

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2330

S.P. 910

In Senate, February 13, 1992

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Implement the Recommendations of the Special Commission
on Governmental Restructuring.**



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

PART A

Sec. A-1. 3 MRSA §163-A, sub-§10, as enacted by PL 1985, c. 501, Pt. B, §5, is amended to read:

10. **Collection of fiscal information.** To collect and assemble factual information concerning the fiscal affairs of the State for the use of the ~~Joint--Standing--Committee--on Appropriations--and--Financial--Affairs~~ joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs in formulating its proposals for appropriations and to collect and assemble fiscal information concerning other revenue funds for the use of any joint standing committee in formulating proposals for allocation acts. Fiscal notes must include, to the extent possible, an estimate of the fiscal impact of the legislation over both the current biennium and the following biennium. To the extent possible, the office designated by the Legislative Council as having responsibility for fiscal analysis shall develop a projected budget outline for the biennium following the current biennium. The office shall complete the outline at the close of each legislative session and base the outline on the cumulative impact of legislation passed by the Legislature during the legislative session;

Sec. A-2. 5 MRSA §1664, as amended by PL 1991, c. 376, §19, is repealed and the following enacted in its place:

§1664. Form of budget document

For the purposes of this section, the term "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws that allow a special exclusion, exemption or deduction or that provide a special credit, a preferential rate of tax or a deferral of tax liability.

The state budget document, setting forth a financial plan for the State Government for each fiscal year of the ensuing biennium, must be divided into an operating budget and a capital budget. The document must include at least the following information:

1. In general. All expenditures for state programs, including General Fund appropriations, special and dedicated revenue allocations, federal expenditures and tax expenditures, with identification of funding sources and the application of the funds;

2 2. Federally funded programs. Estimates of the total
3 federal funds and General Fund expenditures for federally funded
4 programs;

6 3. Tax expenditures. Specific descriptions of the
7 estimated loss in revenue during the last completed fiscal year
8 and during the 12 months immediately preceding the date of the
9 document's submission, and the anticipated loss in revenue for
10 each fiscal year of the ensuing biennium, caused by tax
11 expenditures provided in state laws. Estimated revenues must
12 include potential revenues lost due to tax expenditures, other
13 than those that conform exactly to the federal tax system. The
14 document must treat tax expenditures, other than those that
15 conform exactly to the federal tax system, as appropriations to
16 the receivers of the exemption;

18 4. Contingency provisions. Provisions for contingency
19 funds to be used for unanticipated, emergency requirements;

21 5. Narratives. Short narratives that highlight
22 justifications for any program changes contained in the budget;

24 6. Organizational charts. Organizational charts for each
25 department and agency of State Government;

27 7. General budget summary. A budget message by the
28 Governor or the Governor-elect that outlines the financial policy
29 of the State Government for the ensuing biennium and describes
30 the important features of the financial plan. It must include a
31 general budget summary setting forth the aggregate figures of the
32 budget in a manner that shows the balanced relations between the
33 total proposed expenditures and the total anticipated revenues
34 together with the other means of financing the budget for each
35 fiscal year of the ensuing biennium, contrasted with the
36 corresponding figures for the last completed fiscal year and the
37 12 months immediately preceding the date of the document's
38 submission. The general budget summary must be supported by
39 explanatory schedules or statements, classifying the expenditures
40 contained in the general budget summary by organization units,
41 objects and funds, and the income by organization units, sources
42 and funds;

44 8. Detailed budget estimates. Detailed budget estimates
45 both of expenditures and revenues as provided. It must include
46 statements of the bonded indebtedness of the State Government
47 showing the debt redemption requirements, the debt authorized and
48 unissued and the condition of the sinking funds. It must contain
49 any statements relative to the financial plan that the Governor
50 or the Governor-elect may consider necessary or that are required

2 by the Legislature and must contain the analysis and statement
3 required by section 1665, subsections 2 and 5:

4 9. Budget bills. Complete drafts or summaries of the
5 budget bills, the legislative measures required to give legal
6 sanction to the financial plan when adopted by the Legislature.
7 These bills must be divided into operating and capital budget
8 bills. These bills must include General Fund appropriation bills
9 and allocation bills for the following: Highway Fund, Federal
10 Revenue Sharing Fund, Coastal Protection Fund, Maine Nuclear
11 Emergency Planning Fund and for the administrative expenses of
12 the Bureau of Alcoholic Beverages and the State Liquor
13 Commission, authorizing expenditures for each fiscal year of the
14 ensuing biennium and such other bills required to provide the
15 income necessary to finance the budget; and

16 10. Strategic plans. A description of the Governor's or the
17 Governor-elect's strategic plans, developed under section 1666-A,
18 that form the basis of the budget plan.

19 Sec. A-3. 5 MRSA §1665, sub-§1, as enacted by PL 1989, c. 501,
20 Pt. P, §13, is amended to read:

21 1. Expenditure and appropriation requirements. On or
22 before September 1st of the even-numbered years, all departments
23 and other agencies of the State Government and corporations and
24 associations receiving or desiring to receive state funds under
25 the provisions of law shall prepare, in the manner prescribed by
26 and on blanks furnished them by the State Budget Officer, and
27 submit to the officer estimates of their expenditure and
28 appropriation requirements for each fiscal year of the ensuing
29 biennium contrasted with the corresponding figures of the last
30 completed fiscal year and the estimated figures for the current
31 fiscal year and for the 12-month period immediately prior to the
32 submission date for the budget under section 1666. Estimated
33 figures for the 12-month period immediately prior to the budget
34 submission date must be updated by agencies and departments at
35 the request of the State Budget Officer prior to the submission
36 of the budget under section 1666. The expenditure estimates
37 shall must be classified to set forth the data by funds,
38 organization units, character and objects of expenditure. The
39 organization units may be subclassified by functions and
40 activities, or in any other manner, at the discretion of the
41 State Budget Officer.

42 Sec. A-4. 5 MRSA §1665, sub-§3, as enacted by PL 1989, c. 501,
43 Pt. P, §13, is repealed.

44 Sec. A-5. 5 MRSA §1666-A is enacted to read:
45

2 **§1666-A. Strategic planning**

4 The Governor or Governor-elect, with the assistance of the
6 State Planning Office, shall develop state budgets from strategic
 plans that establish expected outcomes and measurable performance
 objectives and that set program priorities.

8 Sec. A-6. 5 MRSA c. 151-B is enacted to read:

10 **CHAPTER 151-B**

12 **CONSENSUS FORECASTING COMMITTEE**

14 **§1710. Established; membership**

16 There is established the Consensus Forecasting Committee
18 composed of 5 members with professional credentials in economic
 and revenue forecasting. A member may not be a Legislator or an
20 employee of the executive branch. The President of the Senate
 and Speaker of the House of Representatives shall appoint jointly
22 2 members. The Governor shall appoint 2 members. These members
 shall appoint the 5th member who shall serve as chair of the
24 committee.

26 **§1710-A. Duties**

28 The Consensus Forecasting Committee shall develop 10-year
 and 20-year macro-economic secular trend forecasts and one-year,
30 2-year, 4-year and 6-year economic and revenue forecasts. The
 committee shall recommend these forecasts to the Governor or
32 Governor-elect and the Legislature by November 30th of
 even-numbered years. The committee shall revise periodically its
34 forecasts. All forecasts recommended by the committee must be
 approved by a majority of the committee members.

36 **§1710-B. Use of forecasts**

38 If the Governor fails to employ biennial revenue forecasts
40 approved by a majority of the members of the Consensus
 Forecasting Committee in the Governor's budget proposal submitted
42 to the Legislature, the Legislature may use the committee's
 majority forecasts rather than the Governor's forecasts in its
44 review of the budget.

46 **§1710-C. Compensation**

48 Members are entitled to compensation, if any, as provided in
 section 12004-I, subsection 28-A.

2 **Sec. A-7. 5 MRSA §3304, sub-§3, ¶F**, as amended by PL 1989, c.
501, Pt. DD, §7, is further amended to read:

4 F. Be assisted by departments, agencies, authorities,
boards, commissions, other instrumentalities of the State or
6 other governmental units in the gathering of information,
reports and data which that relate to state planning. The
8 State Planning Office shall designate staff members of the
office who shall work with the several departments. All
10 departments, and other instrumentalities of State Government
as directed by the Governor, shall, with the assistance of
12 the State Planning Office, develop 6-year, outcome-oriented
strategic plans. Beginning in 1993, strategic plans and
14 annual revisions to those plans must be submitted to the
State Planning Office by November 15th. The State Planning
16 Office shall transmit copies of these plans and revisions to
the Legislature;

18 **Sec. A-8. 5 MRSA §3304, sub-§3, ¶¶M and N**, as enacted by PL
20 1989, c. 501, Pt. DD, §7, are amended to read:

22 M. Administer any emergency fuel allocation program
described in section 3307-D and have has the authority to
24 collect inventory and product delivery data from the State's
primary storage facilities of petroleum products, as
26 described in section 3307-C, and shall afford confidential
treatment to that information; and

28 N. Oversee the implementation of any energy programs
30 assigned to the State Planning Office under this chapter;
and

32 **Sec. A-9. 5 MRSA §3304, sub-§3, ¶O** is enacted to read:

34 O. Advise and assist the Governor in building budgets from
36 strategic plans that establish expected outcomes and
measurable performance objectives and set program
38 priorities. The State Planning Office shall review and
utilize departmental strategic plans submitted under
40 paragraph F.

42 **Sec. A-10. 5 MRSA §12004-I, sub-§28-A** is enacted to read:

44 <u>28-A.</u>	<u>Consensus</u>	<u>Not Autho-</u>	<u>5 MRSA</u>
<u>Finance</u>	<u>Forecasting</u>	<u>rized</u>	<u>§1710</u>
	<u>Committee</u>		

48 **Sec. A-11. Legislative task force.** Upon the effective date of
this section, the Legislative Council shall establish the Task
50 Force on Committee Responsibilities and Legislative Operations.

2 The Legislative Council shall appoint as members of the task
4 force senior and junior members of the Legislature from both
6 political parties and members of the nonpartisan legislative
staff. The task force shall make recommendations to the
Legislative Council for revisions in committee responsibilities
and legislative operations consistent with these principles.

8 **1. Appropriations and financial affairs.** The Joint
Standing Committee on Appropriations and Financial Affairs shall:

10 A. Develop and correct 4-year average expenditure
12 estimates, adjusted for biennial requirements, using
14 recommendations of the Governor or the Consensus Forecasting
Committee;

16 B. Develop total biennial operating and capital budget
18 proposals and proposed major functional category
expenditures;

20 C. Review policy and program analysis and budget
22 expenditure recommendations prepared by other joint standing
and select committees; and

24 D. Compare state expenditures as a proportion of total
26 economic activity in the State with similar figures of other
appropriate states.

28 **2. Taxation.** The Joint Standing Committee on Taxation
shall:

30 A. Use the work of the Consensus Forecasting Committee and
32 expenditure forecasts developed by the Joint Standing
Committee on Appropriations and Financial Affairs in
34 developing revenue legislation;

36 B. Review revenue performance and study relationships
38 between revenue requirements and tax policies as they bear
on issues of equity, economic climate and other public
40 policy concerns; and

42 C. Compare state revenues and tax policies with those of
other states.

44 **3. Policy.** The joint standing and joint select committees
46 of the Legislature having jurisdiction over matters other than
appropriations and financial affairs and taxation must be more
48 fully integrated into the appropriations process through the use
of subcommittees, appropriations review assignments or
50 cross-committee participation by committee members, and these
committees shall conduct more detailed program review, including:

- 2 A. Oversight of departmental strategic plans and
- 4 recommended programs, including outcome-oriented goals and
- measurable objectives; and
- 6 B. Recommendations on budget goals, objectives and
- expenditures.

8

10 The task force shall submit its recommendations to the

12 Legislative Council in time for implementation for the First

 Regular Session of the 116th Legislature.

14 **Sec. A-12. Consensus forecasting; specific reports.** The members of

16 the Consensus Forecasting Committee created under the Maine

18 Revised Statutes, Title 5, section 12004-I, subsection 28-A must

20 be appointed by July 15, 1992. The committee must develop and

22 submit one-year and 2-year revenue forecasts by November 30,

24 1992, as provided in Title 5, section 1710-A. The committee

 shall develop tentative 4-year and 6-year revenue and economic

 forecasts by March 1, 1993. The committee shall revise these

 forecasts and develop all other forecasts as provided in Title 5,

 section 1710-A as soon as possible. In any case, the committee

 shall submit all forecasts as provided in Title 5, section 1710-A

 by November 30, 1994.

26 By November 15, 1992, the committee shall develop and recommend

28 to the Legislature a mechanism for correlating state government

30 expenditures to an appropriate long-term expenditure trend

 analysis. The mechanism must provide a smooth growth curve for

 the purpose of setting state expenditures.

32

34 **PART B**

36 **Sec. B-1. 3 MRSA §151-A, sub-§3,** as enacted by PL 1979, c. 1,

 is amended to read:

38 **3. Performance audit.** All nominations subject to review by

40 the Joint Standing Committee on Performance Audit ~~shall be~~ are

42 subject to review by the Joint Standing Committee on Audit and

 Program Management Review.

44 **Sec. B-2. 3 MRSA §163-A, sub-§7,** as enacted by PL 1985, c.

 501, Pt. B, §5, is amended to read:

46 **7. Committee assistance.** To provide research, analysis and

48 bill drafting assistance for joint standing or select committees,

 including, but not limited to, the Joint Standing Committee on

 Appropriations and Financial Affairs, the Joint Standing

2 Committee on Audit and Program Management Review and other
legislative agencies;

4 Sec. B-3. 3 MRSA c. 33, as amended, is repealed.

6 Sec. B-4. 3 MRSA c. 35 is enacted to read:

8 CHAPTER 35

10 AUDIT AND MANAGEMENT REVIEW

12 §951. Definitions

14 As used in this chapter, unless the context otherwise
16 indicates, the following terms have the following meanings.

18 1. Committee. "Committee" means the joint standing
20 committee of the Legislature having jurisdiction over audit and
22 management review matters.

24 §952. Committee analysis and recommendations

26 1. Management reviews; assignments. The committee shall
28 conduct management reviews of state departments and agencies
30 based on analysis and information provided by the State Auditor.
32 The committee shall also conduct program reviews and carry out
34 other assignments as directed by the Legislative Council or as
36 provided by law.

38 2. Findings and recommendations. As directed by the
40 Legislative Council or as provided by law, the committee shall
42 submit to the Legislature its findings and recommendations and
44 legislation required to implement its recommendations.

46 3. Use of experts. The committee shall make full use of
48 the knowledge and perspective of other committees of the
50 Legislature and, as appropriate, of expertise from outside the
Legislature.

Sec. B-5. 5 MRSA §203, sub-§3, as enacted by PL 1991, c. 9,
Pt. G, §1, is amended to read:

3. Allocation of work. Notwithstanding any other provision
of law, the Attorney General has discretion to allocate legal
work among the attorneys in the Department of the Attorney
General without reference to position counts contained in any
appropriation. If the provisions of this section are used to
seek reimbursement for legal services for which there is specific
appropriation, the Attorney General shall keep time records
demonstrating the amount of legal services performed for which

2 reimbursement is sought. The Attorney General shall submit a
4 quarterly report detailing the manner in which legal work has
6 been allocated among attorneys in that office pursuant to this
8 subsection to the joint standing committee of the Legislature
having jurisdiction over appropriations and financial affairs and
the joint standing committee of the Legislature having
jurisdiction over audit and program management review.

10 **Sec. B-6. 5 MRSA §241**, as amended by PL 1973, c. 792, §1, is
further amended to read:

12 **§241. State Auditor; salary**

14 The State Auditor shall ~~be~~ is the head of the Department of
16 Audit, ~~as heretofore established.~~ He ~~shall~~ The State Auditor
must be a certified public accountant or a college graduate with
18 not less than 6 years of experience as a professional accountant
or auditor, including not less than 5 years of auditing
20 experience, of which not less than 4 years shall must have been
in a supervisory capacity. He ~~shall be elected~~ The State Auditor
is nominated by the Governor and confirmed by a 2/3 majority of
22 the Legislature voting in convention by a joint ballot ~~of the~~
~~Senators and Representatives in convention and shall hold.~~ The
24 term of office for a term of 4 of the State Auditor is 7 years ~~or~~
~~until his successor is elected and qualified.~~ He The State
26 Auditor shall exercise such the powers and perform such the
duties as are set forth in this chapter. ~~In case~~ If the office
28 of State Auditor shall ~~become~~ becomes vacant during a period when
the Legislature is not in session, the appointment of a person to
30 fill such the vacancy shall must be made immediately by the
~~President of the Senate or if that office be vacant, by the~~
32 ~~Speaker of the House, said person to hold office~~ Governor until
such time as the Legislature shall ~~meet~~ meets in regular or
34 special session, and ~~either confirm the appointment of said~~
~~person or choose another person to fill the office during the~~
36 ~~unexpired term at which time the Legislature shall vote upon the~~
individual appointed as provided in this section. If the
38 Legislature fails to confirm the nomination, the office becomes
vacant until a gubernatorial nominee is confirmed by the
40 Legislature to fill the office during the unexpired term. During
any vacancy, the duties of the office must be performed by the
42 deputy auditor as provided in section 242.

44 **Sec. B-7. 5 MRSA §241-A**, as amended by PL 1989, c. 857, §15,
46 is further amended to read:

48 **§241-A. Transition period**

50 In order to provide for an orderly transition following the
quadrennial septennial election of the State Auditor, the State

2 Auditor-elect may not take the oath of office or otherwise
3 qualify for the office for a period of no less than 30 days
4 following that election.

5 **Sec. B-8. 5 MRSA §243, sub-§8**, as enacted by PL 1977, c. 380,
6 Pt. B, §2, is amended to read:

7 **8. Postaudit.** To perform postaudits of all accounts and
8 financial records of any organization, institution or other
9 entity receiving or requesting an appropriation or grant from the
10 State Government and to issue reports on such audits at such
11 times as the Legislature or the State Auditor may require; and

12 **Sec. B-9. 5 MRSA §243, sub-§9** is enacted to read:

13 **9. Management performance audits.** To conduct management
14 performance audits. The Department of Audit may contract with
15 outside agencies to perform such audits. The department shall
16 report its findings to the Governor, the Legislative Council, the
17 joint standing committee of the Legislature having jurisdiction
18 over audit and management review matters, the joint standing
19 committee of the Legislature having jurisdiction over
20 appropriations and financial affairs and, as appropriate, to the
21 joint standing committees of the Legislature having jurisdiction
22 over the subject matter area involved in the audit.

