

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2290

H. P. 2155

House of Representatives, March 5, 1976

Reported by Mrs. Berube from the Committee on Performance Audit pursuant to H. P. 529 and printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3 pursuant to H.P. 529.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

**AN ACT to Increase the Efficiency of the Investigation and Prosecution
of Fraud Against the State.**

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

Whereas, the investigation and prosecution of fraud perpetrated against the State is currently carried out by several state agencies in a fragmented and inefficient manner; and

Whereas, the efficient investigation and prosecution of all types of fraud against the State is a matter requiring immediate attention; 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. 5 MRSA §§ 200-C and 200-D are enacted to read:

§ 200-C. State Fraud Division

1. Establishment. The Attorney General is authorized to create a State Fraud Division, hereinafter referred to in this section as the "division," within the Department of the Attorney General.

2. Purpose. The purpose of the division shall be to investigate and prosecute, including actions for civil recovery, any act of fraud or attempted fraud

perpetrated against the State or any department, agency or commission thereof. The division shall not have primary responsibility for the investigation of any act of fraud or attempted fraud or incident of commingling or misapplication of funds pursuant to Title 22, section 13, subsection 2.

3. **Cooperation, information.** All agencies of the State and municipal governments shall cooperate fully with the division, rendering any assistance requested by the division. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the division any suspected act of fraud or attempted fraud or violation of any law in connection with funds of the State. Any such act or violation involving funds administered by the Department of Human Services shall be reported pursuant to Title 22, section 13, subsection 3.

All information in the files of any department, commission or agency of State Government, regardless of any statute relating to confidentiality, shall be available to the division for use in connection with its official purpose.

§ 200-D. Complaints and investigative records confidential

Notwithstanding any other provision of law, all complaints and investigative records of the Department of the Attorney General shall be and are declared to be confidential.

Sec. 2. 5 MRSA § 242-A, as enacted by P&SL 1971, c. 179, § J, § 1, and as amended, is repealed.

Sec. 3. 22 MRSA § 13 is enacted to read:

§ 13. Human Services Fraud Investigation Unit

1. **Establishment; composition.** The Commissioner of Human Services is authorized to create within the department a Human Services Fraud Investigation Unit, hereinafter referred to in this section as the "unit." The commissioner is authorized to employ and assign to the unit such employees as he deems appropriate.

2. **Purpose.** The purpose of the unit shall be to investigate reported acts of fraud or attempted fraud or incidents of commingling or misapplication of funds in connection with, but not limited to, the requesting, obtaining, receiving, withholding, recording, reporting, expending or handling of funds administered by the department. The unit shall investigate such reported acts or incidents involving, but not limited to, recipients, providers and vendors receiving or applying for services or funds administered by the department.

3. **Cooperation; information.** All agencies of the State and municipal governments shall cooperate fully with the unit, rendering any assistance requested by the unit. Every head of a department, bureau, division, commission or any other unit of State Government shall report in writing to the unit all information concerning any suspected incident of fraud or attempted fraud or violation of any law in connection with funds administered by the department.

4. **Violation of law; action.** Whenever the unit determines that a fraud, attempted fraud or a violation of law in connection with funds administered

by the department may have occurred, it shall report in writing all information concerning such fraud or violation to the Attorney General or his delegate for such action as he may deem appropriate, including civil action for recovery of funds and criminal prosecution by the Department of the Attorney General. The unit shall, upon request of the Attorney General and in such a manner as he deems appropriate, assist in the recovery of funds.

Sec. 4. Transitional provisions.

1. **Personnel.** No later than the effective date of this Act, the director of the Fraud Investigation Division, Department of Audit, shall be transferred to the new Fraud Investigation Unit, Department of Human Services, and the 2 investigators and the secretary of the Fraud Investigation Division, Department of Audit, shall be transferred to the new State Fraud Division, Department of the Attorney General. The employment of these persons shall not be terminated solely as a result of their transfers.

2. **Equipment, property and records.** All equipment, property and records of the Fraud Investigation Division, Department of Audit, shall be relocated under this Act to the State Fraud Division, Department of the Attorney General and to the Fraud Investigation Unit, Department of Human Services no later than the effective date of this Act.

Sec. 5. Appropriation. There is transferred from the Department of Audit for fiscal years 1975-76 and 1976-77 the sum of \$80,655; \$52,149 to the Department of the Attorney General and \$28,506 to the Department of Human Services. The breakdown shall be as follows:

		1975-76		1976-77
AUDIT, DEPARTMENT OF				
Personal Services	(4)	(\$12,656)	(4)	(\$51,113)
All Other		(\$ 3,161)		(\$13,725)
ATTORNEY GENERAL, DEPARTMENT OF				
Personal Services	(3)	\$ 7,854	(3)	\$32,237
All Other		2,258		9,800
HUMAN SERVICES, DEPARTMENT OF				
Personal Services	(1)	\$ 4,802	(1)	18,876
All Other		903		3,925

The transfer of funds involves removing the Fraud Investigation Division from the Department of Audit and redeploying the 4 positions to the Division to the Attorney General's Office and to the Department of Human Services.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect April 1, 1976.

STATEMENT OF FACT

The purpose of this Act is to improve the efficiency of the investigation and prosecution of acts of fraud perpetrated against the State.

To accomplish this purpose, the Act makes the following changes:

1. The Fraud Investigation Division, Department of Audit, is dismantled.
2. Three of the positions in the Fraud Investigation Division are transferred to the Department of the Attorney General to enable this Department to investigate, as well as prosecute, suspected acts of fraud against the State.
3. The remaining one position in the Fraud Investigation Division is transferred to the Department of Human Services to enable this department to investigate acts of fraud involving recipients, providers and vendors who receive or apply for funds administered by the Department.

This Act should increase the efficiency with which suspected acts of fraud are handled, because it reduces the fragmentation present in the existing system.