

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

Legislative Document

No. 2384

S.P. 929

In Senate, February 27, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
Reference to the Committee on State and Local Government suggested and ordered printed.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President PRAY of Penobscot  
Cosponsored by Representative KERR of Old Orchard Beach, Representative MORRISON  
of Bangor and Senator BOST of Penobscot.

### STATE OF MAINE

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

#### An Act to Restructure State Government.

(EMERGENCY)

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

4  
6 Whereas, the proliferation of programs and agencies  
undertaken by State Government has led to uncoordinated,  
inefficient and unnecessarily expensive service delivery; and

8  
10 Whereas, the ongoing fiscal crisis in the State requires the  
most rigorous attention to efficient operation; and

12  
14 Whereas, reorganization of the structure of State Government  
is vital to the remedy for inefficient operations; and

16  
18 Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

#### 24 PART A

26 **Sec. A-1. Executive Department; mission.** It is the intent of the  
Legislature that the Executive Department be focused on the  
efficient management of State Government and leadership in the  
28 development and execution of public policy with a special  
emphasis on education and civil emergency preparedness and  
30 response.

32 **Sec. A-2. Executive Department; reorganization.** It is the  
intent of the Legislature that the Executive Department include  
34 the Governor's office, which includes the federal-state  
coordinator, the State Board of Education, the State Planning  
Office, the Adjutant General and the Chief Operating Officer of  
36 Government Operations. All other functions and responsibilities  
currently located in the Executive Department must be relocated  
38 by the Commission on the Reorganization of State Government in  
its implementing legislation.

40  
42 **Sec. A-3. Executive Department; implementation.** The Commission  
on the Reorganization of State Government shall develop and  
44 submit legislation to implement the changes in the Executive  
Department contained in this Part and Part B no later than  
46 November 1, 1992.

#### 48 PART B

50 **Sec. B-1. 5 MRSA §12004-C, sub-§1,** as enacted by PL 1987, c.  
786, §5, is amended to read;

52

1. State Board of Education      Legislative Per Diem      20-A MRSA §401 §411

Sec. B-2. 5 MRSA c. 551, first 2 lines are repealed and the following is enacted in their place:

**CHAPTER 551**

**OFFICE OF GOVERNMENT OPERATIONS**

Sec. B-3. 5 MRSA §21001, sub-§§2 and 3, as enacted by PL 1991, c. 622, Pt. BB, §1, are repealed.

Sec. B-4. 5 MRSA §21001, sub-§§4 and 5 are enacted to read:

4. Chief operating officer. "Chief operating officer" means the chief operating officer of the Office of Government Operations.

5. Office. "Office" means the Office of Government Operations.

Sec. B-5. 5 MRSA §§21002 to 21005, as enacted by PL 1991, c. 622, Pt. BB, §1, are amended to read:

**§21002. Office of Government Operations established; purpose**

The Department Office of Administrative--and--Financial Services Government Operations is established in the Executive Department as the principal administrative and fiscal department entity of State Government.

1. **Administrative services.** The department office shall:

A. Provide for the coordination of information service activities of State Government; and

~~B. Provide for the administration of the Civil Service Law as required to meet satisfactorily the needs of state agencies and state employees; and~~

C. Provide general administrative services to state agencies, including, but not limited to, the purchase of materials and equipment; the construction, reconstruction and maintenance of public improvements; insurance programs as required; and labor relations.

2. **Financial services.** The department office shall:

A. Coordinate financial planning and programming activities of departments and agencies of State Government for review and action by the Governor;

B. Prepare and report financial data and statistics to the Governor and the Legislature and maintain statewide accounting and payroll systems;

C. Provide general accounting services;

D. Administer the State's taxation programs as required by law; and

E. Administer the laws relating to sales and oversight of alcoholic beverages and lotteries in this State.

**§21003. Chief operating officer appointment**

The department office is under the supervision and control of the Commissioner Chief Operating Officer of Administrative and Financial Services Government Operations who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and to confirmation by the Legislature Senate. The commissioner chief operating officer serves at the pleasure of the Governor.

**§21004. Provision of services**

The department office and its subunits shall, in achieving the purposes for which they are established, work closely with all state departments and agencies to provide services promptly and in a cooperative manner with due regard for the special needs of some agencies.

**§21005. Powers and duties of chief operating officer**

~~1. Deputy; assistant; bureau chiefs. The commissioner may appoint a deputy commissioner who shall perform the duties of the commissioner during the commissioner's absence, in addition to the deputy commissioner's regular duties. The commissioner chief operating officer may appoint and employ bureau chiefs and an assistant to the commissioner to be under the commissioner's chief operating officer's immediate supervision, direction and control, serve at the commissioner's chief operating officer's pleasure and perform such duties as the commissioner chief operating officer prescribes, except as otherwise provided by law.~~

2. **Other employees.** The commissioner chief operating officer may employ such other deputies, ~~division heads,~~ assistants and employees as necessary, subject to the Civil Service Law.

2 In the event of a vacancy in the office of the commissioner chief  
3 operating officer because of death, resignation, removal from  
4 office or other cause, the various bureau chiefs, ~~deputies~~ and  
5 assistants shall continue in office and perform such duties as  
6 prescribed or assigned to them until the vacancy is filled by the  
7 appointment and qualification of a new commissioner chief  
8 operating officer.