23 **Sec. B-10. 12 MRSA §206**, as amended by PL 1985, c. 481, Pt.
24 A, §20, is further amended to read:

25 **§206. Establishment of fund**

26 There is established a fund to encourage local soil and
27 water conservation projects. The fund ~~shall consist~~ consists of
28 all ~~moneys~~ money appropriated to it and any ~~moneys~~ money received
29 as donations or from other sources. ~~Moneys~~ Money in this fund
30 shall ~~must~~ be disbursed periodically by the Soil and Water
31 Conservation Commission on a competitive basis to one or more of
32 the soil and water conservation districts for the funding of
33 innovative soil and water conservation projects. Any balance in
34 this fund, except ~~moneys~~ money appropriated by the State, shall
35 ~~does~~ not lapse, but shall ~~be~~ is carried forward from year to year
36 to be expended for the purposes set forth in this subchapter.
37 The commission shall establish by rule criteria for project
38 submission, evaluation and selection. These criteria shall ~~must~~,
39 among other factors, address priority of need, boldness of
40 approach, program feasibility and reproducibility and
41 verification of results. The commission may impose such
42 conditions on the use of funds awarded as in its judgment are
43 best suited to accomplish the purposes of this subchapter and
44 insure ensure that ~~moneys~~ money awarded by the commission are is

2 properly spent by the districts. Any final decision of the
3 commission to fund a project or to not fund a project shall
4 ~~constitute~~ constitutes "final agency action" for purposes of
5 Title 5, chapter 375, subchapter IV. The commission shall submit
6 an annual report on the status of the Challenge Grant Program to
7 the joint standing ~~committees~~ committee of the Legislature having
8 jurisdiction over agriculture ~~and-audit-and-program-review~~ , food
9 and rural resources matters, as well as the Finance Authority of
10 Maine for public hearing and critique.

11 **Sec. B-11. 20-A MRSA §11435**, as enacted by PL 1987, c. 807,
12 §3, is repealed.

13 **Sec. B-12. 24-A MRSA §6061**, as amended by PL 1989, c. 875,
14 Pt. H, §2, is further amended to read:

15 **§6061. Sunset provision**

16 Unless continued or modified by law, the organization shall
17 cease enrollments and renewals of participants no later than June
18 30, 1992, and ~~shall be~~ is subject to review by the joint standing
19 committee of the Legislature having jurisdiction over ~~audit-and~~
20 ~~program-review-matters-and-the-joint-standing-committee-of-the~~
21 ~~Legislature--having--jurisdiction--over~~ banking and insurance
22 matters.

23 If ~~either-or-both-of~~ the joint standing ~~committees-consider~~
24 committee considers continuing the organization, the committee ~~or~~
25 ~~committees~~ shall consider methods of funding the reserve fund
26 other than by an assessment on hospitals. This consideration
27 shall must include funding the reserve fund from the General Fund
28 of the State.

29 **Sec. B-13. 32 MRSA §3840, sub-§11, ¶D**, as repealed and
30 replaced by PL 1985, c. 763, Pt. A, §84, is repealed.

31 **Sec. B-14. 38 MRSA §570-E**, as enacted by PL 1985, c. 496, Pt.
32 A, §14, is amended to read:

33 **§570-E. Legislative review**

34 Rules adopted by the board under this subchapter shall must
35 be submitted for review by the joint standing committee of the
36 Legislature having jurisdiction over energy and natural resources
37 ~~and, until December 1, 1987, to the joint standing committee of~~
38 ~~the Legislature having jurisdiction over audit and program review~~
39 matters. In reviewing the rules ~~promulgated~~ adopted by the board
40 under this subchapter, these this legislative ~~committees--shall~~
41 committee must be guided by the provisions of Title 5, chapter
42 377-A.

2 needed to meet current obligations. The limitations on
3 investment practices imposed under section 135 govern, limit and
4 are deemed to be incorporated into any contracts entered into
5 under this section.

6 **Sec. C-2. Treasurer of State directed to explore private investment**
7 **contracts.** Pursuant to the Maine Revised Statutes, Title 5,
8 section 135-B, the Treasurer of State shall explore possibilities
9 of contracting with private investment services, under terms of
10 compensation based upon performance. The Treasurer of State
11 shall report to the Legislature by January 1, 1993 the Treasurer
12 of State's findings and recommendations regarding feasibility,
13 advantages and disadvantages of contracting. The report must
14 include suggestions for changes in the limitations on investment
15 practices imposed under Title 5, section 135 that unduly restrict
16 such contracts.

18 **PART D**

20 **Sec. D-1. 5 MRSA §282-A is enacted to read:**

22 **§282-A. Evaluation criteria for program and operations**
23 **contracting**

24 The commissioner shall rigorously apply criteria in the
25 evaluation of the advantages and disadvantages of public versus
26 private sector contracting for nonprofit and for-profit service
27 delivery. The commissioner shall develop criteria, in
28 consultation with appropriate department, division and agency
29 directors, that at a minimum address the following issues:

30 **1. Public safety.** Whether the service is one where direct
31 government control or supervision is essential for the protection
32 of public safety;

33 **2. Access.** Whether the selection of a nonprofit or
34 for-profit contractor will ensure access to needed services and
35 will include requirements and incentives to ensure a specified
36 level of performance and quality at a reasonable price;

37 **3. Continuity.** Whether a reasonable prospect for
38 continuity in the availability of the service is present and can
39 be maintained;

40 **4. Effectiveness.** Whether contracting would result in more
41 effective service;

42 **5. Efficiency.** Whether contracting would result in more
43 efficient service; and

2 **6. Essentialness.** Whether the service is an essential or
4 necessary state service for which the State should retain
6 responsibility or whether the service would be more appropriately
8 performed in the private sector.

10 **Sec. D-2. 5 MRSA §1541, sub-§2, is amended to read:**

12 **2. Approve contracts and orders.** To examine and approve
14 all contracts, orders and other documents, the purpose of which
16 is to incur financial obligations against the State Government,
18 to ascertain that ~~moneys~~ money has been duly appropriated
20 and allotted to meet such those obligations and ~~will~~ is
22 available when such those obligations ~~will~~ become due and
24 payable; State service contracts with other public agencies,
26 nonprofit agencies or for-profit firms must include:

28 **A. Performance requirements;**

30 **B. Guarantees of access without discrimination for**
32 **essential services;**

34 **C. Provisions for service-related data collection,**
36 **consistent with performance measures established in**
38 **subsection 2-A, and access to that data for public policy**
40 **purposes; and**

42 **D. Appropriate protection of confidentiality;**

44 **Sec. D-3. 5 MRSA §1541, sub-§2-A is enacted to read:**

46 **2-A. Performance-based contracts.** To develop and apply, in
48 conjunction with the appropriate department, division and agency
50 directors, performance measures, evaluation methods,
outcome-oriented goals and measurable objectives for use in
contracts for programs and operations. All contracts for
programs and operations signed by the State after June 30, 1992
must be performance-based contracts.

52 **Sec. D-4. Elimination of state retail liquor stores; review of the State**
54 **Liquor Commission.** The Commissioner of Finance shall develop a
56 plan for the phaseout of remaining state-owned retail liquor
58 stores over a 2-year period beginning July 1, 1992. After the
60 phaseout is complete, but no later than July 1, 1994, the
commissioner shall reevaluate the need for the State Liquor
Commission.

62 **1. Scope.** The plan must minimize employee hardship, its
64 legal obligations for termination of leases and the costs of
66 discontinuing business operations. During this phase-out period,

2 the State's best interests will be served by retaining personnel
3 experienced in management of the system to maximize the value of
4 the State's assets as the liquidation process proceeds.

6 The plan must initially operate through a system of agency
7 stores. To realize the maximum return from its retail store
8 system, the commissioner should consider putting out to bid the
9 right to own and operate existing retail locations, including all
10 inventories and obligations, with appropriate limitations. The
11 commissioner shall evaluate the experiences of other states that
12 have privatized retail liquor sales when considering this
13 option. Privatizing wholesale liquor sales must also be
14 considered.

16 **2. Cooperation.** The Bureau of Alcoholic Beverages and the
17 State Liquor Commission shall cooperate with the commissioner in
18 the development of this plan and shall provide the commissioner
19 with whatever information or assistance the commissioner requests.

20 **3. Report.** The commissioner shall report the plan to phase
21 out state retail liquor stores to the Governor and the
22 Legislature no later than the First Regular Session of the 116th
23 Legislature. The commissioner shall report the final plan
24 regarding retail liquor sales and recommendations regarding
25 wholesale liquor sales to the Second Regular Session of the 116th
26 Legislature.

28 **PART E**

30 **Sec. E-1.** 3 MRSA c. 10, sub-c. I, as amended, is repealed.

32 **Sec. E-2.** 3 MRSA §231, sub-§2, as enacted by PL 1985, c. 775,
34 §4, is amended to read:

36 **2. Membership.** The members of the commission from Maine
37 shall be the are 2 Senators appointed by the President of the
38 Senate and the 2 members of the House of Representatives who are
39 appointed to the ~~Maine Canadian Legislative Advisory Commission~~
40 pursuant to ~~section 227~~ by the Speaker of the House of
41 Representatives.

42 **Sec. E-3.** 5 MRSA §12004-G, sub-§7-F is enacted to read:

44	<u>7-F.</u>	<u>Economic</u>	<u>Expenses</u>	<u>5 MRSA</u>
46	<u>Economic</u>	<u>Development</u>	<u>Only</u>	<u>§13056-A</u>
48	<u>Develop-</u>	<u>Board of</u>		
	<u>ment</u>	<u>Directors</u>		

2 **Sec. E-4. 5 MRSA §12004-K, sub-§10**, as enacted by PL 1987, c.
786, §5, is repealed.

4 **Sec. E-5. 5 MRSA §13053, last ¶**, as amended by PL 1987, c. 816,
Pt. P, §6, is further amended to read:

6 The central mission of the department is job retention and
8 job creation. The department shall encourage the creation and
10 retention of quality jobs through increased private sector
12 investment and--to--enhance--the--quality--of--life--for--all--by
14 assisting local governments to plan and implement comprehensive
community planning and development strategies, by serving as a
business ombudsman and by fully supporting local, regional and
private economic development activities.

16 **Sec. E-6. 5 MRSA §13053**, as amended by PL 1987, c. 816, Pt.
P, §6, is further amended by adding at the end a new paragraph to
18 read:

20 The department shall also enhance the quality of life for
22 all by assisting local governments to plan and implement
comprehensive community planning and development strategies.

24 **Sec. E-7. 5 MRSA §13056, sub-§1**, as enacted by PL 1987, c.
534, Pt. A, §§17 and 19, is amended to read:

26 **1. Implement policies and programs.** Implement economic
28 development policies and programs, in consultation with the
30 advisory board established in section 13056-A, and in compliance
with the state economic development strategy;

32 **Sec. E-8. 5 MRSA §13056, sub-§5, ¶C**, as enacted by PL 1987, c.
534, Pt. A, §§17 and 19, is amended to read:

34 C. Market the State of Maine and its communities as
36 suitable areas for business development; and

38 **Sec. E-9. 5 MRSA §13056, sub-§6, ¶B**, as enacted by PL 1987, c.
534, Pt. A, §§17 and 19, is amended to read:

40 B. Other community planning and development assistance
42 programs of the State Planning Office; and

44 **Sec. E-10. 5 MRSA §13056, sub-§7**, as enacted by PL 1987, c.
534, Pt. A, §§17 and 19, is amended to read:

46 **7. Contract for services.** When contracting for services,
48 the department, to the maximum extent feasible, shall seek to use
the State's private sector resources in conducting studies,
50 providing services and preparing publications.

2 **Sec. E-11. 5 MRSA §13056, sub-§§8 and 9** are enacted to read:

4 **8. Provide ombudsman services.** Provide business ombudsman
6 services with special recognition of the needs of the State's
8 small businesses, businesses engaged in providing tourism
10 services and entrepreneurs; and

12 **9. Facilitate Maine-Canadian governmental cooperation.**
14 Encourage economic, cultural and educational exchange between
16 Maine and Canada, including:

18 **A. Recommending ways to strengthen all areas of regional**
20 cooperation with Canada;

22 **B. Studying and evaluating existing activities in the State**
24 on both the governmental and private levels involving
26 cooperation with Canada, and particularly with the Provinces
28 of Quebec, New Brunswick, Nova Scotia, Newfoundland and
30 Prince Edward Island;

32 **C. Determining new areas for fruitful regional cooperation,**
34 with particular attention to the potential for social
36 betterment, economic growth, improved natural resource
38 utilization and management and the enhancement of the
40 environment; and

42 **D. Encouraging exchanges to assist economic, governmental,**
44 cultural and educational exchanges and other modes of
46 improved contact with Canada.

48 **Sec. E-12. 5 MRSA §13056-A** is enacted to read:

§13056-A. Economic Development Board of Directors

The Economic Development Board of Directors for the Department of Economic and Community Development is established.

1. Membership. The board consists of no more than 7 directors, appointed by the Governor. Board members must be leaders in the fields of business, finance, education, labor and the environment. The Commissioner of Economic and Community Development shall serve as an ex officio member of the board.

2. Length of term. Each member of the board shall serve a term of 3 years, except that initially the Governor shall designate 3 members to serve 3 years, 2 members to serve 2 years and 2 members to serve one year.

2 3. First meeting; chair. The Governor shall call the first
4 meeting of the board no later than September 15, 1992. The board
shall elect a chair from among its membership at the first
meeting.

6 4. Meetings. The board shall meet at least 6 times a year
8 and the department shall provide such staff assistance and
information as is reasonably required in the performance of its
functions.

10 5. Functions. The board is established to assist the
12 department in prioritizing its programs and to assist in the
development of a long-term state economic development plan.

14 6. Report. The board shall report to the Governor and the
16 Legislature annually. At a minimum, the report must detail the
frequency and nature of the board's meetings and include a
18 summary of the board's recommendations to the department,
including its recommendations regarding a long-term economic
20 development plan for the State.

22 **Sec. E-13. 5 MRSA §13058, sub-§18** is enacted to read:

24 18. Assistance to Economic Development Board of Directors.
26 The commissioner shall serve as an ex officio member of the
Economic Development Board of Directors and shall consult and
28 cooperate with that board when setting program priorities and
developing long-term economic development plans.

30 **Sec. E-14. Reorganization of Department of Economic and**
32 **Community Development.** The Department of Economic and Community
Development shall reorganize around the functions it provides
34 that are essential to its central mission of job creation and job
retention. Those functions are:

36 **1. Business development.** Business retention and attraction;

38 **2. Tourism.** Tourism; and

40 **3. Research, information and advocacy.** Research,
42 information and advocacy for existing and prospective businesses.

44 The department shall consult with the Economic Development
Board of Directors in determining how to best reorganize itself,
and shall present its reorganization plan, with the necessary
46 legislation, to the joint standing committee of the Legislature
having jurisdiction over state and local government matters no
48 later than January 30, 1993.

Sec. E-15. Finance Authority of Maine loan guarantee programs.

The Finance Authority of Maine shall consolidate all its separate loan guarantee programs into 16 or fewer programs in order to reduce administrative costs and increase efficiency. The authority shall present its recommended reorganization plan and the legislation necessary to implement the plan to the joint standing committee of the Legislature having jurisdiction over housing and economic development matters no later than February 1, 1993.

PART F

Sec. F-1. 10 MRSA §934, first ¶, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is amended to read:

The Board of Directors of the Maine World Trade Association consists of 7 4 private sector directors, ~~5--public--sector directors,~~ 2 ex officio directors and the president of the association. Each director is entitled to one vote.

Sec. F-2. 10 MRSA §934, sub-§1, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is amended to read:

1. Private sector directors. The members shall elect 7 4 directors from among the private sector members.

Sec. F-3. 10 MRSA §934, sub-§3, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is repealed.

Sec. F-4. 10 MRSA §934, sub-§3-A is enacted to read:

3-A. Length of term. Private sector directors shall serve a term of not more than 5 years. Ex officio directors shall serve terms coincident with the terms of their public sector appointments.

Sec. F-5. 10 MRSA §940, first ¶, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is amended to read:

A matching fund, referred to in this chapter as the "fund," is established within the association. The association may use ~~general--revenue funds appropriated to the fund~~ obtained from contracts with departments, divisions or agencies of the State for the purposes set forth under this chapter, provided that the association match every ~~2--General Fund--dollars~~ \$2 used from the fund with \$1 raised from its private and public members described in section 933.

2 identification of the costs of all modifications to existing
waterworks and such other information as may be requested by
4 the commission;

6 C. Make available for public review upon request at a
location and in a manner convenient to the water utility's
8 ratepayers all information provided to the commission
pursuant to paragraphs A and B;

10 D. Publish in a newspaper of general circulation in the
service territory of the consumer-owned water utility a
12 notice to customers that the information required in
paragraphs A and B is available for public review at the
14 location established pursuant to paragraph C and provide to
each of the water utility's customers a direct written
16 notice of the availability of that information; and

18 E. Provide to the Department of Human Services the
information provided to the commission pursuant to
20 paragraphs A and B.

22 **Sec. G-2. 35-A MRSA §6104, sub-§1**, as amended by PL 1987, c.
490, Pt. B, §12, is further amended to read:

24 **1. Application of this section.** Notwithstanding section
26 310, consumer-owned water utilities are not subject to the
suspension, investigation, hearing and rate substitution
28 provisions of section 310 ~~under the conditions specified in this~~
section. Consumer-owned water utilities are subject to the
30 provisions of this section.

32 **Sec. G-3. 35-A MRSA §6104, sub-§2**, as amended by PL 1987, c.
628, §2, is repealed.

