in effect on the effective date of this Act, such provision shall be null and void and the department shall, in that event, take such action as is consistent with the intent of this Act and as is necessary to continue participation by the State of Maine in the program authorized by Title XVI of the United States Social Security Act, as amended. If any of the provisions of this Act shall be in violation of any amendment to the Social Security Act which shall take effect subsequent to the effective date of this Act, the department shall recommend to the Legislature legislation which is necessary or desirable to conform the laws of the State to such amendments.

Sec. 4. R. S., T. 22, cc. 951, 953, 955 and 957, repealed. Chapters 951, 953, 955 and 957 of Title 22 of the Revised Statutes are repealed.

Sec. 5. R. S., T. 22, § 3461, sub-§ 1, repealed. Subsection 1 of section 3461 of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 631 of the public laws of 1973, is repealed.

Sec. 6. R. S., T. 22, § 3461, sub-§ 5, repealed and replaced. Subsection 5 of section 3461 of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 631 of the public laws of 1973, is repealed and the following enacted in place thereof:

5. Ward. "Ward" means a person for whom the department has been duly appointed guardian pursuant to Title 18, chapter 501, subchapter III-B.

Sec. 7. R. S., T. 22, § 3462, sub-§ 1, amended. The first sentence of subsection 1 of section 3462 of Title 22 of the Revised Statutes, as enacted by section 2 of chapter 631 of the public laws of 1973, is amended to read as follows:

The ~~Bureau of Social Welfare~~ bureau shall respond to complaints concerning and requests for assistance from or on behalf of all incapacitated adults.

Sec. 8. R. S., T. 22, § 3701, amended. The first sentence of section 3701 of Title 22 of the Revised Statutes, as amended by chapter 57 of the public laws of 1965, is further amended to read as follows:

The department, through its Bureau of ~~Social Welfare~~ **Income Supplementation**, is authorized to cooperate with the Federal Government in providing child welfare services, which are defined as public social services which supplement, or substitute for, parental care and supervision for the purpose of preventing or remedying or assisting in the solution of problems which may result in the neglect, abuse, exploitation or delinquency of children, protecting and caring for homeless, dependent or neglected children, protecting and promoting the welfare of children of working mothers, and otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities; and in expending funds made available for such purposes.

Sec. 9. Transitional provisions.

1. Bureau of Income Supplementation. The Bureau of Income Supplementation of the Department of Health and Welfare shall be the successor in every way to the powers, duties and functions relating to income supplement programs of the former Bureau of Social Welfare, or any of its administrative units, except as otherwise provided in this Act. The Office of Resource Development of the Department of Health and Welfare, or its successors, shall be the successor in every way to the powers, duties and functions relating to social services programs of the former Bureau of Social Welfare, or any of its administrative units, except as otherwise provided in this Act.

2. Rules, regulations and procedures. All existing regulations in effect, in operation or promulgated in or by the Bureau of Social Welfare, or in or by any administrative units or officer thereof, are hereby declared in effect

and shall continue in effect until rescinded, revised or amended by the proper authority.

3. **Contracts, agreements, compacts.** All existing contracts, agreements and compacts currently in effect in the Bureau of Social Welfare shall continue in effect.

4. **Personnel.** Any positions, authorized and allocated subject to the Personnel Law, to the former Bureau of Social Welfare shall be transferred by the department to the Bureau of Income Supplementation or Office of Resource Development or its successors and may continue to be authorized. Initial appointments to such positions vacant as of the effective date of this Act shall be made on an open competitive basis. Any employee and official of such former agency subject to the Personnel Law on the effective date of this Act may be transferred to the Bureau of Income Supplementation or Office of Resource Development and continue their employment after the effective date of this Act, without interruption of their state service, unless personnel positions or such office is terminated or abolished or method of appointment or employment is altered or changed by the provisions of this or other Acts. The office and title of Director, Bureau of Social Welfare is abolished.