9 **3. Duties.** The commissioner chief operating officer shall:

10 A. Serve as the principal aide to the Governor on fiscal  
11 and administrative matters;

12 B. Coordinate planning and programming activities of  
13 departments and agencies of State Government for review and  
14 action by the Governor;

15 C. Prepare and report such data or statistics as may be  
16 required or requested by the Governor or the Legislature;

17 D. Supervise and direct the activities of the various  
18 bureaus, divisions, boards and commissions designated by law  
19 to be under the department office. The commissioner chief  
20 operating officer shall:

21 (1) Require the organizations within the department  
22 office to engage in short-term and long-term planning  
23 with respect to their goals and purpose and assist the  
24 organizations in developing short-term and long-term  
25 plans; and

26 (2) Monitor the progress and activities of the  
27 organizations within the department office to ensure  
28 consistency of policies and procedures. The  
29 commissioner chief operating officer shall also  
30 determine whether the policies and procedures and the  
31 structure and operations of the department office  
32 continue to meet the needs of state agencies as the  
33 needs of state agencies change;

34 E. Engage in short-term and long-term planning with respect  
35 to the administrative and fiscal needs of State Government  
36 and the means by which the collection of revenues and  
37 payment of the obligations of State Government may be  
38 realized most efficiently;

39 F. Meet with other departments and agencies of State  
40 Government on a regular basis to discuss administrative and  
41 fiscal problems and the needs of each agency and department.

42 (1) The commissioner chief operating officer shall act  
43 expeditiously on requests by state agencies with

44 respect to the programs and services administered by  
45 the department office.

46 (2) The department office shall consider the unique  
47 needs of state agencies and diligently strive to meet  
48 these needs as expeditiously as possible;

49 G. Exercise other powers and perform other duties as  
50 designated by law; and

51 H. Supervise and direct the administration of the State  
52 Claims Commission.

53 **Sec. B-6. 5 MRSA §21006, sub-§1, ¶B,** as enacted by PL 1991, c.  
54 622, Pt. BB, §1, is repealed.

55 **Sec. B-7. 5 MRSA §21006, sub-§1, ¶¶G and H,** as enacted by PL  
56 1991, c. 622, Pt. BB, §1, are amended to read:

57 G. The Bureau of Taxation, the chief of which is the State  
58 Tax Assessor; and

59 H. The Bureau of Alcoholic Beverages and Lottery  
60 Operations, the chief of which is the Director of the Bureau  
61 of Alcoholic Beverages and Lottery Operations; and

62 **Sec. B-8. 5 MRSA §21006, sub-§1, ¶I** is enacted to read:

63 I. The Bureau of Purchases, the chief of which is the State  
64 Purchasing Agent.

65 **Sec. B-9. 5 MRSA §21006, sub-§2,** as enacted by PL 1991, c.  
66 622, Pt. BB, §1, is amended to read:

67 **2. Absence of bureau chiefs.** In the absence of a bureau  
68 chief from the State or from official duties or in the event of a  
69 vacancy in the position of a bureau chief, the commissioner chief  
70 operating officer or the commissioner's chief operating officer's  
71 authorized agent may exercise the powers and perform the duties  
72 of that bureau chief.

73 **Sec. B-10. 5 MRSA §21006, sub-§3,** as enacted by PL 1991, c.  
74 622, Pt. BB, §1, is repealed.

75 **Sec. B-11. 5 MRSA §§21007 and 21008,** as enacted by PL 1991,  
76 c. 622, Pt. BB, §1, are repealed.

77 **Sec. B-12. 20-A MRSA §1, sub-§§4 and 7,** as amended by PL 1989,  
78 c. 700, Pt. A, §45, are repealed.

79 **Sec. B-13. 20-A MRSA §2-A, sub-§§1 to 5,** as enacted by PL 1991,  
80 c. 429, §2, are amended to read:

2 1. **Waiver request.** A school administrative unit may  
3 request in writing authorization from the commissioner state  
4 board to delay compliance with a mandate. That request must  
5 include:

6 A. Designation of the mandate or mandates for which the  
7 unit seeks a waiver;

8 B. A description of the unforeseen circumstances or undue  
9 hardship that led to application for a waiver;

10 C. Documentation of the steps taken prior to the waiver  
11 request to comply with the mandate;

12 D. A statement of the length of time for which the waiver  
13 is anticipated to be in effect;

14 E. A description of the impact of granting the waiver,  
15 including changes in class size, staff layoffs, program  
16 offerings and possible loss of funds; and

17 F. A plan by which the unit will come into compliance with  
18 the mandate.

19 2. **Standards.** The commissioner state board may issue a  
20 waiver upon finding that:

21 A. Due to unforeseen circumstances or undue hardship, the  
22 school administrative unit is unable to comply with this  
23 chapter; and

24 B. The compliance plan that the school administrative unit  
25 has submitted is reasonable.

26 3. **Decision.** The commissioner state board shall issue a  
27 decision on a waiver request within 30 days of receipt of the  
28 request. The commissioner state board may hold an informal  
29 hearing to evaluate the reasons for the waiver or to gather more  
30 information. If the commissioner state board determines that the  
31 reasons given in the waiver request do not justify a delay in  
32 compliance with the mandate, the commissioner state board shall  
33 deny the request. The decision of the commissioner state board  
34 must be in writing and, if the decision is to deny the request,  
35 must specify the reasons for denial.