34 **Sec. G-4. 35-A MRSA §6104, sub-§3**, as amended by PL 1989, c.
36 159, §7, is further amended to read:

38 **3. Notice of proposed rate increase and hearing.** The
consumer-owned water utility shall, at least 14 days prior to the
40 hearing, publish a notice of the any proposed rate increase and
the hearing, including the date, time, place and purpose of the
42 hearing, in a newspaper of general circulation in the area
encompassed by the consumer-owned water utility and give one
44 notice of the proposed rate increase and the date, time, place
and purpose of the hearing to each of its customers. The
46 published and individual notices ~~shall~~ must include a statement
describing the amount of the increase and the percentage increase
48 for each customer class, the customer's right to request
information ~~relating~~ related to the present and proposed rates,
50 the right to an open and fair hearing ~~and the right to further~~

2 hearings--before--the--commission, and the availability of
assistance from the Public Advocate. Copies of the notice shall
4 be sent to the commission and the Public Advocate at least 14
days prior to the hearings.

6 **Sec. G-5. 35-A MRSA §6104, sub-§4**, as amended by PL 1987, c.
490, Pt. B, §12, is repealed.

8 **Sec. G-6. 35-A MRSA §6104, sub-§4-A**, as enacted by PL 1987,
10 c. 628, §3, is amended to read:

12 **4-A. Supporting materials.** The consumer-owned water
utility shall file a copy of all materials supporting the
14 proposed increase with the ~~commission~~ and the Public Advocate, at
least 30 days prior to the hearing. A copy of all material
16 supporting the proposed increase shall must be made available to
customers for examination at the offices of the utility for at
18 least 30 days prior to the hearing. The utility shall promptly
provide any readily available relevant additional material or
20 information requested by a customer, ~~the commission~~ or the Public
Advocate.

22 **Sec. G-7. 35-A MRSA §6104, sub-§5**, as enacted by PL 1987, c.
24 141, Pt. A, §6, is repealed.

26 **Sec. G-8. 35-A MRSA §6104, sub-§6**, as enacted by PL 1987, c.
28 141, Pt. A, §6, is amended to read:

30 **6. Effective date established for rate change.** ~~Subject to~~
~~the notice and waiver requirements of section 307, water~~ Water
32 utilities electing to set rates under this section may establish
an effective date for a rate change of at least one month, but
not more than 9 months, from the date the rates are filed with
34 the ~~commission~~ Public Advocate.

36 **Sec. G-9. 35-A MRSA §6104, sub-§7**, as amended by PL 1991, c.
52, §2, is repealed.

38 **Sec. G-10. 35-A MRSA §6104, sub-§8**, as enacted by PL 1987, c.
40 141, Pt. A, §6, is repealed.

42 **Sec. G-11. 35-A MRSA §6104, sub-§9**, as amended by PL 1989, c.
44 159, §8, is repealed.

46 **Sec. G-12. 35-A MRSA §6104, sub-§10**, as amended by PL 1987, c.
490, Pt. B, §12, is repealed.

48 **Sec. G-13. 35-A MRSA §6104, sub-§11**, as enacted by PL 1987, c.
50 141, Pt. A, §6, is repealed.

2 **Sec. G-14. 35-A MRSA §6105, sub-§3**, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

4 **3. Uniform rates.** The governing body shall establish and
6 file rates which that are uniform within the territory supplied
8 whenever the installation and maintenance of mains and the cost
10 of service is are substantially uniform. If, for any reason, the
12 cost of construction and maintenance or the cost of service in a
14 section of the territory exceeds the average, the governing body
16 may establish and file higher rates for that section, but these
18 higher rates shall must be uniform throughout that section.

20 **Sec. G-15. 35-A MRSA §6106, sub-§1**, as amended by PL 1987, c.
490, Pt. B, §15, is further amended to read:

22 **1. Investment.** The governing body of a consumer-owned
24 water utility may choose to make no investment in a water main
26 extension or service line and may require persons requesting a
28 water main extension or service line to advance to the utility
30 the full cost of construction, including associated appurtenances
32 required solely as a result of the construction of the water main
34 extension or service line and used solely for the operation of
36 the main extension or service line. Apportionment of the costs
38 among customers shall must be determined by the ~~commission~~
governing body by rule.

40 **Sec. G-16. 35-A MRSA §6106, sub-§4**, as enacted by PL 1989, c.
159, §9, is repealed.

42 **Sec. G-17. 35-A MRSA §6107, sub-§1**, as amended by PL 1987, c.
490, Pt. B, §16, is further amended to read:

44 **1. System development charge authorized.** In addition to
46 section 6105, the governing body of a consumer-owned water
48 utility may establish ~~and file, pursuant to section 310 or 6104,~~
a system development charge which that is just and reasonable to
provide funds to finance capital outlays for water system
expansion caused by an increase in demand for service.

50 **Sec. G-18. 35-A MRSA §6107, sub-§§2 and 5**, as amended by PL
1987, c. 490, Pt. B, §16, are repealed.

Sec. G-19. 35-A MRSA §6107, sub-§6, as enacted by PL 1987, c.
141, Pt. A, §6, is amended to read:

6. Review by elected local officials. If the governing
body is not an elected body, any system development charge
proposed under this section must first be endorsed by the
municipal officers of the municipality or municipalities
involved, ~~prior to filing with the commission.~~

2 **Sec. G-20. 35-A MRSA §6109, sub-§1**, as repealed and replaced
4 by PL 1989, c. 878, Pt. F, §4, is amended to read:

6 **1. Notice of proposed sale.** A consumer-owned water utility
8 shall, ~~at least 8 months~~ prior to the sale of land under this
10 section, give notice ~~of that proposed sale to the commission.~~
12 ~~The utility shall provide additional notice as prescribed by rule~~
~~by the commission as follows.~~

14 A. Notice must be given to the municipality or
16 municipalities where the land is located.

18 B. One notice must be given to each of the customers of the
20 consumer-owned water utility in a manner prescribed by the
22 commission.

24 C. Notice must be published in a newspaper of general
26 circulation in the area encompassed by the consumer-owned
28 water utility.

30 **Sec. G-21. 35-A MRSA §6109, sub-§2**, as repealed and replaced
32 by PL 1989, c. 878, Pt. F, §4, is repealed.

34 **Sec. G-22. 35-A MRSA §6112, sub-§5**, as enacted by PL 1991, c.
36 221, §2, is repealed.

38 PART H

40 **Sec. H-1. Economic analysis.** The State Planning Office, in
42 conjunction with the University of Maine System and private
44 colleges, shall develop the capacity to provide the public and
46 private sectors with timely, meaningful and in-depth economic
48 analysis and technological information for strengthening
50 strategic planning in the area of economic development. The
Maine Science and Technology Commission should be included in
this process in a manner that will reduce overhead costs but not
reduce the advantage of independent expertise now available
through the commission.

42 PART I

44 **Sec. I-1. 5 MRSA §1543, first ¶**, as repealed and replaced by PL
46 1979, c. 312, §3, is amended to read:

48 ~~No money shall~~ Money may not be drawn from the State
50 Treasury, except in accordance with appropriations duly
authorized by law. Every disbursement from the State Treasury

2 shall must be upon the authorization of the State Controller and
the Treasurer of State, ~~as evidenced by their facsimile~~
4 ~~signatures~~, except that the Treasurer of State may authorize
interbank and intrabank transfers for purposes of pooled
6 investments. Disbursements shall must be in the form of a check
or an electronic transfer of funds against a designated bank or
trust company acting as a depository of the State Government.

8
10 **Sec. I-2. Electronic transfer of cash assistance payments.** By
January 1, 1993, the Department of Human Services shall give
12 recipients of all cash assistance programs the option of
receiving the cash assistance through an electronic transfer of
14 funds. Cash assistance programs include, but are not limited to,
Aid to Families with Dependent Children, Additional Support for
16 People in Retraining and Education and child support collection
payments. By January 1, 1993, the Department of Human Services
shall transfer electronically to municipalities all General
18 Assistance reimbursement owed under the Maine Revised Statutes,
Title 22, chapter 1161.

20
22 **Sec. I-3. Electronic transfer of state payroll.** By January 1, 1994,
all payroll payments to state employees must be made through
24 electronic transfers of funds.

26 **Sec. I-4. Electronic transfers to vendors and contractors.** By
January 1, 1994, the State shall make all payments to regular
28 vendors and contractors through electronic transfers of funds.
Regular vendors and contractors are individuals or entities that
provide goods or services to the State and receive payments from
30 the State at least 4 times per year.

32 **Sec. I-5. Electronic transfer of retirement benefits.** By January 1,
1994, the Maine State Retirement System shall make all payments
34 to beneficiaries through electronic transfers of funds.

36 **Sec. I-6. Automation of functions in the Department of Human**
Services. The Department of Human Services shall accept a 90%
38 federal match to implement enhanced computer technology in the
Medicaid program that eliminates paper claims from Medicaid
40 providers and creates an instantaneous data base of Medicaid
claims information. The Department of Human Services shall
42 accept a 90% federal match to automate eligibility functions in
income maintenance programs. The department shall implement
44 these technological improvements by January 1, 1993 and shall
implement a single eligibility process for all of its income
46 maintenance programs by January 1, 1994.

48 **Sec. I-7. Electronic filing of tax returns.** The State Tax Assessor
shall encourage individuals to file income tax returns

electronically and, by January 1, 1993, shall require corporations to file income tax returns electronically.

PART J

Sec. J-1. 5 MRSA §12004-G, sub-§14-B is enacted to read:

<u>14-B.</u>	<u>Advocacy</u>	<u>Expenses</u>	<u>5 MRSA</u>
<u>Human</u>	<u>Board</u>	<u>Only</u>	<u>§19603</u>
<u>Services:</u>			
<u>Advocacy</u>			

Sec. J-2. 5 MRSA c. 513 is enacted to read:

CHAPTER 513

OFFICE OF ADVOCACY

§19601. Definitions

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

1. Advocacy services. "Advocacy services" means services directed at an individual or a class of people that empower the individual or class of people to assert legal rights or to improve their status in society.

2. Board. "Board" means the Advocacy Board, as established in section 19603.

3. Office. "Office" means the Office of Advocacy.

§19602. Establishment and purpose

The Office of Advocacy is established within the Executive Department to provide advocacy services for people with disabilities, people with mental illness, older people, people receiving long-term care services, children and families at risk of abuse or neglect, people who lack basic necessities, women and people who are incarcerated in the correctional system.

The Office of Advocacy shall consolidate existing advocacy services in a manner that eliminates duplication of effort and provides effective and efficient advocacy.

2
3 §19603. Advocacy Board

4 The Advocacy Board, as established by section 12004-G,
5 subsection 14-B, is the governing body of the Office of
6 Advocacy. The board has 11 members, appointed in accordance with
7 subsection 1.

8 1. Appointment; qualifications. Members of the board must
9 be appointed as follows.

10 A. The Governor shall appoint 5 members. One appointee
11 must be familiar with mental and physical disabilities, one
12 must be a woman involved in women's issues, one must be a
13 former inmate of the correctional system or a family member
14 of an inmate or a former inmate, one must be familiar with
15 child abuse and neglect and one must have experience and
16 knowledge of advocacy services. The Governor's appointees
17 serve 3-year terms, except that of the initial appointees, 2
18 must be appointed for 3 years, 2 must be appointed for 2
19 years and one must be appointed for one year.

20 B. The President of the Senate and the Speaker of the House
21 of Representatives shall appoint jointly 5 members. One
22 appointee must be a person with mental illness or a family
23 member of a person with mental illness, one must be an older
24 person, one must be familiar with poverty issues and 2 must
25 have experience and knowledge of advocacy services. The
26 appointees of the President of the Senate and the Speaker of
27 the House of Representatives serve 3-year terms, except that
28 of the initial appointees, 2 must be appointed for 3 years,
29 2 must be appointed for 2 years and one must be appointed
30 for one year.

31 C. Members appointed in accordance with paragraphs A and B
32 shall, by majority vote, select one additional member, who
33 must be the chair and whose term is for 3 years.

34 D. Members may serve after the expiration of their terms
35 until their successors have been appointed. Members may be
36 reappointed, but a member may not serve more than 2
37 consecutive terms of 3 years each. Any member appointed to
38 fill a vacancy occurring prior to the expiration of the term
39 for which that member's predecessor was appointed is
40 appointed only for the remainder of that term.

41 2. Authority. The board may employ staff in accordance
42 with the Civil Service Law, may authorize the use of volunteers,
43 may enter into contracts and may accept private funds to carry
44 out the purposes of the office. The board may appoint
45

2 subcommittees that include representatives who are not board
3 members.

4 3. Meetings. The board shall meet at the call of the chair
5 or at the call of 5 members. The board shall meet at least once
6 every 3 months and shall keep minutes of all meetings.

7 4. Expenses. Members are entitled to reimbursement for
8 expenses in accordance with chapter 379.

9 5. Report. The board shall submit annually by December
10 15th a written report to the joint standing committee of the
11 Legislature having jurisdiction over human resources. The report
12 must include a description of the office's activities and
13 recommendations and implementing legislation for further
14 consolidation of the advocacy system.
15

16
17 **§19604. Executive director**

18
19 The board shall hire an executive director to carry out the
20 day-to-day management of the office. The executive director
21 serves at the pleasure of the board and shall report only to the
22 board. The executive director may hire staff with the consent of
23 the board and shall carry out all other duties assigned by the
24 board.

25
26 **§19605. Duties and authority**

27
28 The office has the following duties and authority.

29
30 1. Grievances. The office shall investigate the claims and
31 grievances of people receiving long-term care services from any
32 entity that receives public funds or is licensed by the State, of
33 people whose rights may be abridged by the State's child welfare
34 system and of people receiving any services that are delivered,
35 funded or licensed by the Department of Mental Health and Mental
36 Retardation or the Department of Corrections. The office shall
37 conduct a joint investigation with the Department of Human
38 Services when the grievance involves abuse in a state institution
39 of any child or of an adult who is a ward of the Department of
40 Human Services. If the office finds that any grievance it
41 investigates has merit, it shall intercede on behalf of the
42 aggrieved person with officials of the institution, facility or
43 agency; may assist the person in any hearing or grievance
44 proceeding of any department; and may refer the person to other
45 agencies or entities for the purpose of asserting the rights and
46 dignity of the person.

47
48 2. Advocacy. The office shall advocate for the well-being
49 of the groups of people described in section 19602 by proposing
50

2 and supporting legislation, monitoring the rule-making process
3 and other activities of federal and state agencies, conducting
4 research and providing advice, assistance and information to
5 public officials and the general public.

6 3. Access to files and records. The office has access,
7 limited only by the law, to the files, records and personnel of
8 any institution, facility or agency administered, licensed or
9 funded by the State.

10 4. Confidentiality. Any request for action by the office
11 and all written records or accounts related to the request are
12 confidential as to the identity of the requester. The records
13 and accounts may be released only as provided by law.

14 5. Rules. The office may adopt rules to carry out the
15 purposes of the office.

16 **§19606. Protection for employees**

17 1. Protection for staff. An employee of the office may not
18 be disciplined or sanctioned for actions taken on behalf of a
19 client if the employee acts within the law and within the rules
20 of the office.

21 2. Protection for agency employees. An employee of a
22 public or private agency may not be disciplined or sanctioned for
23 reporting abuse or suspected abuse to the office in good faith.

24 **§19607. Repeal**

25 This chapter is repealed on July 1, 1994. Prior to July 1,
26 1994, the joint standing committee of the Legislature having
27 jurisdiction over human resources matters shall review the
28 performance and duties of the office.

29 Sec. J-3. 22 MRSA c. 1071, sub-c. X-A is repealed.

30 Sec. J-4. 22 MRSA §4089, sub-§1, ¶E, as enacted by PL 1989, c.
31 819, §6, is amended to read:

32 E. The child welfare services ombudsman,--appointed--in
33 accordance--with--section--4087,--shall--serve serves as a
34 permanent member.

35 Sec. J-5. 34-A MRSA §1203, as amended by PL 1991, c. 314,
36 §§10 to 13, is repealed.

37 Sec. J-6. 34-A MRSA §1402, sub-§5, as amended by PL 1991, c.
38 314, §19, is further amended to read:

2 **5. Grievance procedures.** The commissioner shall establish
3 procedures for hearing grievances of clients as described in
4 Title 5, section 1203 19605, subsection 1.

6 **Sec. J-7. 34-B MRSA §1205,** as amended by PL 1989, c. 731, §§1
7 to 3, is repealed.

8 **Sec. J-8. 34-B MRSA §5606, sub-§1,** as enacted by PL 1983, c.
9 459, §7, is amended to read:

10 **1. Report and investigation.** Any alleged violation of a
11 client's rights shall must be reported immediately to the Office
12 of Advocacy ~~of the department~~ and to the Attorney General's
13 office.

14 A. The Office of Advocacy shall conduct an investigation of
15 each alleged violation pursuant to Title 5, section 1205
16 19605.

17 B. The Office of Advocacy shall submit a written report of
18 the findings and results of the investigation to the chief
19 administrative officer of the facility in which the client's
20 rights were allegedly violated and to the commissioner
21 within 2 working days after the day of the occurrence or
22 discovery of the alleged incident.

23 **Sec. J-9. Effective date; transition period.** Section 1 and those
24 parts of section 2 of this Part that enact the Maine Revised
25 Statutes, Title 5, sections 19601, 19603 and 19604 take effect
26 September 1, 1992. The Governor, the President of the Senate and
27 the Speaker of the House Representatives shall make all
28 appointments to the Advocacy Board by September 15, 1992. The
29 Governor shall call the first meeting of the Advocacy Board, to
30 be held no later than October 1, 1992, at which time the Advocacy
31 Board shall select its final member. The board shall make every
32 effort to hire the executive director by December 15, 1992. If
33 the board does not hire a permanent executive director by January
34 1, 1993, it shall appoint the person who was Chief Advocate of
35 the Office of Advocacy within the Department of Mental Health and
36 Mental Retardation on December 31, 1992 as interim executive
37 director, to serve until a permanent executive director is hired.

38 Those parts of section 2 of this Part that enact the Maine
39 Revised Statutes, Title 5, sections 19602, 19605, 19606 and 19607
40 and sections 3 to 5 of this Part take effect January 1, 1993.