5. **Records, property and equipment.** All records, property and equipment previously belonging to or allocated for the use of the Bureau of Social Welfare shall become, on the effective day of this Act, part of the property of the Bureau of Income Supplementation or Office of Resource Development, Department of Health and Welfare.

6. **Conflicts.** All Acts or parts of Acts and rules inconsistent with this Act are repealed or amended to conform hereto.

7. **Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another administrative unit as a result of this Act, shall be transferred to the proper place in an account for the office by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council. A proper accounting shall be made by activity within the account.

Sec. 10. Effective dates. This Act, except for the sections noted below, shall be retroactive to January 1, 1974. Benefit provisions of subsection 1, paragraphs A and C, of section 3273, shall be payable effective July, 1974, and thereafter, or in the event an agreement cannot be made between the department and secretary for administration, effective July 1, 1974, of so-called "optional" supplementation by the secretary, subsection 1, paragraphs A and C, of section 3273, shall be payable effective the first month after July, 1974, in which the secretary issues payments pursuant to an agreement. Benefit provisions of subsection 1, paragraph B, and subsection 3 of section 3273 shall be payable by the department effective April, 1974, and thereafter until such time as an agreement is made between the department and secretary for administration of so-called "optional" supplementation. Effective

with the first month the secretary issues payments pursuant to such an agreement, the benefit provisions of subsection 1, paragraph B, and subsection 3 of section 3273 shall be payable by the secretary to the extent allowed by Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder, and otherwise such benefits shall be payable by the department to the extent the secretary is not allowed to make such payments pursuant to Title XVI of the United States Social Security Act, as amended, and regulations promulgated thereunder.

Fiscal Note

Appropriations required to fund a state supplemental income program are included in Acts making additional appropriations for 1973-74 and current service and supplemental appropriations for 1974-75.

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

STATEMENT OF FACT

The United States Government, through approval of Public Law 92-603 repealed the state administered program of aid to the aged, blind and disabled, and discontinued its federal funding. Effective January 1, 1974, the same federal law initiated the Supplemental Security Income Program administered by the U.S. Social Security Administration, and federally funded a minimum level of benefits, while authorizing each state the option to provide additional benefits.

This bill repeals those portions of Title 22 relating to the former aid to the aged, blind and disabled programs. These are replaced with a new Part 1-A of Subtitle 3 of Title 22 authorizing a state supplemental income program for blind, disabled and elderly people.

This bill provides that the state supplemental income program shall be administered by the U.S. Social Security Administration at no cost to the State. This relieves the State of the necessity of annually paying an estimated \$150,000 in state administrative costs. This will also permit a reduction of 27 positions in the department. Most importantly, federal administration will be more convenient for blind, disabled and elderly people.

This bill authorizes a state financed supplemental income program to augment the minimum monthly payment financed by federal revenues. Currently the Federal Government provides up to \$140 per month for an individual and \$210 for a couple. Within the limits of appropriations, this bill authorizes increases in the minimum federal payment:

1. \$8 per month for an individual and \$12 per month for a couple;

2. Not more than \$42 per month to an individual for shelter related benefits and \$63 per month to a couple for shelter related benefits; and
3. In the case of an eligible resident of an adult foster home or boarding home, an amount equal to the difference between the resident's income and the sum of the cost of care in the home plus \$25 per month for personal needs.

The bill also authorizes payment of so-called "mandatory" supplemental benefits. Federal law stipulates that failure to provide such benefits will result in the loss of the 70% federal matching money now combined with state funds to conduct a \$52 million dollar medical care program.

The bill also provides for orderly administration of other income supplement programs operated by the department. Programs currently operated by the Bureau of Social Welfare are reconstituted, a Bureau of Income Supplementation is created and the Bureau of Social Welfare is abolished.

The bill also makes a number of technical changes in Parts I and II of Title 22. These are contained in sections one and 2 of the bill. The new sections are consistent with the intent of the sections which are repealed and replaced. Such changes were required to meet federal requirements for conducting a state supplemental income program and were essential for maintaining the order and technical accuracy of Maine statutes.