36 4. **Assistance.** Annually, on or about February 1st, the  
37 commissioner state board shall send written notice to the  
38 superintendent of each school administrative unit of the  
39 availability of waivers from education mandates and the criteria  
40 and procedures for the granting of waivers. Upon request from a  
41 superintendent or school board, the commissioner state board  
42

2 shall provide technical assistance to aid the unit in determining  
3 the feasibility of applying for a waiver, in considering  
4 alternatives to a waiver, in applying for a waiver and in  
5 planning the action necessary to come into compliance with the  
6 mandate.

7 5. **Rules.** The commissioner state board may adopt rules  
8 necessary to implement this section.

9 **Sec. B-14. 20-A MRSA §8, first ¶,** as enacted by PL 1991, c.  
10 407, §1, is amended to read:

11 The commissioner state board shall encourage school  
12 administrative units to pursue an ongoing process of school  
13 restructuring as a means of more effectively meeting the learning  
14 needs and improving the academic performance of all students.  
15 The public and private postsecondary institutions of higher  
16 education in the State are urged to cooperate with the  
17 department, the state board and school administrative units to  
18 provide appropriate and timely professional development programs  
19 and other support services to educators employed in public  
20 schools engaged in school restructuring efforts.

21 **Sec. B-15. 20-A MRSA §8, sub-§2,** as enacted by PL 1991, c.  
22 407, §1, is amended to read:

23 2. **Waiver of rules for local schools.** A school  
24 administrative unit undergoing school restructuring may request  
25 that the commissioner state board waive the application of  
26 specific rules to that unit, or to certain schools in that unit,  
27 if such action is necessary to achieve school restructuring. The  
28 commissioner state board shall grant a waiver if the requesting  
29 unit, as determined by the commissioner state board, has:

30 A. Demonstrated that one or more state rules prevent or  
31 seriously handicap the unit's pursuit of its restructuring  
32 goals;

33 B. Demonstrated that reasonable steps have been taken to  
34 provide the safeguards offered by the rules in question to  
35 allow continued educational progress by students and protect  
36 the continuity and integrity of the unit and employees of  
37 that unit;

38 C. Provided evidence that the necessary resources and  
39 community and staff support are present to ensure that the  
40 restructuring changes requiring the waiver stand a  
41 reasonable chance of succeeding;

42 D. Informed any bargaining agent or agents representing  
43 affected school employees of the waiver request; and  
44

E. Established a working relationship regarding professional development with an institution of higher education or a professional development service provider.

The request for the waiver must include documentation to substantiate the conditions of this subsection. If the request is denied, the commissioner state board shall provide the reasons for denying the request to the school unit.

Sec. B-16. 20-A MRSA cc. 3 and 5, as amended, are repealed.

Sec. B-17. 20-A MRSA c. 5-A is enacted to read:

CHAPTER 5-A

STATE BOARD OF EDUCATION

§411. State Board of Education

The State Board of Education is established by Title 5, section 12004-C, subsection 1 as an office within the Executive Department. It shall maintain an office in Augusta. Membership and service on the state board is governed by the following.

1. Appointment. The state board consists of 9 members who are appointed by the Governor. Each appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over educational matters and to confirmation by the Legislature.

2. Composition. The membership of the state board must be broadly representative of the public and the regions of the State. A person whose income is derived in substantial portion from work as a teacher or as an administrator in an educational institution may not serve on the state board. Members must have strong interest in and knowledge of education.

3. Expenses. Members of the state board are compensated according to the provisions of Title 5, chapter 379; a member receives compensation whenever that member fulfills any board duties in accordance with board bylaws.

4. Term. The term of office of each member is 5 years. Any vacancy must be filled for the remainder of the unexpired term. The state board shall adopt rules in accordance with the Maine Administrative Procedure Act that establish the procedure and criteria by which the state board may recommend to the Governor the removal of a member from office prior to completion of the term of appointment for failure to perform the duties of office.

§412. Organization; meetings

The state board shall organize and meet as follows.

1. Organization. Annually the state board shall elect one of its members as chair and one as vice-chair. The state board may also elect other officers.

2. Meetings. The state board shall hold meetings at least monthly. The chair or any 3 members may call a meeting on 5 days' written notice.

3. Quorum. A majority of the state board members is a quorum.

4. Rules. The state board shall adopt or amend bylaws and rules for meeting procedures and administration of its duties.

5. Seal. The state board may adopt a seal.

6. Records. The state board shall keep a complete record of the minutes of its meetings and other procedures.

§413. Responsibilities

The state board is responsible for providing public educational leadership within the State. The state board is the primary executive branch agency charged with administration of the State's responsibilities for public elementary and secondary education. The state board has only the powers specifically granted in this Title. The state board has responsibility for the following:

1. Enforcing regulatory requirements. Developing and implementing rules, guidelines and procedures necessary to implement the provisions of this Title;

2. Providing technical assistance. Providing technical assistance to school administrative units to assist them in carrying out their responsibilities under this Title;

3. Administering programs. Administering the State's responsibility for the following programs, institutions and responsibilities:

A. Governor Baxter School for the Deaf;

B. Schools in the unorganized territories;

C. School approval and accreditation. School approval is based on voluntary compliance by school administrative units with guidelines developed by the state board and an

2 evaluation done by the state board in consultation with the  
3 school unit;

4 D. Approval of organization, reorganization and  
5 deorganization of school administrative districts, community  
6 school districts and interstate school districts;

8 E. Student eligibility and school attendance laws and  
9 truancy and dropout programs;

10 F. Issuance of high school equivalency certificates. The  
11 amount of state funding for this responsibility is limited  
12 to the amount necessary to qualify for matching federal  
13 money;