41 **Sec. J-9. Transition provisions.** The following transition
42 provisions apply to this Part.

2 1. Beginning January 1, 1993, and continuing as long as the
4 Office of Advocacy chooses, the Department of Corrections shall
6 provide to the Office of Advocacy the same office space and
8 clerical support that was provided to the Department of
10 Corrections, Office of Advocacy on January 1, 1992. Beginning
12 January 1, 1993, and continuing as long as the Office of Advocacy
14 chooses, the Department of Mental Health and Mental Retardation
16 shall provide to the Office of Advocacy the same office space and
18 clerical support that was provided to the Department of Mental
20 Health and Mental Retardation, Office of Advocacy on January 1,
22 1992.

14 2. All forms, licenses, contracts and agreements pertaining
16 to the Department of Corrections, Office of Advocacy; Department
18 of Mental Health and Mental Retardation, Office of Advocacy; and
20 the Child Welfare Services Ombudsman are transferred to the
22 Office of Advocacy on January 1, 1993.

20 3. Notwithstanding the provisions of the Maine Revised
22 Statutes, Title 5, all accrued expenditures, assets, liabilities,
24 balances or appropriations, allocations, transfers, revenues or
26 other available funds in an account or subdivision of an account
28 of the Department of Corrections, Office of Advocacy; Department
of Mental Health and Mental Retardation, Office of Advocacy; and
the Child Welfare Services Ombudsman are transferred to the
Office of Advocacy on January 1, 1993.

28 4. Any positions that are authorized and allocated on
30 December 31, 1992 to the Department of Corrections, Office of
32 Advocacy; Department of Mental Health and Mental Retardation,
34 Office of Advocacy; the Child Welfare Services Ombudsman; and the
Maine Committee on Aging are transferred to the Office of
Advocacy on January 1, 1993. The following provisions apply to
any state personnel transferred under this subsection.

36 A. The employees retain their accrued fringe benefits,
38 including vacation and sick leave, health and life insurance
and retirement benefits.

40 B. Employees who are members of collective bargaining units
42 on the effective date of this Act remain members in their
44 respective bargaining units and retain all rights,
privileges and benefits provided by their collective
bargaining agreements with respect to state service.

46 C. Employees who are members of the Maine State Retirement
48 System remain members of the Maine State Retirement System.

2 D. The Department of Administration, Bureau of Human
Resources shall assist with the orderly implementation of
4 these provisions.

6 5. Any position identified for transfer to another agency
in this section that is vacant on the effective date of this Act
8 is abolished.

10 **Sec. J-10. Maine Revised Statutes amended; revision clause.**
Effective January 1, 1993, wherever in the Maine Revised Statutes
12 the words "Maine Committee on Aging," "Committee on Aging,"
"Child Welfare Services Ombudsman," "Maine Commission on Mental
14 Health," "Commission on Mental Health," "Maine Human Development
Commission," "Human Development Commission," "Maine Commission
16 for Women" or "Commission for Women" appear or reference is made
to those words, they are amended to read and mean "Office of
18 Advocacy" and the Revisor of Statutes shall implement this
revision when updating, publishing or republishing the statutes
20 after January 1, 1993.

22 PART K

24 **Sec. K-1. 5 MRSA §937, sub-§1, ¶¶F and G,** as amended by PL
1989, c. 414, §1, are further amended to read:

26 F. Director, Planning and Management Information; and

28 G. Federal and State Education Program Coordinator; and.

30 **Sec. K-2. 5 MRSA §937, sub-§1, ¶H,** as enacted by PL 1989, c.
32 414, §2, is repealed.

34 **Sec. K-3. 5 MRSA c. 333** is enacted to read:

36 CHAPTER 333

38 INTERDEPARTMENTAL COUNCIL

40 §3601. Establishment

42 The Interdepartmental Council, referred to in this chapter
44 as "the council," is established within the Executive Department
46 to encourage the coordination of policies and programs for Maine
children and their families and to foster collaboration among the
public and private agencies that provide services to children and
48 their families.

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§3602. Membership

The council is composed of the following 6 members: the Commissioner of Corrections; the Commissioner of Education; the Commissioner of Human Services; the Commissioner of Mental Health and Mental Retardation; the Commissioner of Labor; and the director.

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§3603. Director

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The Governor shall designate the Director of the Interdepartmental Council, referred to in this chapter as "the director," from among the Governor's staff. The director serves at the pleasure of the Governor. The director is the Chair of the Interdepartmental Council and is the Governor's representative on the council. When the council does not reach agreement on matters, the director has decision-making authority, appealable only to the Governor.

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§3604. Goals of the council

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The goals of the council are:

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1. Coordination; access. To promote a statewide system of coordinated and accessible services that are responsive to the current needs of children and their families and are delivered by a partnership of public and private agencies;

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2. Allocation of resources. To evaluate on a continuing basis whether the allocation of resources for children and their families promotes effective and efficient delivery of services and to propose reallocation of resources when necessary to meet these goals; and

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3. Collaboration. To promote collaboration among the public and private agencies that provide services to children and their families.

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§3605. Meetings

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The council shall meet at the call of the chair or any 3 members. The council shall meet at least monthly.

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§3606. Committees

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The chair of the council may appoint committees to carry out the council's work. Committee membership may include representatives of public and private agencies that serve children and their families and other persons with special

2 knowledge of, responsibility for or interest in an area related
3 to the goals of the council.

4 **§3607. Administration**

6 1. Budget. When the Governor submits the budget for the
7 Executive Department, the budget of the council must be included
8 as a distinct item. The council may accept funds from the
9 Federal Government, from any political subdivision of the State
10 or from any individual, foundation or corporation and may expend
11 the funds to carry out the goals of the council.

12 2. Staff. The council may hire staff or consultants and
13 may enter into contracts as funding permits. Any member agency
14 may assign its employees to serve as staff to the council.

16 **§3608. Repeal**

18 This chapter is repealed on September 1, 1994. The joint
19 standing committee of the Legislature having jurisdiction over
20 human resources matters shall conduct a review of the council
21 before September 1, 1994.

24 **Sec. K-4. 20-A MRSA §203, sub-§1, ¶¶F and G,** as amended by PL
25 1989, c. 414, §3, are further amended to read:

26 F. Director, Planning and Management Information; and

28 G. Federal and State Education Program Coordinator; and.

30 **Sec. K-5. 20-A MRSA §203, sub-§1, ¶H,** as enacted by PL 1989,
31 c. 414, §3, is repealed.

34 **Sec. K-6. 20-A MRSA §7802, sub-§§5 and 6,** as enacted by PL
35 1989, c. 899, §4, are amended to read:

36 **5. Interdepartmental council.** "Interdepartmental council"
37 means the ~~Committee for the Interdepartmental Coordination of~~
38 ~~Services to Children and Families as~~ Council established by Title
39 ~~34-B, section 1214 5,~~ chapter 333.

42 **6. Commissioners.** "Commissioners" means the ~~Commissioner~~
43 ~~of Human Services, the Commissioner of Mental Health and Mental~~
44 ~~Retardation, the Commissioner of Educational and Cultural~~
45 ~~Services, the Commissioner of Labor and the Commissioner of~~
46 ~~Corrections~~ commissioners who are members of the
47 Interdepartmental Council as described in Title 5, section 3602.

48 **Sec. K-7. 34-B MRSA §1214,** as amended by PL 1989, c. 729, is
49 repealed.

2 **Sec. K-8. Transition.** The Interdepartmental Council as
4 created by this Part is the successor to the former
6 Interdepartmental Council created by the Maine Revised Statutes,
8 Title 34-B, section 1214. All forms, licenses, contracts and
10 agreements pertaining to the former Interdepartmental Council are
12 transferred to the successor Interdepartmental Council.
14 Notwithstanding the Maine Revised Statutes, Title 5, all accrued
16 assets, balances or appropriations, allocations, transfers,
18 revenues or other available funds in an account or subdivision of
20 an account of the former Interdepartmental Council are
22 transferred to the successor Interdepartmental Council. All
24 records, property and equipment of the former Interdepartmental
26 Council are transferred to the current Interdepartmental
28 Council. Any rules adopted by the former Interdepartmental
30 Council remain in effect until amended by the successor
32 Interdepartmental Council.

34 **Sec. K-9. Effective date.** This Part takes effect September 1,
36 1992.

PART L

38 **Sec. L-1. 20-A MRSA c. 2 is enacted to read:**

CHAPTER 2

PUBLIC EDUCATION STRATEGIC PLANNING COUNCIL

§101. Establishment

40 The Public Education Strategic Planning Council, referred to
42 in this chapter as "the council," is established to create and
44 maintain a long-term strategic plan for the State's public
46 education, make annual funding recommendations to the Legislature
48 and study and recommend policy on significant education issues.

§102. Purpose

42 The council is authorized and directed to:

44 1. Assess needs. Assess elementary, secondary and
46 postsecondary education needs of this State and examine whether
48 existing programs meet those needs;

48 2. Ensure consistency of missions. Ensure that the
 educational missions of the university campuses, technical

2 colleges, maritime academy and elementary and secondary schools
3 are consistent and do not overlap unnecessarily;

4 3. Establish a 5-year plan. Establish a 5-year strategic
5 plan for public education statewide;

6 4. Stress collaboration. Stress collaboration and
7 collective use of education resources among public education
8 systems with a particular emphasis on physical facilities;

9 5. Review new program placement. Review and recommend
10 optimal program location for new education programs;

11 6. Develop plans for transfer of academic credit. Develop
12 plans for increased transferability of comparable academic credit
13 between postsecondary institutions;

14 7. Promote technology. Promote the use of technology in
15 academic curricula and for information exchange; and

16 8. Recommend funding levels. Annually recommend funding
17 levels to the Legislature for all public education systems.

18 **§103. Members**

19 The council consists of 8 members, including the Chancellor
20 of the University of Maine System, the President of the Maine
21 Technical College System, the President of the Maine Maritime
22 Academy, the Commissioner of Education, one member from each
23 higher education institution's board of trustees and one member
24 from the State Board of Education. The Commissioner of Education
25 is the chair of the council.

26 **§104. Annual report**

27 The council shall present annually to the Governor and the
28 Legislature a report that includes proposed adjustments in the
29 5-year strategic plan, recommends public education funding levels
30 and makes other education policy recommendations.

31 **PART M**

32 **Sec. M-1. 5 MRSA §938, sub-§1, ¶C,** as repealed and replaced by
33 PL 1987, c. 419, §2, is repealed.

34 **Sec. M-2. 5 MRSA §938, sub-§1, ¶¶D and E.** as enacted by PL
35 1985, c. 746, §3, are repealed.

2 **Sec. M-3. 5 MRSA §938, sub-§1, ¶¶F and G,** as amended by PL
1987, c. 816, Pt. KK, §8, are repealed.

4 **Sec. M-4. 5 MRSA §938, sub-§1, ¶¶H and I,** as enacted by PL
1987, c. 787, §3, are amended to read:

6 H. Director, Bureau of Solid Waste Management; and

8 I. Director, Policy and Planning;

10 **Sec. M-5. 5 MRSA §938, sub-§1, ¶¶N to P** are enacted to read:

12 N. Director, Bureau of Enforcement;

14 O. Director, Bureau of Licensing; and

16 P. Director, Bureau of Technical Services.

18 **Sec. M-6. 5 MRSA §12004-D, sub-§2,** as amended by PL 1989, c.
20 890, Pt. A, §3 and affected by §40, is further amended to read:

22 2. Board of Legislative 38 MRSA §341-A
Environmental Protection Per-Diem
24 \$200 per day
 not to exceed
26 \$20,000 per
 calendar year

28 **Sec. M-7. 38 MRSA §341-A, sub-§4,** as enacted by PL 1989, c.
30 890, Pt. A, §13 and affected by §40, is amended to read:

32 4. **Licenses and permits.** For purposes of this Title,
licenses or permits issued by the department ~~may be~~ are issued by
34 ~~either the commissioner or the board subject to the provisions of~~
~~section 341-D, subsection 2.~~

36 **Sec. M-8. 38 MRSA §341-B,** as enacted by PL 1989, c. 890, Pt.
38 A, §13 and affected by §40, is amended to read:

40 **§341-B. Purpose of the board**

42 The purpose of the Board of Environmental Protection is to
provide informed, independent and timely decisions on the
44 interpretation, administration and enforcement of the laws
relating to environmental protection and to provide for credible,
46 fair and responsible public participation in the appeal of
department decisions. The board shall fulfill its purpose
48 through ~~rulemaking, decisions on selected permit applications,~~
review of the commissioner's licensing and enforcement actions

2 ~~and recommending changes in the law to the Legislature when such~~
3 actions are appealed to the board.

4 **Sec. M-9. 38 MRSA §341-C, sub-§§1 to 3**, as enacted by PL 1989,
5 c. 890, Pt. A, §13 and affected by §40, are amended to read:

6 **1. Appointments.** The board ~~shall consist~~ consists of ~~10~~ 3
7 members appointed by the Governor, subject to review by the joint
8 standing committee of the Legislature having jurisdiction over
9 energy and natural resource matters and to confirmation by the
10 Legislature.

11 **2. Qualifications and requirements.** Members of the board
12 must be chosen to represent the broadest possible interest and
13 experience that can be brought to bear on the administration and
14 implementation of this Title and all other laws which that the
15 board is charged with administering. ~~At least 4 members must be~~
16 ~~residents of the First Congressional District and at least 4~~
17 ~~members must be residents of the Second Congressional District.~~
18 ~~The boundaries of the congressional districts are defined in~~
19 ~~Title 21-A, chapter 15.~~ Members of the board must be
20 knowledgeable in issues pertaining to environmental regulation.

21 **3. Terms.** The members must be appointed for staggered
22 ~~4-year~~ 5-year terms, except that a vacancy must be filled for the
23 unexpired portion of the term. A member may not serve more than
24 2 consecutive ~~4-year~~ 5-year terms.

25 **Sec. M-10. 38 MRSA §341-D, sub-§§1 to 3**, as enacted by PL 1989,
26 c. 890, Pt. A, §13 and affected by §40, are repealed.

27 **Sec. M-11. 38 MRSA §341-D, sub-§4**, as enacted by PL 1989, c.
28 890, Pt. A, §13 and affected by §40, is amended to read:

29 **4. Appeal or review.** The board shall review, may hold a
30 hearing at its discretion on and may affirm, amend or reverse any
31 of the following:

32 **A.** Final license or permit decisions made by the
33 commissioner when a person aggrieved by a decision of the
34 commissioner appeals that decision in writing to the board
35 within 30 days of the ~~filing of the~~ commissioner's decision
36 ~~with the board staff.~~ The board staff shall give written
37 notice to persons that have asked to be notified of the
38 decision. The board may allow the record to be supplemented
39 when it finds that the evidence offered is relevant and
40 material and that:

41 (1) An interested party seeking to supplement the
42 record has shown due diligence in bringing the evidence

2 to the licensing process at the earliest possible time;
or

4 (2) The evidence is newly discovered and could not, by
the exercise of diligence, have been discovered in time
6 to be presented earlier in the licensing process.

8 The board is not bound by the commissioner's findings of
fact or conclusions of law but may adopt, modify or reverse
10 findings of fact or conclusions of law established by the
commissioner. Any changes made by the board under this
12 paragraph must be based upon the board's review of the
record, any supplemental evidence admitted by the board and
14 any hearing held by the board;

16 ~~B. License or permit decisions made by the commissioner
that the board votes to review within 30 days of the next
18 regularly scheduled board meeting following written
notification to the board of the commissioner's decision.
20 The procedures for review are the same as provided under
paragraph A; and~~

22 C. License or permit decisions appealed to the board under
24 another law. Unless the law provides otherwise, the
standard of review is the same as provided under paragraph
26 A; and

28 D. Orders issued pursuant to section 342, subsection 14 and
appeals of emergency orders issued pursuant to section
30 347-A, subsection 3.

32 **Sec. M-12. 38 MRSA §341-D, sub-§§5 and 6, as enacted by PL
1989, c. 890, Pt. A, §13 and affected by §40, are repealed.**

34 **Sec. M-13. 38 MRSA §341-E, first ¶, as enacted by PL 1989, c.
36 890, Pt. A, §13 and affected by §40, is amended to read:**

38 Board meetings held under section 341-D, ~~subsections 1 to 7,~~
are governed by the following provisions.

40 **Sec. M-14. 38 MRSA §341-E, sub-§1, as enacted by PL 1989, c.
42 890, Pt. A, §13 and affected by §40, is amended to read:**

44 **1. Quorum. ~~Six~~ Three members of the board constitute a
quorum for a vote of the board, ~~6 members constitute a quorum for~~
46 ~~rule-making hearings held by the board~~ and 3 ~~2~~ members constitute
a quorum for other hearings held by the board.**

48 **Sec. M-15. 38 MRSA §342, sub-§4, as amended by PL 1991, c.
50 520, §1, is further amended to read:**

2 **4. Organization of department.** The commissioner, ~~after~~
3 ~~consultation with the Board of Environmental Protection,~~ shall
4 organize the department into the bureaus, Bureau of Licensing,
5 the Bureau of Technical Services and the Bureau of Enforcement.
6 The commissioner may organize these bureaus into divisions,
7 regional offices and other administrative units necessary to
8 fulfill the duties of the department, provided that those
9 divisions, regional offices and administrative units preserve the
10 functional organizational structure of the department's
11 licensing, technical services and enforcement bureaus. After
12 ~~consultation with the board,~~ the The commissioner shall prescribe
13 ~~the functions of the bureaus and other administrative units to~~
14 insure ensure that the powers and duties of the department are
15 administered efficiently so that all license applications and
16 other business of the department may be expeditiously completed
17 in the public interest.

18 A. In coordination with the Health and Environmental
19 Testing Laboratory in the Department of Human Services, the
20 commissioner shall ensure that sampling, data handling and
21 analytical procedures are carried out in accordance with the
22 highest professional standards so that data generated for
23 departmental programs are of known and predictable precision
24 and accuracy.