14 G. Kindergarten to grade 12 special education and gifted  
15 and talented programs; and

16 H. School busing and transportation policies;

17 4. Degree granting authority. Make recommendations to the  
18 Legislature on degree granting authority for postsecondary,  
19 proprietary, correspondence and other special types of schools;

20 5. Contract for services. Contract for any necessary  
21 consultative services or support staff;

22 6. Legislative recommendations. Make recommendations to  
23 the Legislature for the efficient conduct of the public schools;

24 7. Advancement of education: interrelation with other  
25 programs. Encourage and stimulate public interest in the  
26 advancement of education and encourage the interrelation of  
27 public education and other social, economic, physical and  
28 governmental activities, programs and services;

29 8. Educational leadership. Providing educational public  
30 leadership for the State; and

31 9. Inspection of schools. The state board shall inspect a  
32 school or schools in a school administrative unit and report the  
33 findings and recommendations to the school board, addressing the  
34 concerns of the petition in light of applicable school approval  
35 standards when:

36 A. Petitioned by 60% of the parents of the children of one  
37 school;

38 B. Requested by the school board or superintendent of  
39 schools; or

40 C. Petitioned by 20% of the registered voters of the unit.

2 The state board shall fulfill the monitoring functions  
3 required by any state or federal grants to school units or  
4 schools.

5 **§414. Superintendent; staff**

6 The Superintendent of Education, referred to in this chapter  
7 as "the superintendent," is the administrative head of the state  
8 board. The superintendent is appointed by the Governor subject  
9 to review of the joint standing committee of the Legislature  
10 having jurisdiction over education matters and confirmation by  
11 the Senate. The superintendent is responsible for overseeing the  
12 administrative affairs of the state board under the direction of  
13 the state board and for carrying out the duties that the state  
14 board assigns to the superintendent.

15 **§415. Superintendent's duties**

16 The duties of the superintendent are as follows.

17 1. Hiring. The superintendent may hire personnel necessary  
18 to fulfill the duties of the state board. These personnel are  
19 subject to the Civil Service Law, unless otherwise provided in  
20 this Title.

21 2. Administrative duties. The superintendent shall:

22 A. Coordinate, consolidate and prepare a budget for the  
23 state board;

24 B. Transfer personnel within the superintendent's office to  
25 ensure their efficient utilization;

26 C. Coordinate the purchase and use of all state board  
27 equipment;

28 D. Review the function and operation of the state board to  
29 ensure that overlapping functions and operations are  
30 eliminated; and

31 E. Preserve all school reports of this State.

32 3. Record books. The superintendent shall furnish to the  
33 school officers of each school administrative unit proper blank  
34 books in which they shall keep complete and itemized records of  
35 all matters related to money appropriated, received and expended  
36 for schools. These books remain the property of the State.

37 4. Forms. The superintendent shall:

2 A. Prepare and print forms for all returns required by law  
3 or determined necessary by the state board;

4 B. On March 1st, forward to each unit's superintendent  
5 forms for the annual school return as provided in section  
6 6004; and

8 C. On May 1st, forward to each unit's superintendent forms  
9 for the returns required by sections 6051 and 6052.

10 5. Control of gift-established schools. The superintendent  
11 shall:

12 A. Assume the control and management of all public schools  
13 established and maintained by gifts or bequests, when the  
14 gifts or bequests are conditioned on the superintendent  
15 assuming that control and management; and

16 B. Carry out the provisions on which those gifts or  
17 bequests are conditioned, when those conditions are approved  
18 by the Governor.

19 6. Duties imposed by charters. The superintendent shall  
20 perform all duties assigned by charter granted by the Legislature  
21 to an educational institution.

22 7. Gifts and donations. The superintendent may establish a  
23 special revenue fund account to receive gifts and donations.  
24 These gifts and donations must be used to support facilities and  
25 special student activities at the Governor Baxter School for the  
26 Deaf.

27 8. Collection of fees. The superintendent may charge  
28 service and rental fees for use of facilities at the Governor  
29 Baxter School for the Deaf. The superintendent shall report and  
30 pay these fees to the Treasurer of State to be credited to the  
31 General Fund.

32 9. Other duties. The superintendent shall carry out all  
33 other duties assigned in this Title.

34 Sec. B-18. 37-B MRSA §1, as enacted by PL 1983, c. 460, §3,  
35 is repealed.

36 Sec. B-19. 37-B MRSA §2, as amended by PL 1987, c. 370, §§10  
37 and 11, is repealed.

38 Sec. B-20. 37-B MRSA §3, as amended by PL 1991, c. 376, §62,  
39 is repealed.

40 Sec. B-21. 37-B MRSA §4, as amended by PL 1991, c. 376, §63,  
41 is repealed.

2 Sec. B-22. 37-B MRSA §101-A, sub-§1-A is enacted to read:

3 1-A. Military Bureau. "Military Bureau" means the Military  
4 and Civil Preparedness Bureau created pursuant to section 101-B.

5 Sec. B-23. 37-B MRSA §§101-B and 101-C are enacted to read:

6 §101-B. Bureau established

7 The Military and Civil Preparedness Bureau is established  
8 within the Executive Department. The Adjutant General is the  
9 head of the Military Bureau.

10 §101-C. Adjutant General appointment; qualifications; duties

11 1. Appointment; qualifications. The Adjutant General is  
12 appointed by the Governor and serves at the pleasure of the  
13 Governor. The Adjutant General may not hold a grade above major  
14 general and must satisfy the requirements of section 107.

15 2. Duties. The Adjutant General shall:

16 A. Administer the Military Bureau subordinate only to  
17 the Governor;

18 B. Establish methods of administration consistent with  
19 the law necessary for the efficient operation of the  
20 Military Bureau;

21 C. Supervise the preparation of all state  
22 informational reports required by the federal military  
23 establishment;

24 D. Keep an accurate account of expenses incurred and,  
25 in accordance with Title 5, sections 43 to 46, make a  
26 full report to the Governor as to the condition of the  
27 military forces, and as to all business transactions of  
28 the Military Bureau, including detailed statements of  
29 expenditures for military purposes;

30 E. Assume responsibility for the custody, care and  
31 repair of all military property belonging to or issued  
32 to the State for the military forces and shall dispose  
33 of military property belonging to the State that is  
34 unserviceable, accounting for and depositing the  
35 proceeds from that disposal with the Treasurer of State  
36 who shall credit them to the General Fund;

37 F. Represent the state military forces for the purpose  
38 of establishing the relationship between the federal  
39 and state military forces.



2 military establishment and the various state military  
3 staff departments.

4 G. Accept, receive and administer federal funds for  
5 and on behalf of the State that are available for  
6 military purposes or that would further the intent and  
7 specific purposes of this chapter.

8 H. Acquire, construct, operate and maintain military  
9 facilities necessary to comply with this Title and 32  
10 United States Code and shall operate and maintain  
11 facilities now within or hereafter coming within the  
12 jurisdiction of the Military Bureau; and

13 I. Administer the provisions of chapter 13.

14 **3. Powers. The Adjutant General may:**

15 A. Sell for cash to officers of the state military  
16 forces, for their official use, and to organizations of  
17 the state military forces, any military or naval  
18 property that is the property of the State. The  
19 Adjutant General shall, with an annual report, render  
20 to the Governor an accurate account of the sales and  
21 shall deposit the proceeds of the sales with the  
22 Treasurer of State who shall credit them to the General  
23 Fund; and

24 B. Adopt rules pertaining to compliance with state and  
25 federal contracting requirements, subject to the Maine  
26 Administrative Procedure Act. Those rules must provide  
27 for approval of contracts by the appropriate state  
28 agency.

29 **Sec. B-24. 37-B MRSA §701, sub-§1, as amended by PL 1987, c.**  
30 **370, §14, is further amended to read:**

31 **1. Office.** Establish the Maine Emergency Management Agency  
32 **Office;**

33 **Sec. B-25. 37-B MRSA §704, as amended by PL 1991, c. 376,**  
34 **§65, is further amended to read:**

35 **§704. Director; duties**

36 The Maine Emergency Management Agency,--as--previously  
37 established and in this chapter called the "agency,"--shall--be  
38 Office is established within the Executive Department, Bureau of  
39 Military and Civil Preparedness. The office under the  
40 supervision of the Director of the Maine Emergency Management  
41 Agency Office, who in this chapter shall--be is called the  
42 "director."

2 The director may employ technical, clerical, stenographic,  
3 administrative and operative assistants and other personnel,  
4 subject to the Civil Service Law, and make expenditures, with  
5 approval of the Adjutant General, which that are necessary to  
6 carry out the purposes of this chapter.

7 The director, subject to the direction and control of the  
8 Adjutant General, ~~shall-be~~ is the executive head of the agency  
9 office and ~~shall-be~~ is responsible for carrying out the program  
10 for civil emergency preparedness. The director shall coordinate  
11 the activities of all organizations for civil emergency  
12 preparedness within the State; shall maintain liaison with and  
13 cooperate with civil emergency preparedness and public safety  
14 agencies and organizations of other states, the Federal  
15 Government and foreign countries, and the political subdivisions  
16 thereof; prior to the annual meeting required in section 782,  
17 subsection 4, shall provide to each of the local civil emergency  
18 preparedness organizations of the State an annual assessment of  
19 each organization's degree of civil emergency preparedness and  
20 any other information pertinent to ensuring the public's welfare  
21 and safety within the local organization's jurisdiction; and  
22 shall have additional authority, duties and responsibilities as  
23 may be prescribed by the Adjutant General.

24 The director shall ~~may~~ not require any political subdivision  
25 to participate in any program of nuclear civil protection  
26 planning.

27 **Sec. B-26. PL 1991, c. 622, Pt. BB, §2 is repealed and the**  
28 **following enacted in its place:**

29 **Sec. BB-2. Office of Government Operations; transition. The**  
30 **Office of Government Operations is created within the Executive**  
31 **Department of State Government. The Commissioner of Finance**  
32 **shall serve as the Chief Operating Officer of Government**  
33 **Operations until such time as a new chief operating officer is**  
34 **appointed and confirmed.**

35 All duties and responsibilities of the Commissioner of  
36 Administration and the Commissioner of Finance become the duties  
37 and responsibilities of the Chief Operating Officer of Government  
38 Operations on the effective date of this Act. The Chief  
39 Operating Officer of Government Operations shall submit to the  
40 Legislature by March 30, 1992 a revised budget for fiscal year  
41 1992-93, commencing July 1, 1992.