25 B. The Office of Pollution Prevention is established within
26 the department Bureau of Technical Services to review
27 department programs and make recommendations to the
28 commissioner on means of integrating pollution prevention
29 into department programs. The Office of Pollution
30 Prevention has the following functions:

31 (1) To establish pollution prevention priorities
32 within the department;

33 (2) To coordinate department pollution prevention
34 activities with those of other agencies and entities;

35 (3) To ensure that rules, programs and activities of
36 the department are consistent with pollution prevention
37 goals and do not hinder pollution prevention
38 initiatives;

39 (4) To provide technical assistance, training and
40 educational activities to assist the general public,
41 governmental entities and the regulated community with
42 development and implementation of pollution prevention
43 programs as funds allow;

2 (5) To establish an award program to recognize
4 businesses, local governments, department staff and
others that have implemented outstanding or innovative
pollution prevention programs, activities or methods;

6 (6) To identify opportunities to use the state
8 procurement system to encourage pollution prevention;

10 (7) To develop procedures to determine the
12 effectiveness of the department's pollution prevention
programs and activities; and

14 (8) To assume responsibility for the administration
and implementation of chapter 26.

16 **Sec. M-16. 38 MRSA §342, sub-§9**, as enacted by PL 1989, c.
18 890, Pt. A, §18 and affected by §40, is repealed and the
following enacted in its place:

20 9. Rules. Subject to the Maine Administrative Procedure
22 Act, the commissioner shall adopt, amend or repeal reasonable
24 rules and emergency rules necessary for the interpretation,
26 implementation and enforcement of any provision of law that the
department is charged with administering. The commissioner shall
also adopt, amend and repeal rules as necessary for the conduct
of the department's business.

28 **Sec. M-17. 38 MRSA §342, sub-§14** is enacted to read:

30 **§342. Modification, revocation or suspension of licenses**

32 After written notice and opportunity for a hearing pursuant
34 to Title 5, chapter 375, subchapter IV, the commissioner may
36 modify in whole or in part any license, or may issue an order
prescribing necessary corrective action, or may act in accordance
with the Maine Administrative Procedure Act to revoke or suspend
a license, whenever the commissioner finds that:

38 1. Violation of license condition. The licensee has
40 violated any condition of the license;

42 2. Misrepresentation. The licensee has obtained a license
44 by misrepresenting or failing to disclose fully all relevant
facts;

46 3. Threat. The licensed discharge or activity poses a
48 threat to human health or the environment;

50 4. Absence of standards. The license fails to include any
standard or limitation legally required on the date of issuance;

2 **5. Change of circumstances.** There has been a change in any
4 condition or circumstance that requires revocation, suspension or
6 a temporary or permanent modification of the terms of the
8 license; or

10 **6. Violation of law.** The licensee has violated any law
12 administered by the department.

14 For the purposes of this section, the term "license"
16 includes any license, permit, order, approval or certification
18 issued by the department and the term "licensee" means the holder
20 of the license.

22 **Sec. M-18. 38 MRSA §344, sub-§1,** as amended by PL 1989, c.
24 890, Pt. A, §20 and affected by §40, is further amended to read:

26 **1. Acceptance and notification.** The commissioner shall,
28 within 10 working days of receipt of an application, determine
30 whether the application is in a form acceptable for processing
32 and shall notify the applicant of the official date on which the
34 application was accepted or the reasons the application was not
36 accepted. ~~The commissioner shall notify the board of all~~
38 ~~applications accepted as complete.~~

40 The commissioner shall require the applicant to provide notice to
42 the public for each application for a permit or license
44 accepted. The commissioner shall solicit comments from the
46 public for each application in a manner prescribed by the ~~board~~
48 commissioner in the rules.

50 All correspondence notifying an applicant of denial of an
52 application by the ~~board or~~ commissioner shall must be by
54 certified mail, return receipt requested.

56 **Sec. M-19. 38 MRSA §344, sub-§2-A,** as enacted by PL 1989, c.
58 890, Pt. A, §22 and affected by §40, is amended to read:

60 **2-A. Processing time limits, decisions and appeals.** After
62 the commissioner accepts an application for processing, the
64 commissioner may approve, approve with conditions, or disapprove
66 ~~or refer~~ the application as follows.

68 ~~A. The commissioner shall decide as expeditiously as~~
70 ~~possible if an application meets one or more of the criteria~~
72 ~~set forth in section 341-D, subsection 2 and shall request~~
74 ~~that the board assume jurisdiction of that application. If~~
76 ~~at any subsequent time during the review of an application~~
78 ~~the commissioner decides that the application falls under~~

2 ~~section 341-D, subsection 2, the commissioner shall request~~
3 ~~that the board assume jurisdiction of the application.~~

4 B. The commissioner shall decide whether an application
5 meets the permit by rule provisions under subsection 7
6 within 20 working days after notifying the applicant of
7 acceptance of the application.

8 C. For those applications which that do not fall under the
9 permit by rule provisions of subsection 7, the commissioner
10 shall decide upon the application as expeditiously as
11 possible after notifying the applicant of acceptance of the
12 application.

13 Any person aggrieved by a final license or permit decision of the
14 commissioner may appeal that decision to the board. The filing
15 of an appeal with the board is ~~not~~ a prerequisite for the filing
16 of a judicial appeal.

17 **Sec. M-20. 38 MRSA §344, sub-§4-A, ¶A,** as enacted by PL 1989,
18 c. 890, Pt. A, §25 and affected by §40, is amended to read:

19 A. For those applications ~~to be decided by the commissioner~~
20 that do not fall under the permit by rule provisions of
21 subsection 7, the commissioner shall, if requested by the
22 applicant or any interested party, issue a draft permit or
23 license and shall give reasonable notice to the applicant
24 and to any other person who has notified the commissioner of
25 an interest in the application before ~~the commissioner takes~~
26 taking final action on the application. The draft permit or
27 license must be made available to the applicant and to all
28 interested persons at the Augusta and appropriate regional
29 offices of the department at least 5 working days before the
30 commissioner takes final action on the application.

31 **Sec. M-21. 38 MRSA §344, sub-§4-A, ¶B,** as enacted by PL 1989,
32 c. 890, Pt. A, §25 and affected by §40, is repealed.

33 **Sec. M-22. 38 MRSA §344, sub-§7,** as enacted by PL 1983, c.
34 453, §4, is amended to read:

35 **7. Permit by rule.** The ~~Board of Environmental Protection~~
36 commissioner may permit, by rule, any class of activities which
37 that would otherwise require the individual issuance of a permit
38 ~~or approval by the board,~~ if the board commissioner determines
39 that activities within the class will have no significant impact
40 upon the environment. Any such rule shall must describe with
41 specificity the class of activities covered by the rule, and may
42 establish standards of design, construction or use as may be
43 deemed determined necessary to avoid adverse environmental
44 impacts.

2 impacts. Any such rule shall must require notification to the
commissioner prior to the undertaking of the regulated activity.

4 **Sec. M-23. 38 MRSA §344, sub-§8**, as enacted by PL 1989, c.
890, Pt. A, §27 and affected by §40, is amended to read:

6 **8. Effective date of license.** Except as provided in this
8 subsection, a license ~~granted by the commissioner~~ is effective
when the commissioner signs the license. The commissioner may
10 attach a condition to the license requiring up to a 30-day delay
in any physical alteration of the project area and any
12 construction activity authorized by the license. ~~A license
granted by the board is effective when the chair of the board or
14 the chair's designee signs the license.~~

16 **Sec. M-24. 38 MRSA §345-A, sub-§4**, as enacted by PL 1985, c.
746, §10, is amended to read:

18 **4. Subpoena power.** The ~~board and~~ commissioner may each
20 issue subpoenas to compel the production of books, records and
other data related to the matters in issue at any hearing
22 conducted by the commissioner. The board may issue subpoenas to
compel the production of books, records and other data related to
24 matters in issue at any hearing conducted by the board. If any
person served with a subpoena demonstrates to the satisfaction of
26 the issuer of the subpoena that the production of the information
would, if made public, divulge methods or processes which that
28 are entitled to protection as trade secrets, the information
shall may be disclosed only at a nonpublic portion of the hearing
and shall--be is confidential and not available for public
30 inspection. If any person fails or refuses to obey such a
subpoena, the issuer of the subpoena may apply to any Justice of
32 the Superior Court for an order compelling that person to comply
with the subpoena. The Superior Court may issue an order and may
34 punish failure to obey the order as civil contempt.

36 **Sec. M-25. 38 MRSA §346, sub-§1**, as affected by PL 1989, c.
890, Pt. A, §40 and amended by Pt. B, §4, is repealed.

40 **Sec. M-26. 38 MRSA §346, sub-§1-A** is enacted to read:

42 **1-A. Final agency action; judicial appeal.** A decision of
the board under section 341-D is a final agency action on
44 petitioner's appeal for the purposes of judicial review under
Title 5, chapter 375, subchapter VII.

46 **Sec. M-27. 38 MRSA §347-A, sub-§1, ¶A**, as amended by PL 1989,
48 c. 890, Pt. A, §31 and affected by §40, is further amended to
read:

50

2 A. Resolve the violation through an administrative consent
agreement approved by the ~~board-and-the~~ Attorney General;

4 **Sec. M-28. 38 MRSA §347-A, sub-§4**, as enacted by PL 1989, c.
890, Pt. A, §32 and affected by §40, is amended to read:

6
8 **4. Administrative agreements.** The public may make written
comment to the ~~board-at-the-board's-discretion~~ commissioner on
any administrative consent agreements entered into by the
10 commissioner ~~and-approved-by-the-board~~.

12 **Sec. M-29. 38 MRSA §349-A**, as enacted by PL 1989, c. 874,
§1, is amended to read:

14 **§349-A. Mining rules**

16
18 The ~~board~~ commissioner and the Maine Land Use Regulation
Commission shall jointly adopt or amend rules necessary to
regulate nonferrous metal mining ~~by--February--1,--1991~~. The
20 commissioner and the Maine Land Use Regulation Commission shall
convene a joint task force composed of 3 members from each agency
22 to carry out the duties of this section. Any consultants hired
must be jointly chosen by both the commissioner and the Director
24 of the Maine Land Use Regulation Commission. Any rules adopted
pursuant to this section must include reclamation requirements
26 for a nonferrous metal mining site.

28 **Sec. M-30. 38 MRSA §464, sub-§6, ¶A**, as repealed and replaced
by PL 1991, c. 66, Pt. A, §13 and affected by §43, is amended to
30 read:

32 A. At any time during the term of a valid wastewater
discharge license that was issued prior to the effective
34 date of this article, the ~~board~~ commissioner may modify that
license in accordance with section ~~341-D,--subsection--3~~ 342
36 if the discharger is not in compliance with the water
quality criteria pertaining to the protection of the
38 resident biological community. When a discharge license is
modified under this subsection, the ~~board~~ commissioner shall
40 establish a reasonable schedule to bring the discharge into
compliance with the water quality criteria pertaining to the
42 protection of the resident biological community.

44 **Sec. M-31. 38 MRSA §480-H, first ¶**, as repealed and replaced by
PL 1991, c. 66, Pt. A, §16, is amended to read:

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48 In fulfilling ~~its~~ the responsibilities to adopt rules
pursuant to section ~~341-D~~ 342, subsection ~~1~~ 9, the ~~board~~
commissioner, to the extent practicable, shall adopt performance

2 and use standards for activities regulated by this article.
3 These standards at a minimum must include:

4 **Sec. M-32. 38 MRSA §489-A, sub-§9, ¶A**, as affected by PL 1989,
5 c. 890, Pt. A, §40 and repealed and replaced by Pt. B, §100, is
6 amended to read:

8 A. The commissioner finds that the project:

10 (1) Meets one or more of the following criteria set
11 ~~forth in section 341-D, subsection 2;~~ in that the
12 project:

14 (a) Involves a policy, rule or law that the
15 department has not previously interpreted;

16 (b) Involves important policy questions that the
17 department has not resolved;

18 (c) Involves important policy questions or
19 interpretations of a rule or law that require
20 reexamination; or

21 (d) Has generated substantial public interest;

22 (2) Will have a potentially significant environmental
23 effect; or

24 (3) Could affect more than one municipality.

25 In making these findings, the commissioner shall consider
26 all public comments submitted to the department;

27 **Sec. M-33. 38 MRSA §489-A, sub-§10**, as affected by PL 1989,
28 c. 890, Pt. A, §40 and amended by Pt. B, §102, is further amended
29 to read:

30 **10. Appeal of decision by commissioner to review.** An
31 aggrieved party may appeal the decision by the commissioner to
32 exert or not exert state jurisdiction over the proposed project
33 to the board. Review and actions taken by the department are
34 subject to appeal procedures governing the department under
35 section 341-D, ~~subsections~~ subsection 4 and 5.

36 **Sec. M-34. 38 MRSA §1319-R, sub-§3**, as amended by PL 1991, c.
37 205, is further amended to read:

38 **3. Site review.** All persons who make application for a
39 license to construct, operate or substantially expand a
40 commercial hazardous waste facility shall give, at the same time,
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2 written notice to the municipal officers of the municipality in
4 which the proposed facility will be located. The municipality
6 through its municipal officers is granted intervenor status in
8 any proceeding for site review of a commercial hazardous waste
10 facility. The commissioner shall reimburse the municipalities'
12 direct costs, not to exceed \$5,000, for participation in the
14 proceedings.

16 The Governor may appoint a person to facilitate communications
18 between the applicant and the municipality and between the
20 department and the municipality.

22 The State may accept public and private funds from any source for
24 the purpose of carrying out responsibilities under this section.

26 ~~Notwithstanding section 341-D, subsection 2, the board~~ The
28 commissioner shall decide all applications for commercial
30 hazardous waste facilities.

32 The ~~board~~ commissioner shall hold at least one public hearing in
34 the municipality in which the facility will be located.

36 During any proceeding ~~for~~ on the appeal of a decision by the
38 commissioner regarding site review of a commercial hazardous
40 waste facility, the legislative body of the municipality in which
42 the facility is to be located may appoint 4 representatives to
44 the board. If the facility is proposed to be located in an
46 unorganized township, the county commissioners of that county may
48 appoint 4 representatives. These representatives may vote on
board decisions related to the proposed commercial hazardous
waste facility. All representatives appointed under this
subsection shall participate on the board only for that site
review, until final disposition of the application, including any
administrative or judicial appeals. A license application may
not be considered by the board unless all municipal members of
the board and the municipality have been given written notice of
the board meeting and provided copies of all written
recommendations of the department, at least 30 days prior to the
date of the meeting. The municipal members are entitled to the
same pay for each day and expenses as regular board members
during the period of their service, to be paid by the department.

42 **Sec. M-35. 38 MRSA §1478, sub-§2-A,** as affected by PL 1989,
44 c. 890, Pt. A, §40 and enacted by Pt. B, §273, is amended to read:

46 **2-A. Jurisdiction.** ~~Notwithstanding section 341-D,~~
48 ~~subsection 2, the board~~ The commissioner shall decide all permits
for low-level radioactive waste facilities.

2 **Sec. M-36. Transition provisions.** The following transition
provisions apply to this Part.

4 **1. Abolishment of existing board.** Notwithstanding the
Maine Revised Statutes, Title 38, section 341-C, subsection 3,
6 the terms of incumbent members of the Board of Environmental
Protection expire on the effective date of this Part.
8 Notwithstanding Title 38, section 341-C, subsection 5, those
persons may not continue to serve on the board after the
10 effective date of this Part unless appointed by the Governor and
confirmed by the Legislature pursuant to Title 38, section 341-C,
12 subsection 1.

14 **2. Appointment of new board members.** Pursuant to the Maine
Revised Statutes, Title 5, section 341-C, the Governor shall
16 appoint 3 persons to serve on the board no later than 120 days
after the effective date of this Part.

18 **3. Rulemaking, licensing and appeals actions pending before
20 the board.** On the effective date of this Part:

22 A. The disposition of any rule-making activity or license
application that is pending before the board becomes the
24 responsibility of the Commissioner of Environmental
Protection;

26 B. The disposition of any license modification, revocation
or suspension action initiated under the Maine Revised
28 Statutes, Title 38, section 341-D, subsection 3 that is
pending before the board becomes the responsibility of the
30 commissioner;

32 C. The disposition of any appeal filed with the board
pursuant to the Maine Revised Statutes, Title 38, section
34 341-D, subsection 4 that is pending before the board becomes
the responsibility of, and must be acted upon by, the
36 3-member board appointed under subsection 2;

38 D. The disposition of any petition for reconsideration
filed with the board under the Maine Revised Statutes, Title
40 38, section 341-D, subsection 5 that is pending before the
board becomes the responsibility of, and must be acted upon
42 by, the 3-member board appointed under subsection 2.
Notwithstanding section 11 of this Part, the board shall
44 dispose of those petitions under the provisions of the Maine
Revised Statutes, Title 38, section 341-D, subsection 5; and

46 E. All rules in effect on the effective date of this Part
48 become rules adopted by the commissioner and remain in
effect until modified or repealed by the commissioner. The
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2 commissioner shall implement and enforce the provisions of
any rule adopted by the board prior to the effective date of
4 this Part and shall adopt, modify or repeal rules as
necessary to carry out the purposes of this Part.

6 **4. Pending judicial appeals.** Nothing in this Part may be
construed to affect any pending judicial appeal taken to the
8 Superior Court under the Maine Revised Statutes, Title 38,
section 346.

10 **5. Maine Revised Statutes amended.** Wherever in the Maine
12 Revised Statutes the Board of Environmental Protection is
authorized or required to engage in rule-making activities, the
14 words "board" or "Board of Environmental Protection" are amended
to read and mean "commissioner" or "Commissioner of Environmental
16 Protection." The Revisor of Statutes shall implement this
revision when updating, publishing or republishing the statutes.

18 **6. Abolishment of positions.** On the effective date of this
20 Part, the following positions in the Department of Environmental
Protection are abolished:

- 22 A. Director, Bureau of Administration;
24 B. Director, Bureau of Air Quality Control;
26 C. Director, Bureau of Land Quality Control;
28 D. Director, Bureau of Water Quality Control; and
30 E. Director, Bureau of Oil and Hazardous Materials Control.