42 **1. The Bureau of General Services is created within the**  
43 **office. The Bureau of General Services shall assume all**  
44 **responsibilities of the Bureau of Public Improvements and the**  
45

2 Division of Risk Management, which are within the Department of  
3 Administration and the responsibilities of the Department of  
4 Education regarding:

5 A. Public school funding, including general purpose aid to  
6 education and teacher retirement contributions;

7 B. School construction, including closing and disposition  
8 of schools and related bond issuance responsibilities; and

9 C. Administrative responsibilities for all  
10 education-related grants or other federal, state or private  
11 money to be disbursed to school units or municipalities.

12 All duties and responsibilities of the Bureau of Public  
13 Improvements and the Division of Risk Management become the  
14 duties and responsibilities of the Bureau of General Services on  
15 the effective date of this Act. All duties and responsibilities  
16 of the Director of the Bureau of Public Improvements become the  
17 duties and responsibilities of the Director of the Bureau of  
18 General Services on the effective date of this Act. The  
19 Division of Risk Management becomes a division within the Bureau  
20 of General Services on the effective date of this Act. The  
21 Director of the Bureau of General Services is responsible for all  
22 duties that were, immediately prior to the effective date of this  
23 Act, the responsibility of the Commissioner of Administration  
24 related to the duties and responsibilities of the Division of  
25 Risk Management.

26 2. Effective July 1, 1992, the Bureau of Alcoholic  
27 Beverages and Lottery Operations is created within the office.  
28 The Bureau of Alcoholic Beverages and Lottery Operations shall  
29 assume all duties and responsibilities of the Bureau of Alcoholic  
30 Beverages and the Bureau of Lottery, which are within the  
31 Department of Finance.

32 3. The Bureau of Information Services is created within the  
33 office. All duties and responsibilities of the Department of  
34 Administration, Office of Information Services become the duties  
35 and responsibilities of the Bureau of Information Services on the  
36 effective date of this Act. The bureau is administered by a  
37 bureau director who shall assume the duties and responsibilities  
38 of the Deputy Commissioner for Information Services on the  
39 effective date of this Act. The Bureau of Data Processing is  
40 transferred to this bureau as the Division of Data Processing.

41 4. The Bureau of Accounts and Control, the Bureau of the  
42 Budget and the Bureau of Taxation within the Department of  
43 Finance and the Bureau of Employee Relations continue to perform  
44 those duties and responsibilities as directed by law in effect on  
45 the effective date of this Act.

2 5. The Bureau of Human Resources formerly within the  
3 Department of Administration continues to perform those duties  
4 and responsibilities as directed by law in effect on the  
5 effective date of this Act. The Bureau of Human Resources  
6 formerly within the Department of Administration is repealed on  
7 July 1, 1993.

8 6. The Capitol Planning Commission is within the Office of  
9 Government Operations on the effective date of this Act.

10 7. The Division of Capital Planning is created within the  
11 Bureau of General Services. All capital planning, oversight,  
12 financing and constructions responsibilities formerly within the  
13 Bureau of Public Improvements within the former Department of  
14 Administration are the responsibility of the Division of Capital  
15 Planning on the effective date of this Act. All school  
16 facilities responsibilities within the former Department of  
17 Education are the responsibility of the Division of Capital  
18 Planning on July 1, 1993.

19 Sec. B-27. Reassignment of responsibilities. The following  
20 responsibilities performed by the State Board of Education, the  
21 Department of Education or the Commissioner of Education prior to  
22 the effective date of this Part are reassigned to the following  
23 departments or other agencies of State Government effective July  
24 1, 1993.

25 1. Public school funding, including general purpose aid to  
26 education and teacher retirement contributions, are reassigned to  
27 the Executive Department, Office of Government Operations.

28 2. School construction, including closing and disposition  
29 of schools, and related bond issuance responsibilities are  
30 reassigned to the Executive Department, Office of Government  
31 Operations.

32 3. Administrative responsibilities for all  
33 education-related grants or other federal, state or private money  
34 to be disbursed to school units or municipalities are reassigned  
35 to the Executive Department, Office of Government Operations.

36 4. Educator certification responsibilities are reassigned  
37 to the Bureau of Licensing and Enforcement in the Department of  
38 Labor and Commerce and are to be fully funded by fees collected  
39 from educators.

40 5. Preschool handicapped children's services are reassigned  
41 to the Department of Children and Families.

2 6. School nutrition health and donated commodities programs  
4 and early elementary assistance programs and early childhood  
6 grants programs are reassigned to the Department of Children and  
8 Families.

10 7. Substance abuse education programs are reassigned to the  
12 Department of Health.

14 8. Secondary vocational education programs are reassigned  
16 to the Board of Trustees of the Maine Technical College System.

18 **Sec. B-28. Elimination of programs.** The following programs and  
20 responsibilities of the Department of Education, the Commissioner  
22 of Education and the State Board of Education prior to the  
24 effective date of this Part are eliminated effective July 1, 1993:

26 1. General supervisory authority and direction over public  
28 schools except as specifically assigned in Title 20-A;

30 2. Assessment of student performance;

32 3. Innovative grants program;

34 4. Appointment of the following consultants and  
36 coordinators:

38 A. School nurse coordinator;

40 B. Agricultural education consultant; and

42 C. School consultants to assist teachers;

44 5. Presentation of the superintendent conference;

46 6. Maintenance of a clearinghouse for information on  
48 nuclear usage;

50 7. Establishment of statewide goals and model hiring  
procedures, reporting and provision of technical assistance  
concerning the employment of women in administrative positions;

52 8. Preparation of education law pamphlets;

54 9. Presentation of an annual report to the Governor and  
56 Legislature on the status of public education;

58 10. Maintenance of a central information system on  
60 resources for people with learning disabilities; and

62 11. All other programs or responsibilities not transferred  
to other agencies of State Government in this Part.

2 **Sec. B-29. Effective date.** Sections 1 to 26 of this Part take  
4 effect July 1, 1993.

## 6 PART C

8 **Sec. C-1. 4 MRSA c. 26** is enacted to read:

### 10 CHAPTER 26

#### 12 HUMAN RIGHTS COURT

##### 14 §1171. Human Rights Court

16 1. Establishment. The Human Rights Court, established in  
18 this chapter, is part of the Judicial Department and is subject  
20 to the authority of the Chief Justice of the Supreme Judicial  
22 Court. The Human Rights Court consists of the Chief Human Rights  
24 Court Judge and 4 Associate Human Rights Court Judges. In the  
26 event of the disability of the Chief Human Rights Court Judge, an  
28 Associate Human Rights Court Judge shall perform any and all of  
30 the Chief Human Rights Court Judge's duties. Except as otherwise  
32 provided in this chapter, the Chief Human Rights Court Judge is  
34 responsible for the efficient operation of the Human Rights Court  
36 and for the proper conduct of business in that court.

##### 38 §1172. Court of record; seal; subpoenas; punishment for contempt

40 The Human Rights Court is a court of record. The Chief  
42 Human Rights Court Judge shall establish a seal. At the request  
44 of a party, a judge of the Human Rights Court shall, and on the  
46 judge's own motion may, issue subpoenas for the attendance of  
48 witnesses or for the production of documents. A person who fails  
50 to obey the subpoena of a judge of the Human Rights Court may be  
52 punished for contempt by the Human Rights Court.

##### 54 §1173. Jurisdiction

56 The Human Rights Court has exclusive jurisdiction upon  
58 complaint of the Attorney General or any person for violation of  
60 the Maine Human Rights Act.

##### 62 §1174. Administrative structure

64 1. Appointment of judges. The Chief Human Rights Court  
66 Judge and the Associate Human Rights Court Judges are appointed  
68 by the Governor, subject to review of the joint standing  
70 committee of the Legislature having jurisdiction over judiciary  
72 matters and to confirmation by the Senate. Each appointee holds  
office for a term of 7 years and until a successor has been

2 appointed and confirmed. No more than 3 of the 5 judges may be  
of the same political party.

4 2. Qualifications. The Chief Human Rights Court Judge and  
the Associate Human Rights Court Judges must be members of the  
6 bar of this State.

8 3. Hearings. On receipt of a written complaint from an  
individual or the Attorney General, a judge of the Human Rights  
10 Court shall conduct a hearing on the applicable facts and law.

12 4. Approval of budget and procedures. As head of the  
Judicial Department, the Chief Justice of the Supreme Judicial  
14 Court shall approve the Chief Human Rights Court Judge's  
determination of the Human Rights Court's budget and procedures  
16 for scheduling cases.

18 **§1175. Procedure**

20 1. General. Title 5, chapter 337 and the provisions of  
this chapter govern procedure in cases heard before the Human  
22 Rights Court.

24 2. Witness sworn. At the hearing before any testimony is  
received, the presiding judge shall swear in the witness.

26 3. Official record. The presiding judge shall prepare an  
official record, including testimony and exhibits, in each case,  
28 but the judge need not have a transcript of the testimony  
prepared unless required for rehearing or appeal. The record of  
30 the hearing may be taken by stenographic notes or by mechanical  
32 recording.

34 4. Disposition by agreement. On approval of the presiding  
judge, disposition of any case may be made by agreement or  
36 consent decree.

38 5. Rules of procedure. The Supreme Judicial Court has the  
power to adopt, amend, repeal or modify rules governing the forms  
40 of complaints, pleadings and motions and the practice, procedure  
and evidence in and appeals from the Human Rights Court. The  
42 rules may neither abridge nor enlarge the substantive rights of  
any litigant.

44 **§1176. Judicial review**

46 Judicial review of a Human Rights Court decision may be had  
48 in the Superior Court in the manner provided by rules adopted for  
this purpose by the Supreme Judicial Court. The resulting  
50 Superior Court decision may be appealed by any party to the  
decision to the Supreme Judicial Court sitting as the law court  
52 in the same manner as in other civil cases.

2 **§1177. Judge of Human Rights Court assigned to sit in District**  
3 **Court**

4 A judge or an active retired judge of the Human Rights Court  
6 may be assigned by the Chief Justice of the Supreme Judicial  
Court to sit in the District Court in any district and when so  
8 directed that judge has authority and jurisdiction in that court  
as if the judge were a regular judge of the District Court.  
10 Whenever the Chief Justice of the Supreme Judicial Court directs,  
that judge or active retired judge may hear all matters and issue  
12 all orders, notices, decrees and judgments that any judge of the  
District Court is authorized to hear and issue.

14 The order of the Chief Justice of the Supreme Judicial Court  
16 directing a judge or an active retired judge of the Human Rights  
Court to sit in the District Court must be filed with the  
18 Executive Clerk of the Supreme Judicial Court, but need not be  
docketed or otherwise recorded in any case heard by that judge.