32 **7. Creation of positions.** On the effective date of this
34 Part, the following confidential positions are established in the
Department of Environmental Protection at pay range 88:

- 36 A. Director, Bureau of Enforcement;
38 B. Director, Bureau of Licensing; and
40 C. Director, Bureau of Technical Services.

42
44 **PART N**

46 **Sec. N-1. 5 MRSA c. 312, as amended, is repealed.**

48 **Sec. N-2. 5 MRSA §12004-I, sub-§3-A is enacted to read:**

2 **3-A.** Maine Conserva- Expenses 12 MRSA
3 Conservation tion Advisory Only §5301
4 Board

6 **Sec. N-3.** 5 MRSA §12004-I, sub-§78, as enacted by PL 1987, c.
7 786, §5, is repealed.

8 **Sec. N-4.** 5 MRSA §13072, sub-§7, ¶D, as enacted by PL 1991, c.
9 622, Pt. F, §10, is amended to read:

10 D. The Coastal Zone Management Local Grants Program; and

11 **Sec. N-5.** 5 MRSA §13072, sub-§7, ¶E, as enacted by PL 1991, c.
12 622, Pt. F, §10, is repealed.

13 **Sec. N-6.** 5 MRSA §13074-A, as enacted by PL 1991, c. 622,
14 Pt. F, §13, is repealed.

15 **Sec. N-7.** 12 MRSA c. 433 is enacted to read:

16 CHAPTER 433

17 NONGAME SPECIES, CRITICAL AREAS
18 AND NATURAL HERITAGE

19 §5301. Definitions

20 As used in this chapter, unless the context otherwise
21 indicates, the following terms have the following meanings.

22 1. Board. "Board" means the Maine Conservation Advisory
23 Board established in section 5302.

24 2. Critical areas. "Critical areas" means areas containing
25 plant and animal life or geological features worthy of
26 preservation in their natural condition or other natural features
27 of significant scenic, scientific or historical value.

28 3. Endangered plant species. "Endangered plant species"
29 means any species of native plant that is in danger of extinction
30 throughout all or a significant portion of its range within the
31 State or any species determined an "endangered species" pursuant
32 to the United States Endangered Species Act.

33 4. Endangered Species Act. "Endangered Species Act" means
34 the United States Endangered Species Act of 1973, Public Law
35 93-205, as amended.

2 5. Threatened plant species. "Threatened plant species"
3 means any species of native plant likely to become an endangered
4 species within the foreseeable future throughout all or a
5 significant portion of its range within the State or any species
6 of plant determined a "threatened species" pursuant to the United
7 States Endangered Species Act.

8 §5302. Maine Conservation Advisory Board

10 The Maine Conservation Advisory Board established by Title
11 5, section 12004-I, subsection 3-A shall advise and assist the
12 commissioner in the establishment and maintenance of the Register
13 of Critical Areas and administration of the Endangered and
14 Nongame Species Program and the Natural Heritage Program. The
15 Governor shall appoint the members of the board and the
16 commissioner shall convene the board. The board consists of 11
17 members, one of whom must be a permanent member.

18 1. Permanent member. The one permanent member of the board
19 is the commissioner or the commissioner's designee.

22 2. Appointed members. The appointed members of the board
23 serve for 3 years, except that initially the Governor shall
24 appoint 3 members whose terms expire in one year, 3 members whose
25 terms expire in 2 years and 4 members whose terms expire in 3
26 years.

28 3. Officers. The board shall annually select from its
29 membership a chair and a secretary. The board shall meet not
30 less than twice a year at the call of the chair or a majority of
31 the members. The commissioner shall furnish clerical, technical
32 and other services required by the board in the performance of
33 its official duties.

34 4. Quorum; records. A quorum of the board for the
35 transaction of business is 7 members. The secretary of the board
36 shall keep a record of all proceedings of the board. That record
37 is a public record.

40 5. Rules. The board may adopt rules governing the conduct
41 of its business.

42 6. Expenses. Members of the board are compensated as
43 provided in Title 5, chapter 379.

46 SUBCHAPTER I

48 ENDANGERED AND NONGAME SPECIES

2 **§5321. Declaration of purpose**

4 The Legislature finds that various species of fish or
6 wildlife have been and are in danger of being rendered extinct
8 within the State, and that these species are of aesthetic,
10 ecological, educational, historical, recreational and scientific
12 value to the people of the State. The Legislature therefore
14 declares that it is the policy of the State to conserve, by
16 according such protection as is necessary to maintain and enhance
18 their numbers, all species of fish or wildlife found in the
20 State, as well as the ecosystems upon which they depend.

22 **§5322. Commissioner's investigations and programs**

24 1. Investigations. The commissioner may conduct
26 investigations in order to develop information concerning
28 population size, distribution, habitat needs, limiting factors
30 and other biological and ecological data related to the status
32 and requirements for survival of any resident species of fish or
34 wildlife, whether endangered or not.

36 2. Programs. The commissioner may develop programs to
38 enhance or maintain these populations.

40 **§5323. Designation of endangered species**

42 1. Standards. The commissioner shall designate a species
44 endangered or threatened whenever finding that one of the
46 following exists:

48 A. The present or threatened destruction, modification or
50 curtailment of its habitat or range;

52 B. Overutilization for commercial, sporting, scientific,
54 educational or other purposes;

56 C. Disease or predation;

58 D. Inadequacy of existing regulatory mechanisms; or

60 E. Other natural or human-made factors affecting its
62 continued existence within the State.

64 2. Commissioner's duties. In designating a species
66 endangered or threatened, the commissioner shall:

68 A. Make use of the best scientific, commercial and other
70 data available;

2 B. Consult, as appropriate, federal agencies, other
3 interested state agencies, other states having a common
4 interest in the species and interested persons and
5 organizations; and

6 C. Maintain a list of all species that the commissioner has
7 designated endangered or threatened, naming each species
8 contained on the list by both its scientific and common
9 name, if any, and specifying over what portion of its range
10 each species so designated is endangered or threatened,
11 except that a species may not be added to or deleted from
12 the list unless notice of the change is published and a
13 public hearing is conducted pursuant to the Maine
14 Administrative Procedure Act.

16 **§5324. Conservation of endangered species**

18 1. Programs. The commissioner may establish such programs
19 as are necessary to bring any endangered or threatened species to
20 the point where it is no longer endangered or threatened,
21 including:

22 A. Acquisition of land or aquatic habitat or interests in
23 land or aquatic habitat;

24 B. Propagation;

25 C. Live trapping;

26 D. Transplantation; and

27 E. In the extraordinary case when population pressures
28 within a given group ecosystem can not be otherwise
29 relieved, regulated taking.

30 2. Habitat. For species designated as endangered or
31 threatened under this subchapter the commissioner may, by rule,
32 pursuant to the Maine Administrative Procedure Act, identify
33 areas that currently or historically provide physical or
34 biological features essential to the conservation of the species
35 and that may require special management considerations.

36 3. Protection guidelines. The commissioner may, by rule,
37 pursuant to the Maine Administrative Procedure Act, develop
38 guidelines for the protection of species designated as endangered
39 or threatened under this subchapter.

2 **§5325. Cooperative agreements**

4 The commissioner may enter into agreements with federal
6 agencies, other states, political subdivisions of this State or
8 private persons for the establishment and maintenance of programs
 for the conservation of endangered or threatened species and may
 receive all federal funds allocated for obligations to the State
 pursuant to these agreements.

10 **§5326. State and local cooperation**

12 1. Review. A state agency or municipal government may not
14 permit, license, fund or carry out projects that will:

16 A. Significantly alter the habitat identified under section
18 5324, subsection 2 of any species designated as threatened
 or endangered under this subchapter; or

20 B. Violate protection guidelines set forth in section 5324,
 subsection 3.

22 The commissioner shall make information under section 5324
24 available to all other state agencies and municipal governments
 for the purposes of review.

26 2. Variance. Notwithstanding subsection 1, state agencies
28 and municipal governments may grant a variance from this section
 provided that:

30 A. The commissioner certifies that the proposed action
32 would not pose a significant risk to any population of
 endangered or threatened species within the State; and

34 B. A public hearing is held on the proposed action.

36 3. Pending applications. Notwithstanding Title 1, section
38 302, applications pending at the time of adoption of habitats and
40 guidelines under section 5324, subsections 2 and 3 are governed
 by these provisions.

42 **§5327. Prohibited acts**

44 1. Misuse of endangered or threatened species. A person is
46 guilty, except as provided in subsection 2, of misuse of an
 endangered or threatened species if that person does any of the
 following:

48 A. Exports any endangered or threatened species from the
50 State;

2 B. Hunts, traps or possesses any endangered or threatened
species within the State;

4 C. Possesses, processes, sells, offers for sale, delivers,
carries, transports or ships, by any means whatsoever, any
6 endangered or threatened species; or

8 D. Deliberately feeds, sets bait for or harasses any
endangered or threatened species, except as allowed under
10 subsection 2, paragraph A. A warning must be issued for the
first violation. The 2nd violation is punishable as a Class
12 E crime.

14 2. Exceptions. Notwithstanding subsection 1, the
commissioner may, under such terms and conditions as the
16 commissioner prescribes:

18 A. Permit any act prohibited by this section for
educational or scientific purposes or to enhance the
20 propagation or survival of an endangered or threatened
species; and
22

24 B. Permit any endangered or threatened species that enters
the State and is being transported to a point outside the
State to be transported without restriction in accordance
26 with the terms of any federal or state permit.

28 §5328. Maine Endangered and Nongame Wildlife Fund

30 1. Establishment. There is established the Maine
Endangered and Nongame Wildlife Fund. The fund consists of money
32 deposited by the Treasurer of State pursuant to Title 36, section
5284. All money deposited in the fund and the earnings on that
34 money must remain in the fund to be used for the management of
nongame wildlife and for necessary administrative and personnel
36 costs associated with the management of nongame wildlife and may
not be deposited in the General Fund or any other fund except as
38 specifically provided by law.

40 2. Report and allocation. The commissioner shall annually
report to the Governor and the joint standing committee of the
42 Legislature having jurisdiction over natural resource matters on
the Maine Endangered and Nongame Wildlife Fund. The commissioner
44 shall submit a budget for each biennium in accordance with Title
5, sections 1663 to 1666. The State Controller shall authorize
46 expenditures from the fund as allocated by the Legislature.

48 3. Grants. Any person, organization or agency of the State
may apply to the Department of Inland Fisheries and Wildlife for
50 a grant to undertake research and nongame wildlife management

2 activities. The department may award grants out of the Maine
3 Endangered and Nongame Wildlife Fund. For the purposes of this
4 section, "nongame wildlife" includes all unconfined terrestrial,
5 freshwater or saltwater species not ordinarily collected,
6 captured or killed for sport or profit.

8 **§5329. Judicial enforcement**

10 1. General. In the event of a violation of this
11 subchapter, any rule adopted pursuant to this subchapter or any
12 license or permit granted under this subchapter, the Attorney
13 General may institute injunctive proceedings to enjoin any
14 further violation, a civil or criminal action or any appropriate
15 combination of those proceedings without recourse to any other
16 provision of law administered by the commissioner.

18 2. Restoration. The court may order restoration of any
19 area affected by any activity found to be in violation of this
20 subchapter, any rule adopted pursuant to this subchapter or any
21 license or permit granted under this subchapter to its condition
22 prior to the violation or as near to that condition as possible.
23 When the court finds that the violation was willful, the court
24 shall order restoration under this subchapter unless the
25 restoration would result in:

26 A. A threat to public health and safety;

28 B. Environmental damage; or

30 C. A substantial injustice.

32 **SUBCHAPTER II**

34 **MAINE NATURAL HERITAGE PROGRAM**

36 **§5341. Maine Natural Heritage Program**

38 The Maine Natural Heritage Program, administered by the
39 commissioner, is established to perform the following functions.

40 1. Ongoing inventory. The Maine Natural Heritage Program
41 shall conduct an ongoing inventory of the State's critical
42 natural resources, including, but not limited to, rare plants,
43 animals, natural communities and ecosystems, including their
44 location and biological and ecological status.

45 2. Biological and conservation data base. The Maine
46 Natural Heritage Program shall maintain a biological and
47 conservation data base that must contain inventory data and other
48 relevant biological and ecological information about critical
49 resources.

2 natural resources and about ecologically significant sites
3 harboring these resources. Information contained within the
4 biological and conservation data base may be made available upon
5 request for conservation and land use planning, environmental
6 review, scientific research, education or other appropriate,
7 noncommercial use. For the purposes of this subsection, an
8 appropriate use is one that will not jeopardize sensitive
9 populations or habitats.

10 3. Interdepartmental coordination of inventory and data
11 management activities. The Maine Natural Heritage Program shall
12 coordinate inventory and data management activities with the
13 Department of Inland Fisheries and Wildlife, the Department of
14 Environmental Protection, the Department of Conservation and the
15 State Planning Office to prevent duplication, increase efficiency
16 and increase the flow of data and communication among those
17 agencies and to support the mandates and programs of the
18 cooperating agencies. The Maine Natural Heritage Program shall
19 establish and maintain installations of the biological and
20 conservation data base within the Department of Inland Fisheries
21 and Wildlife, the Department of Environmental Protection and the
22 State Planning Office pursuant to memoranda of agreement.

23 4. Grants. Any person, organization or agency of the State
24 may apply to the Maine Natural Heritage Program for a grant to
25 undertake inventory and research about rare, endangered or
26 threatened plants, animals and natural communities or
27 ecosystems. The office may award grants out of the Maine Natural
28 Heritage Fund.

29 5. Charges. The Maine Natural Heritage Program may levy
30 appropriate charges to those using for commercial gain the
31 services provided by the Maine Natural Heritage Program to
32 recover the costs of providing the service and a reasonable
33 portion of the costs associated with building and maintaining the
34 biological and conservation data base. Charges must be fixed in
35 a schedule prepared and revised as necessary by the office and
36 must be supported and explained by accompanying information.

37 6. Cooperative agreements. The Maine Natural Heritage
38 Program may enter into cooperative agreements with federal or
39 state agencies, political subdivisions of this State or private
40 persons or organizations to receive or disburse funds to carry
41 out the purposes of this section.

42 SUBCHAPTER III

43 STATE REGISTER OF CRITICAL AREAS

2 **§5361. Short title**

4 This subchapter may be known and cited as the "Act for a
4 State Register of Critical Areas."

6 **§5362. Findings; declaration of purpose**

8 The Legislature finds that the State has an overriding
10 interest in the optimum development and preservation of sites or
12 areas of unusual natural, scenic or scientific significance. To
14 facilitate their preservation for present and future generations,
16 the Legislature finds that these areas should be inventoried. The
18 Legislature directs that a statewide inventory and an official,
20 authoritative listing of the natural, scenic and scientific areas
 of overriding state interest be made by the commissioner as part
 of the commissioner's overall responsibility for the preparation
 of statewide goals and policies and coordination of the planning
 and conservation efforts of state and local agencies. The
 official listing is known as the "Register of Critical Areas" and
 may be referred to as the "register."

22 The Legislature also finds that the best ways to accomplish
24 the objectives cited in this section are through continued
26 implementation of the State's land use laws, which guide and
28 control development in all areas of the State including those
30 areas listed in the statewide inventory, and through voluntary
 conservation efforts by landowners. The Legislature authorizes
 the commissioner to work with interested landowners on voluntary
 conservation of these areas.

32 The Legislature further finds that species of native plants
34 are important for human enjoyment, for scientific purposes and as
36 components of their ecosystems for the benefit of the people of
38 this State. Native species of plants within this State and the
 nation that are reduced in number must be identified as
 endangered or threatened to encourage their protection and to
 maintain and enhance their numbers.

40 **§5363. Register of Critical Areas**

42 1. Register of Critical Areas. The commissioner, with the
44 advice and approval of the board, shall establish a Register of
46 Critical Areas, which must contain an inventory of sites and
48 areas of significant natural, scenic or scientific value duly
 classified as "critical areas" as defined in section 5301. In
 determining the classification of an area or site as a critical
 area, the commissioner shall consider:

50 A. The unique or exemplary natural qualities of the area or
 site;

2 B. The intrinsic fragility of the area or site and
3 sensitivity to alteration or destruction;

4 C. The present or future threat of alteration or
5 destruction; and

6 D. The economic implications of inclusion of a critical
7 area in the register.

8
9
10 2. Landowner consultation. An area or site classified as a
11 critical area may not be included in the register without at
12 least 60 days' prior notification of the landowner. Each
13 critical area listed in the register must include:

14 A. A general description of the area or site;

15 B. A list of its unique or exemplary qualities and reasons
16 for inclusion in the register;

17 C. Its size and location; and

18 D. The name or names of the property owner, contingent upon
19 the consent of the owner.

20
21 3. Recommendations. The commissioner shall recommend the
22 acquisition of property rights or the establishment of management
23 agreements to ensure the protection of registered critical areas
24 threatened with adverse alteration or destruction to appropriate
25 state agencies that have the authority to acquire property rights
26 through devise, gift, purchase or otherwise and the authority to
27 contract with private property owners. The commissioner may also
28 recommend the acquisition of property rights or consummation of
29 contractual management agreements regarding any critical area
30 listed in the register to any state agency, political subdivision
31 of the State or private citizens who have demonstrated interest
32 in the protection of critical areas.

33
34 4. Removal of listed areas. The commissioner, with the
35 advice and approval of the board, may remove any critical area
36 from the register when the commissioner determines that
37 protection is no longer necessary or appropriate.

38
39 §5364. Endangered plants

40 1. Official list of endangered plants. The commissioner,
41 with the advice of the board, shall establish and maintain the
42 official list of native endangered and threatened plants of the
43 State. The purpose of the list is informational only.

2 2. Criteria for listing. The commissioner may establish
3 procedures to substantiate the identification of endangered and
4 threatened native plant species. In determining the list, the
5 commissioner may use the rare plant data base of the former
6 Critical Areas Program as well as the knowledge of botanists in
7 the State. In addition, the commissioner shall consult with
8 federal agencies, interested state agencies, other states or
9 provinces having a common interest and other interested persons
10 and organizations. When establishing the list, the commissioner
11 shall determine guidelines for each category by considering such
12 aspects of plant biology as:

13 A. Endemism: Plant species or subspecies that may be
14 geographically restricted to the State;

15 B. Scarcity: A plant species or subspecies may be scarce
16 in North America and occur in only a few locations in the
17 State;

18 C. Special habitat: A plant species or subspecies may
19 require special habitat that is scarce in the State or under
20 heavy development pressure, such as, but not limited to,
21 limestone outcrops, alpine areas, calcareous fens and sand
22 plains;

23 D. Limit of range: A plant species or subspecies may be at
24 the edge of its distribution or beyond its normal range in
25 the State;

26 E. Declining population: A plant species may be threatened
27 or seriously declining due to habitat modification,
28 collection or overutilization for recreational, scientific
29 or educational purposes; and

30 F. Vulnerability: A plant species may be vulnerable to
31 extinction in the State because of destruction of its
32 habitat.

33 3. Public hearing. The commissioner shall conduct at least
34 one public hearing to allow for public comment prior to
35 establishing the list. The commissioner may hold other public
36 hearings with regard to modifications.

37 4. Biennial review. The commissioner shall review the list
38 biennially and update it based upon new botanical inventory data,
39 scientific studies or other documentation.

2 **§5365. List of Heritage Coastal Areas**

4 The commissioner shall develop and maintain the official
list of Heritage Coastal Areas.

6 1. Definition. As used in this section, "Heritage Coastal
Areas" means coastal areas containing an assemblage of
8 geological, botanical, zoological, historical or scenic features
of exceptional state or national significance.

10 2. Guidelines for identifying Heritage Coastal Areas. The
12 commissioner, in consultation with the Maine Historic
Preservation Commission, shall review existing reports and
14 documents on natural, historical and scenic coastal areas in
order to document Heritage Coastal Areas. The commissioner shall
16 also undertake the necessary studies and inventories to document
the scenic and natural values of candidate areas.

18 When evaluating candidate Heritage Coastal Areas, the
20 commissioner shall consider:

22 A. Areas eligible for or listed on the Register of Critical
24 Areas; and

26 B. Areas eligible for or listed on the National Register of
Historic Places.

28 The commissioner shall prepare nomination forms for each Heritage
30 Coastal Area that must contain a description of the area and its
significance, its size and location, the names of the landowners
32 and a description of the significant features within the area.

34 3. Municipal and landowner consultation. An area may not
be included on the list of Heritage Coastal Areas until the
36 commissioner notifies the landowner and officials of the
municipality where the area is located at least 60 days prior to
38 designation.

40 4. Designation of Heritage Coastal Areas. The
commissioner, with the advice and approval of the board, shall
42 designate Heritage Coastal Areas subject to review by the joint
standing committee of the Legislature having jurisdiction over
44 energy and natural resource matters.

46 The designation of Heritage Coastal Areas officially identifies
and documents assemblages of exceptional natural, historical or
48 scenic areas on the coast that merit special attention for
conservation.

2 **5. Protection of features within Heritage Coastal Areas.**

3 The features identified within Heritage Coastal Areas are
4 protected on a voluntary basis. Government agencies at all levels
5 shall consider the importance of protecting the character of
6 Heritage Coastal Areas in land use control and other actions they
7 take.

8 **Sec. N-8. 12 MRSA §7036, sub-§1,** as enacted by PL 1979, c.
9 420, §1, is amended to read:

10 **1. Violation of rule.** A person is guilty, ~~---except---as~~
11 ~~provided in subsection 3,~~ of a violation of a rule if he that
12 person violates any provision of any rule of the commissioner
13 promulgated in accordance with chapters 701 to 721.

14 **Sec. N-9. 12 MRSA §7036, sub-§3,** as enacted by PL 1979, c.
15 420, §1, is repealed.

16 **Sec. N-10. 12 MRSA c. 713, sub-c. V,** as amended, is repealed.

17 **Sec. N-11. 12 MRSA §7910, sub-§1, ¶A,** as amended by PL 1989,
18 c. 918, Pt. D, §13 and affected by §20, is further amended to
19 read:

20 A. All fees, fines, penalties, officers' costs and all
21 other money received, collected or recovered by the court or
22 the department under any provisions of chapter 433,
23 subchapter I or chapters 701 to 721, except section 7109;
24 sections 7361 to 7370-A; ~~sections 7751 to 7756;~~ section
25 7800, subsection 3; section 7824, subsection 3; and section
26 7854, subsection 4;

27 **Sec. N-12. 30-A MRSA §4326, sub-§1, ¶C,** as enacted by PL 1989,
28 c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

29 C. Significant or critical natural resources, such as
30 wetlands, wildlife and fisheries habitats, significant plant
31 habitats, coastal islands, sand dunes, scenic areas,
32 shorelands, heritage coastal areas as defined under Title 5
33 12, section 3316 5365, and unique natural areas;

34 **Sec. N-13. 36 MRSA §1109, sub-§3, ¶M,** as enacted by PL 1989,
35 c. 748, §4, is amended to read:

36 M. The identification of the land or of outstanding natural
37 resources on the land by a legislatively mandated program,
38 on the state, local or federal level, as particular areas,
39 parcels, land types or natural resources for protection
40 including, but not limited to, the Register of Critical
41 resources.

2 Areas under Title 5 12, chapter 312 433; the laws governing
wildlife sanctuaries and management areas under Title 12,
4 sections 7651 and 7652; the laws governing the State's
rivers under Title 12, chapter 200; the natural resource
6 protection laws under Title 38, chapter 3, subchapter I,
article 5-A; and the Maine Coastal Barrier Resources Systems
under Title 38, chapter 21; or

8
10 **Sec. N-14. 36 MRSA §5284, sub-§§1 and 2**, as enacted by PL 1983,
c. 526, §3, are amended to read:

12 **1. Maine Endangered and Nongame Wildlife Fund.** Taxpayers
who when filing their return are entitled to a refund under this
14 Part may designate that any part of that refund be paid into the
Maine Endangered and Nongame Wildlife Fund established in Title
16 12, section 7757 5328. Each individual income tax return form
shall must contain a designation in substantially the following
18 form: "Contribution to Maine Endangered and Nongame Wildlife
Fund: () \$1, () \$5, () \$10 or () Other \$."

20
22 **2. Contributions credited to Maine Endangered and Nongame
Wildlife Fund.** The State Tax Assessor shall determine annually
the total amount contributed pursuant to subsection 1. Prior to
24 the beginning of the next year, he the State Tax Assessor shall
deduct the cost of administering the nongame checkoff, but not
26 exceeding \$5,000 annually, and report the remainder to the
Treasurer of State, who shall credit that amount to the Maine
28 Endangered and Nongame Wildlife Fund, ~~which is~~ established in
Title 12, section 7757 5328.

30
32 **Sec. N-15. Transition provisions.** On the effective date of
this Part, all incumbent members of the Maine Critical Areas
34 Advisory Board who are not permanent members become members of
the Maine Conservation Advisory Board. Nothing in this Part may
36 be construed to affect the appointment, terms or status of any
member of the board with the exception of the Director of the
38 State Planning Office who is replaced as the permanent member of
the board by the Commissioner of Conservation.

40
42 **PART O**

44 **Sec. O-1. 5 MRSA §1742, sub-§24, ¶B**, as repealed and replaced
by PL 1989, c. 502, Pt. A, §17, is amended to read:

46 **B.** The indoor air quality and ventilation standards applied
by the bureau shall remain in effect until the Board of
48 Occupational Safety and Health adopts air quality and
ventilation standards; and

2 **Sec. O-2. 5 MRSA §1742, sub-§25**, as enacted by PL 1989, c.
3 502, Pt. A, §18, is amended to read:

4 **25. Sites for child care programs.** To review, in
5 cooperation with the Office of Child Care Coordination in the
6 Department of Human Services, feasible sites for child care
7 programs offered primarily as a service to state employees
8 pursuant to Title 22, section 8307, subsection 2.;

10 **Sec. O-3. 5 MRSA §1742, sub-§§26 and 27** are enacted to read:

12 **26. Facilities planning.** To develop a plan for the
13 cost-effective consolidation of state-owned facilities. The plan
14 must complement the regionalization of the restructured agencies,
15 maximize colocation of different state agencies, maximize cost
16 savings to the State and promote public accessibility. The plan
17 must include a complete and thorough analysis of existing state
18 office space and facilities; the development of a strategy to
19 make best use of that space and facilities through consolidation,
20 purchase, liquidation, construction or other improved use; and
21 the identification of specific state-owned facilities best suited
22 for sale. In developing the plan, the Director of the Bureau of
23 General Services shall contract for any necessary expertise and
24 shall avoid any conflict of interest; and

26 **27. Owning versus leasing.** To develop a model for
27 assessing the cost advantages of owning versus leasing
28 facilities. The Director of the Bureau of General Services shall
29 use the model developed under this subsection in developing the
30 plan required under subsection 26.

32 **Sec. O-4. 5 MRSA §1886, sub-§5**, as amended by PL 1989, c. 857,
33 §29, is further amended to read:

34 **5. Develop and administer written standards for data**
35 **processing and telecommunications.** The deputy commissioner shall
36 develop and administer written standards for data processing and
37 telecommunications subject to approval by the board. These
38 written standards pertain to:

- 40 A. Acquisition of equipment;
- 42 B. Acquisition of computer programs;
- 44 C. The development of computer systems and computer
45 programs;
- 48 D. Computer operations; and

2 E. Any other standards determined necessary by the deputy
3 commissioner and the board.

4 The deputy commissioner shall ensure that standards developed
5 under this subsection make best use of the electronic exchange of
6 information among agencies of State Government and promote
7 interagency telecommunications.

8
9 **Sec. O-5. Facilities Consolidation Commission established.** The
10 Governor shall establish the Facilities Consolidation Commission
11 to oversee the Bureau of General Services planning process
12 established in the Maine Revised Statutes, Title 5, section 1742,
13 subsections 26 and 27. The commission shall receive and rule on
14 recommendations from the Bureau of General Services for the sale
15 of state-owned facilities and shall report annually to the
16 Governor and the Legislature on these recommendations and on the
17 sales executed during the prior year. The commission's mandate
18 must include specific targets for facility liquidation. Unless
19 otherwise authorized by law, the Governor may sell surplus
20 facilities identified through that process. The commission shall
21 submit its first report and accompanying facilities sales
22 recommendations to the Legislature no later than December 15,
23 1992.

24
25
26 **PART P**

27 **Sec. P-1. 4 MRSA §24, 2nd ¶,** as amended by PL 1979, c. 127,
28 §9, is further amended to read:

29
30 The State Court Administrator shall prepare the consolidated
31 court budget according to procedures prescribed by the State
32 Budget Officer. Budget requests and other additional information
33 as requested shall must be transmitted to the State Budget
34 Officer on or before September 1st of the even--numbered
35 even-numbered years. The Governor shall include in the budget
36 submission the judicial budget without revision, in accordance
37 with Title 5, section 1664, but with such recommendations as he
38 may-deem the Governor considers proper.

39
40 **Sec. P-2. 5 MRSA §1664, last ¶,** as amended by PL 1989, c. 934,
41 Pt. C, §1, is further amended to read:

42
43 Part 3 shall must embrace complete drafts or summaries of
44 the budget bills, the legislative measures required to give legal
45 sanction to the financial plan when adopted by the Legislature.
46 These bills shall must include General Fund appropriation bills
47 and allocation bills for the following: Highway Fund, Federal
48 Revenue Sharing Fund, Coastal Protection Fund, Maine Nuclear
49 Emergency Planning Fund and for the administrative expenses of
50

2 the Bureau of Alcoholic Beverages and the State Liquor
3 Commission, authorizing expenditures for each fiscal year of the
4 ensuing biennium and such other bills as may be required to
5 provide the income necessary to finance the budget. Bills
6 setting forth appropriations or allocations for the Legislature
7 and the Judicial Department must include the full text of the
8 budget request submitted to the Governor by each of those
9 branches of State Government, as well as the Governor's
10 recommendation for each.

12 PART Q

14 Sec. Q-1. 4 MRSA §§15 and 16, as enacted by PL 1975, c. 408,
15 §5-A, are amended to read:

16 §15. **Administrative Office of the Courts; appointment of State**
17 **Court Administrator**

18 There ~~shall be~~ is an Administrative Office of the Courts,
19 directed by a State Court Administrator who ~~shall be~~ is appointed
20 by and ~~serve~~ serves at the pleasure of the Chief Justice of the
21 Supreme Judicial Court. ~~Said--administrator~~ The State Court
22 Administrator shall devote full time to ~~his~~ the official duties
23 of this position to the exclusion of any profession for profit.
24 The State Court Administrator must be a person with experience
25 and skills in leadership, management, planning and administration.

26 §16. **Assistants and employees of State Court Administrator**

27 With the approval of the Chief Justice and within the limits
28 of appropriations made therefor, the State Court Administrator
29 may appoint such assistants and other employees and purchase or
30 lease such equipment, services and facilities as may be needed
31 for the performance of the duties of said ~~the~~ administrator. All
32 administrative personnel in the Judicial Department are
33 supervised by the State Court Administrator.

34 These personnel shall must have qualifications as prescribed
35 by the Supreme Judicial Court.

36 Sec. Q-2. 4 MRSA §17, first ¶, as enacted by PL 1975, c. 408,
37 §5-A, is amended to read:

38 The State Court Administrator ~~under,~~ subject to the
39 supervision and direction of the Chief Justice of the Supreme
40 Judicial Court, is responsible for administration and management
41 of the court system. The State Court Administrator shall:

2 **Sec. Q-3. 4 MRSA §17, sub-§1**, as enacted by PL 1975, c. 408,
§5-A, is amended to read:

4 **1. Continuous survey and study.** Carry on a continuous
6 survey and study of the organization, operation, condition of
business, practice and procedure of the Judicial Department and
8 The State Court Administrator shall make recommendations to the
Chief Justice to improve administration and management of the
10 court system, including recommendations concerning the number of
judges and other judicial personnel required for the efficient
12 administration of justice ~~---Assist---in---long---and---short---range~~
planning;

14 **Sec. Q-4. 4 MRSA §17, sub-§1-A** is enacted to read:

16 **1-A. Long-range planning.** Develop and recommend to the
Chief Justice long-range plans for the Judicial Department and
18 operations of the courts;

20
22 PART R

24 **Sec. R-1. 4 MRSA §26**, as enacted by PL 1985, c. 733, §1, is
repealed.

26
28 PART S

30 **Sec. S-1. 5 MRSA §3358, sub-§7**, as enacted by PL 1991, c. 417,
§1, is amended to read:

32 **7. Funding.** The commission is authorized to seek, accept
34 and expend outside sources of funding to carry out the
commission's activities. ~~Expenditures may not be incurred that~~
36 ~~have an impact on the General Fund.~~

38 **Sec. S-2. 5 MRSA §3358, sub-§8, ¶B**, as enacted by PL 1991, c.
417, §1, is amended to read:

40 **B.** Submit a report containing the results of its studies,
42 findings and recommendations to the Governor and committees
of the Legislature having jurisdiction over criminal justice
44 matters by December 31st of each year. As resources permit,
the report must include:

46 (1) A detailed assessment of existing and needed
48 resources within the State's criminal justice system,
to include an evaluation of population growth
50 management with respect to appropriate utilization of
institutional and community resources, including law

2 enforcement, prosecution, judicial, corrections and
community corrections resources;

4 (2) An evaluation of existing programs for
incarcerated and nonincarcerated offenders, including
6 recommendations for improvements or new programs;

8 (3) An evaluation of the method used to determine the
needs of offenders and the risks they present when
10 arrested, detained, prosecuted, sentenced, placed in
community programs or institutionalized;

12 (4) Recommendations for effective and efficient
14 management of the resources within the State's criminal
justice system, including development of a spectrum of
16 sentencing alternatives;

18 (5) Recommendations regarding an offender-based
tracking system to provide current and historical
20 offender data at all levels of the State's criminal
justice system;

22 (6) Recommendations for appropriate prevention
24 strategies at all levels of the State's criminal
justice system;

26 (7) Recommendations regarding evaluation methodology
28 for the State's criminal justice system; and

30 (8) Evaluation and recommendations with respect to
provision of criminal legal defense assistance to
32 indigent criminal defendants;

34 (9) A review of mandatory sentencing under current law
and its relationship to the Maine Criminal Code, with
36 recommendations for reducing the use of mandatory
sentencing; and

38 (10) A review of the current law regarding intensive
40 supervision, including analysis of the barriers to
greater use of intensive supervision and
42 recommendations for removing those barriers;

44 **Sec. S-3. 5 MRSA §12004-I, sub-§52, as enacted by PL 1987, c.**
46 **786, §5, is repealed.**

48 **Sec. S-4. 17-A MRSA c. 55, as amended, is repealed.**

PART T

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4 Sec. T-1. 27 MRSA c. 18-A is enacted to read:

6 CHAPTER 18-A

8 MAINE CULTURAL FOUNDATION

10 §571. Legislative findings and intent

12 There is a need to establish a new basis for a creative
14 partnership of the private and public sectors for support for the
16 cultural heritage of the State, a partnership that capitalizes on
18 the interests, resources and efforts of each sector, but that
20 does not compromise the public interest or the profit motive. The
22 Legislature further finds that the State's solitary burden to
24 provide for maintenance and development of its cultural heritage
26 should lessen through involving the private sector in a
28 leadership role.

30 §572. Establishment

32 The Maine Cultural Foundation, referred to in this chapter
34 as the "foundation," is established to foster, support and assist
36 maintenance and development of the State's cultural heritage. The
38 foundation shall carry out its purposes in complement to and in
40 coordination with the cultural development activities of the
42 private sector, community and regional groups and State
44 Government.

46 The foundation exists as a nonprofit corporation with a
48 public purpose and the exercise by the foundation of the powers
50 conferred by this chapter is deemed to be an essential
governmental function.

§573. Purpose

The foundation shall foster, assist and participate in
efforts to support and finance the State's cultural heritage, in
coordination with existing state, regional and local agencies.

§574. Corporators

Corporators, who shall elect members of the board of
directors as provided in section 575, consist of individuals and
organizations classified as private sector corporators, public
sector corporators and ex officio corporators.

1. Private sector corporators. Private sector corporators
are those individuals, partnerships, firms, corporations and

2 other organizations providing support of at least \$250 annually
3 to the foundation.

4 2. Public sector corporators. Public sector corporators
5 are those agencies of State Government and such other public or
6 quasi-public entities as approved by the board of directors of
7 the foundation providing support of at least \$50 annually to the
8 foundation.

10 3. Ex officio corporators. Ex officio corporators include
11 all members of the Maine State Cultural Affairs Council as
12 provided in section 553 and members appointed as follows:

14 A. Three members from the Maine Arts Commission. The
15 Governor shall appoint one member, the President of the
16 Senate shall appoint one member and the Speaker of the House
17 of Representatives shall appoint one member;

18 B. Three members from the Maine Historic Preservation
19 Commission. The members must be appointed as described in
20 paragraph A;

22 C. Three members from the Maine State Library. The members
23 must be appointed as described in paragraph A; and

24 D. Three members from the Maine State Museum. The members
25 must be appointed as described in paragraph A.

28 4. Voting rights. Each corporator has a vote in the
29 affairs of the foundation that involve the corporators, provided
30 that if the corporator is an organization and not an individual,
31 the governing body of that organization shall designate the
32 individual who is to exercise the voting right.

34 **§575. Board of directors; officers**

36 The board of directors of the foundation consists of 15
37 directors. The corporators shall elect 12 directors from among
38 the corporators, provided that 7 directors must be elected from
39 among the private sector corporators and 5 directors must be
40 elected from among the public sector corporators. The Governor
41 shall appoint 2 directors from among the ex officio corporators.
42 A person may not serve as a director for more than 5 years in
43 succession. There must be a chair, a vice-chair and a treasurer
44 elected by the corporators from among the board of directors. The
45 president of the foundation must be appointed by the directors so
46 elected or appointed and becomes a director and the chief
47 executive officer of the foundation. The president may not be
48 appointed from among the other directors.

2
3 **§576. General powers**

4 The foundation is authorized to:

5 1. Suit. Sue or be sued in its own name;

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7 2. Application for and receipt of funds. Apply for and
8 receive funds on a matching basis from the State and apply for
9 and receive funds from any private source or governmental entity,
10 whether by way of grant, donation or loan or any other manner;

11 3. Cultural services; fees. Provide services to public or
12 private entities to assist their efforts in maintaining and
13 promoting cultural development in the State and to charge fees
14 for these services as it may consider appropriate;

15
16 4. Real and personal property. Purchase, receive, hold,
17 lease or acquire by foreclosure; operate, manage and license; and
18 sell, convey, transfer, grant or lease real and personal
19 property, together with such rights and privileges as are
20 incidental and appurtenant to that property and the use of that
21 property, including, but not limited to, any real or personal
22 property acquired by the foundation from time to time in the
23 satisfaction of debts or enforcement of obligations;

24
25 5. Expenditures and obligations regarding real and personal
26 property. Make all expenditures and incur any obligations
27 reasonably required in the exercise of sound business principles
28 to secure possession of, preserve, maintain, insure and improve
29 real and personal property or interests in that property acquired
30 by the foundation;

31
32 6. Securities. Acquire, subscribe for, own, hold, sell,
33 assign, transfer, mortgage or pledge the stock, shares, bonds,
34 debentures, notes or other securities and evidences of interest
35 in or indebtedness of any person, firm, corporation, joint stock
36 company, partnership, association or trust and, while the owner
37 or holder thereof, exercise all the rights, powers and privileges
38 of ownership, including the right to vote thereon;

39
40 7. Encumbrance of property. Mortgage, pledge or otherwise
41 encumber any property right or thing of value acquired pursuant
42 to the powers contained in subsection 4, 5 or 6 as security for
43 the payment of any part of the purchase price of that property
44 right or thing of value;

45
46 8. Equity investments and loans. Make direct equity
47 investments in or loans to local and regional cultural
48 development entities;

2 9. Contracts and liabilities. Make contracts, including
3 contracts for services, and incur liabilities for any of the
4 purposes authorized in the contracts;

6 10. Debt. Borrow money for any of the purposes authorized
7 in this chapter; incur debt, including the power to issue for
8 that purpose its bonds, debentures, notes or other evidences of
9 indebtedness, whether secured or unsecured; and secure those
10 bonds, debentures, notes or other evidences of indebtedness by
11 mortgage, pledge, deed of trust or other lien on its property,
12 rights and privileges of every kind and nature, or any part of or
13 interest in its property, rights or privileges;

14 11. Cooperation with agencies and organizations. Cooperate
15 with and avail itself of the services of governmental agencies
16 and the University of Maine System; and cooperate and assist and
17 otherwise encourage organizations, local or regional, private or
18 public, in the communities of the State in the promotion and
19 development of the cultural heritage of those communities and the
20 State; and

22 12. Bylaws. Adopt bylaws not inconsistent with this
23 chapter for the governance of its affairs, have the general
24 powers accorded corporations under Title 13-A, section 202 and do
25 all other things necessary or convenient to carry out the lawful
26 purposes of the foundation.

28 **§577. Limitation of powers**

30 The foundation, notwithstanding section 576, has no power or
31 authority to enter into contracts, obligations or commitments of
32 any kind on behalf of the State or any of its agencies, nor does
33 the foundation have the power of eminent domain or any other
34 power not provided to business corporations generally. Bonds,
35 notes and other evidences of indebtedness of the foundation are
36 not in any way a debt or liability of the State and do not
37 constitute a pledge of the faith and credit of the State.

38 **§578. Liability of officers and directors**

40 All officers, directors, employees and other agents of the
41 foundation authorized to disburse the funds or entrusted with the
42 custody of the securities of the foundation must be bonded,
43 either by a blanket bond or by individual bonds, with a surety
44 bond or bonds with a minimum limitation of \$100,000 coverage for
45 each person covered by the bonds, conditioned upon the faithful
46 performance of their duties, the premiums for which must be paid
47 out of the assets of the foundation.

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§579. Prohibited interests of officers, directors and employees

An officer, director or employee of the foundation or that person's spouse or dependent children may not receive any direct personal benefit from the activities of the foundation in assisting any private entity. This provision does not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in cultural development activities with the foundation, provided that this ownership or employment is made known to the board of directors and the officer or director abstains from voting on matters related to this participation. This prohibition does not extend to corporators who are not officers or directors of the foundation.

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§580. Donations to State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer these funds, property or other interests to the foundation.

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§581. Annual report; audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its corporators and members. The foundation is subject to further audit and review determined necessary by the Governor or the Legislative Council at the expense of the State.

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§582. General conditions; dissolution

The foundation operates as a nonprofit organization consistent with its composition and broad public purposes. The following conditions apply to the operation or dissolution of the foundation.

1. Net earnings of foundation. No part of the net earnings of the foundation may inure to the benefit of any corporator, officer, director or employee except that the foundation is authorized to pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property for the purposes of the foundation.

2. Dissolution of foundation. Upon dissolution of the foundation, the corporators, after paying or making provision for the payment of all liabilities of the foundation, shall cause all of the remaining assets of the foundation to be transferred to the State.

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§583. Liberal construction

This chapter must be construed liberally to effect the interest and purposes of the foundation for an improved cultural development effort in the State and is not a limitation of the foundation's powers.

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§584. Initial organization

In order to provide for the initial organization of the foundation, the Governor shall appoint an organizing committee of 14 persons, 7 of whom are eligible to be private sector corporators and 7 of whom are eligible to be public sector corporators. The Governor shall designate the chair of the committee. The organizing committee shall solicit individuals and corporations from the private and public sectors as described in section 574 to be corporators of the foundation.

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The committee shall call and hold an initial meeting of the corporators no later than 6 months from the effective date of this section. The initial meeting is for the election of directors and officers of the foundation. The committee shall prepare an agenda for the chair and the chair shall chair the initial meeting. The committee serves as the nominating committee for the initial election only and may submit suggested bylaws and procedures for consideration by the corporators.

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After the initial meeting of the corporators, the organizing committee is dissolved and its members serve the foundation only as they may be qualified as corporators.

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PART U

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Sec. U-1. 12 MRSA §6104 is enacted to read:

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§6104. Seafood inspection under Maine Food Law

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The commissioner shall inspect seafood packing and seafood processing facilities for compliance with Title 22, chapter 551, subchapter I. The commissioner shall adopt rules to implement this section. The rules may establish seafood packing and seafood processing permit requirements and inspection fees.

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Sec. U-2. 22 MRSA §2162, first ¶, as amended by PL 1979, c. 731, §19, is further amended to read:

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The Except as provided in Title 12, section 6104, the Commissioner of Agriculture, Food and Rural Resources shall, upon application for permit and receipt of such fee as he-deems the

2 commissioner determines necessary from any food packer or
processor, inspect all operations of said that packer or
4 processor for compliance with this subchapter and shall cause the
same law to be diligently enforced. Each such permit shall ~~ever~~
covers one group of buildings constituting a packing plant in one
6 location.

8 **Sec. U-3. Legislative intent.** It is the intent of the
Legislature that, notwithstanding any other provision of law, the
10 Commissioner of Marine Resources is the sole agent for inspecting
all seafood packing and seafood processing facilities in the
12 State for compliance with the Maine Food Law, as codified under
the Maine Revised Statutes, Title 22, chapter 551, subchapter I.

14 **Sec. U-4. Maine Revised Statutes amended.** Wherever in the
16 Maine Revised Statutes the Commissioner of Agriculture, Food and
Rural Resources is authorized or required to inspect seafood
18 packing or seafood processing facilities, the words
"commissioner" or "Commissioner of Agriculture, Food and Rural
20 Resources" are amended to read and mean the "Commissioner of
Marine Resources." The Revisor of Statutes shall implement this
22 revision when updating, publishing or republishing the statutes.

24

26 STATEMENT OF FACT

28 This bill results from the recommendations of the Special
Commission on Governmental Restructuring.

30 Part A of the bill:

32 1. Requires the Legislature's Office of Fiscal and Program
34 Review to include in fiscal notes on legislation an estimate of
the legislation's fiscal impact over the current and following
36 bienniums. It also requires that office to develop a projected
budget outline;

38 2. Requires departments of State Government to develop
40 6-year, outcome-oriented plans. Beginning in 1993, these plans
and their revisions must be submitted to the State Planning
42 Office by November 15th of each year and copies transmitted to
the Legislature;

44 3. Requires the Director of the State Planning Office to
46 assist the Governor in developing budgets from strategic plans
and in setting program priorities;

48 4. Reforms the budget document by making the following
50 changes or additions:

- 2 A. Requires the document to be divided into an operating
4 budget and a capital budget;
- 6 B. Requires the inclusion of an estimate of total federal
8 funds and General Fund expenditures for federally funded
10 programs;
- 12 C. Requires that tax expenditures be treated as
14 appropriations to the recipients of the exemption;
- 16 D. Requires the inclusion of provisions for contingency
18 funds;
- 20 E. Requires the inclusion of explanatory narratives and
22 organizational charts;
- 24 F. Replaces the figures in the budget document showing
26 estimated revenues or expenditures for the current fiscal
28 year with figures showing actual expenditures over the
30 preceding 12 months; and
- 32 G. Requires the inclusion of a description of the
34 Governor's strategic plans that underlie the budget;
- 36 5. Requires the Governor to develop budgets from strategic
38 plans;
- 40 6. Establishes a legislative task force to revise committee
42 responsibilities and legislative operations consistent with the
44 management requirements of the new budget process; and
- 46 7. Creates the Consensus Forecasting Committee whose duties
48 are to develop short-term and long-term economic and revenue
50 forecasts. The forecasts are to be recommended to the Governor
and the Legislature and must be approved by a majority of the
committee members. The bill authorizes the Legislature to employ
the committee's forecasts if the Governor fails to incorporate
them in the Governor's budget.
- Part B of the bill:
1. Repeals the present sunset review law;
2. Repeals provisions creating the Joint Standing Committee
on Audit and Program Review and establishes a Joint Standing
Committee on Audit and Management Review. The committee is
charged with conducting management reviews based on information
supplied by the State Auditor and conducting program and other
reviews as directed by the Legislative Council; and

2 3. Changes the manner of election of the State Auditor. It
3 provides that the State Auditor is to be nominated by the
4 Governor and approved by the Legislature. The term of office is
5 extended from 4 years to 7 years. This bill charges the State
6 Auditor with conducting management performance audits.

8 Part C of the bill allows and directs the Treasurer of State
9 to contract with private money managers to invest the State's
10 money.

12 Part D of the bill requires that criteria be established for
13 evaluating where services currently provided by the State should
14 continue to be provided by the State or would be more effectively
15 or more efficiently accomplished by contracting with nonprofit or
16 for-profit organizations. It also requires the use of only
17 performance-based contracts for services after June 30, 1992.

18 Part E of the bill eliminates the Maine-Canadian Legislative
19 Office and the Maine-Canadian Legislative Advisory Commission and
20 assigns their functions to the Department of Economic and
21 Community Development. It also clarifies the mission of the
22 Department of Economic and Community Development as one of
23 creating and retaining jobs and authorizes a reorganization of
24 the department around 3 primary functions: business attraction
25 and retention; tourism; and research, information and advocacy.
26 Part E also establishes the Economic Development Board of
27 Directors. The Finance Authority of Maine is directed to
28 consolidate its present loan guarantee funds to reduce
29 administrative overhead.

32 Part F of the bill reduces the size of the board of
33 directors and eliminates direct General Fund appropriations to
34 the Maine World Trade Association. Funding through contracts
35 with the Department of Economic and Community Development and
36 other state agencies is encouraged.

38 Part G of the bill eliminates the Public Utility
39 Commission's part in rate setting for water utility companies
40 that are publicly owned.

42 Part H of the bill requires the State Planning Office to
43 develop the capacity to provide in-depth economic analysis and
44 technological information for the purposes of developing a
45 strategic economic development plan.

46 Part I of the bill:
47

48 1. Amends a section of the Maine Revised Statutes regarding
49 disbursements of state funds to allow broader use of electronic
50

2 transfers of funds and requires that electronic transfers of
4 funds be expanded in the State's cash assistance programs, for
6 the State employee payroll, for payments to the State's vendors
8 and for state retirement benefits;

10 2. Directs the Department of Human Services to take
12 advantage of federal matching funds to improve automation of
14 Medicaid claims and eligibility for income maintenance programs;
16 and

18 3. Directs the State Tax Assessor to encourage individuals
20 to file income taxes electronically and to require corporations
22 to file electronically by January 1, 1993.

24 Part J of the bill implements the recommendations of the
26 majority of the Special Commission on Governmental Restructuring
28 regarding the creation of an Office of Advocacy to replace
30 several existing advocacy organizations. The commission's report
32 contains a minority view on this issue.

34 Part K of the bill abolishes the existing Interdepartmental
36 Council and creates a new Interdepartmental Council within the
38 Executive Department. The new council is chaired by a member of
40 the Governor's staff who has authority to make decisions when the
42 council can not come to agreement.

44 Part L of the bill establishes the 8-member Public Education
46 Strategic Planning Council. The members of the council are the
48 Chancellor of the University of Maine System, the President of
the Maine Technical College System, the President of the Maine
Maritime Academy, the Commissioner of Education, one person from
each higher education institution's board of trustees and one
person who is a member of the State Board of Education. The
purpose of the council is to create and maintain a long-term
strategic plan for Maine public education and make related
funding and policy recommendations to the Legislature.

38 Part M of the bill reorganizes the Department of
40 Environmental Protection along functional lines, reduces the size
42 of the Board of Environmental Protection from 10 members to 3
44 members and limits the board's authority to hearing appeals of
46 the license decisions of the Commissioner of Environmental
48 Protection. All other duties formerly vested in the board,
including all rule-making activities, all licensing functions and
the authority to modify, revoke or suspend licenses are assumed
by the commissioner. Part M makes an appeal to the board a
prerequisite for the filing of a judicial appeal. Appeals of
board decisions may be taken to Superior Court.

2 Part N of the bill moves the Critical Areas Program, the
Maine Natural Heritage Program and the Endangered and Nongame
4 Species Program into the Department of Conservation. The Maine
Critical Areas Advisory Board is abolished and the Maine
6 Conservation Advisory Board is established to assist the
Commissioner of Conservation in administering these programs.

8 Part O of the bill amends the enabling legislation of the
Office of Information Services to require the deputy commissioner
10 to ensure that standards for the acquisition of data processing
and telecommunications equipment by state agencies optimize the
12 electronic exchange of information and promote interagency
telecommunications. Part O also directs the Bureau of General
14 Services, within the Department of Administrative and Financial
Services, to develop a plan for the cost-effective consolidation
16 of state-owned facilities using a model that incorporates
assessment of cost advantages of owning versus leasing.

18 Part P of the bill requires the Governor, when preparing
20 budget bills for submission to the Legislature, to include the
full budget requests made by the judicial and legislative
22 branches of government as well as the Governor's budget
recommendations for each branch.

24 Part Q of the bill places all administrative personnel in
26 the Judicial Department under the supervision of the State Court
Administrator and requires the State Court Administrator to make
28 recommendations to the Chief Justice of the Supreme Judicial
Court for the improvement of the administration and management of
30 the court system. The State Court Administrator is also required
to develop and recommend to the Chief Justice a long-range plan
32 for the Judicial Department and the operation of the courts.

34 Part R of the bill repeals the Maine Revised Statutes, Title
4, section 26 that requires the Judicial Department to use
36 executive branch central office services, such as expenditure
controls, to permit the Judicial Department to maintain control
38 over its own expenditures.

40 Part S of the bill provides state funding for the Maine
Criminal Justice Commission and requires the commission to make
42 recommendations regarding the use of intensive supervision and to
develop a spectrum of sentencing alternatives. The bill
44 transfers to the Maine Criminal Justice Commission the duties of
the Criminal Law Advisory Commission regarding the relationship
46 between the Maine Criminal Code and mandatory sentencing, and
abolishes the Criminal Law Advisory Commission.

48

2 Part T of the bill establishes the Maine Cultural Foundation
as a nonprofit corporation for the purpose of supporting and
financing Maine's cultural heritage.
4

6 Part U of the bill transfers the authority for all seafood
inspection from the Commissioner of Agriculture, Food and Rural
Resources to the Commissioner of Marine Resources.
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