20 **§1178. Judge of District Court assigned to sit in Human Rights**  
21 **Court**

24 A judge or an active retired judge of the District Court may  
26 be assigned by the Chief Justice of the Supreme Judicial Court to  
sit in the Human Rights Court and when so directed that judge has  
28 authority and jurisdiction in that court as if the judge were a  
regular judge of the Human Rights Court. Whenever the Chief  
30 Justice of the Supreme Judicial Court directs, that judge or  
active retired judge may hear all matters and issue all orders,  
32 notices, decrees and judgments that any judge of the Human Rights  
Court is authorized to hear and issue.

34 The order of the Chief Justice of the Supreme Judicial Court  
36 directing a judge or an active retired judge of the District  
Court to sit in the Human Rights Court must be filed with the  
38 Executive Clerk of the Supreme Judicial Court, but need not be  
docketed or otherwise recorded in any case heard by that judge.

40 **Sec. C-2. 5 MRSA §199-A is enacted to read:**

42 **§199-A. Bureau of Civil and Human Rights**

44 1. Established. The Bureau of Civil and Human Rights is  
46 established under the control of the Attorney General to:

48 A. Investigate and prosecute violations of the Maine Human  
Rights Act and to take whatever other actions the Attorney  
50 General considers necessary to protect the civil rights of  
the citizens of this State;

2 B. Investigate and prosecute violations of the Unfair Trade  
4 Practices Act to fulfill the responsibilities assigned to  
6 the Attorney General in Title 10, Parts 3 and 11 and to take  
8 whatever other action the Attorney General considers  
10 necessary to protect consumers; and

12 C. Fulfill the responsibilities assigned to the bureau in  
14 Title 9-A.

16 **Sec. C-3. 5 MRSA §4553, sub-§1, as enacted by PL 1971, c. 501,**  
18 **§1, is repealed.**

20 **Sec. C-4. 5 MRSA §4553, sub-§1-A is enacted to read:**

22 1-A. Bureau. "Bureau" means the Bureau of Civil and Human  
24 Rights within the Department of the Attorney General.

26 **Sec. C-5. 5 MRSA §4554 is enacted to read:**

28 **§4554. Enforcement of Maine Human Rights Act**

30 The Department of the Attorney General, Bureau of Civil and  
32 Human Rights shall enforce the Maine Human Rights Act in  
34 accordance with chapter 9 and this chapter. The Human Rights  
36 Court has exclusive jurisdiction to act on complaints alleging  
38 violation of the Maine Human Rights Act.

40 **Sec. C-6. 5 MRSA c. 337, sub-c. II, as amended, is repealed.**

42 **Sec. C-7. 9-A MRSA §6-103, as amended by PL 1989, c. 702, Pt.**  
44 **E, §5, is further amended to read:**

46 **§6-103. Administration**

48 There is created and established the Bureau of Civil and  
50 Human Rights within the Department of the Attorney General, which  
shall assume all responsibilities of the former Bureau of  
Consumer Credit Protection within the Department of Professional  
and Financial Regulation. The Superintendent of Consumer Credit  
Protection is the head of Consumer Credit Protection. As used in  
this Act, "administrator" means the superintendent of the Bureau  
of Consumer Credit Protection Attorney General. The  
administrator is appointed by the Governor and subject to review  
by the joint standing committee of the Legislature having  
jurisdiction over banking and insurance and to confirmation by  
the Legislature. The administrator is appointed for a term of 5  
years or until a successor is appointed and qualified. Any  
vacancy occurring must be filled by appointment for the unexpired  
portion of the term. The administrator may be removed from  
office for cause by impeachment or by the Governor on the address  
of both branches of the Legislature and Title 5, section 931,

2 ~~subsection 7 does not apply. During the term of office the~~  
4 ~~administrator shall engage in no other business or profession.~~

6 **Sec. C-8. Advocacy.** It is the intent of the Legislature  
8 that, effective July 1, 1993, all personnel and responsibilities  
10 associated with the client advocacy functions in the Executive  
12 Department regarding child welfare; in the Department of Mental  
14 Health and Mental Retardation regarding mental health and mental  
16 retardation; in the Department of Human Services regarding the  
elderly; and in the Department of Corrections regarding  
correctional inmates, be transferred to the Bureau of Civil and  
Human Rights in the Department of the Attorney General in order  
to provide for more effective and independent advocacy for the  
rights of these groups. The Attorney General shall submit the  
necessary implementing legislation to the Special Commission on  
Governmental Restructuring no later than November 1, 1992.

18 **Sec. C-9. Effective date.** Sections 1 to 7 of this Part take  
20 effect July 1, 1993.

## PART D

22 **Sec. D-1. 25 MRSA §1502,** as amended by PL 1989, c. 757, is  
24 further amended by adding after the first paragraph a new  
26 paragraph to read:

28 The Bureau of State Police is the primary agency in the  
30 State for investigating suspected violations of state criminal  
32 laws regarding scheduled drugs, controlled substances or illegal  
34 drugs, as defined by Title 17-A, chapter 45. In investigating  
36 and enforcing those laws, the State Police shall cooperate with  
38 and seek cooperation from municipal, state, county and federal  
40 law enforcement officials and agencies.

42 **Sec. D-2. 25 MRSA §2901,** as amended by PL 1989, c. 648, §2,  
44 is further amended to read:

46 **§2901. Department; commissioner**

48 There is created and established the Department of Public  
50 Safety to coordinate and efficiently manage the law enforcement  
and public safety responsibilities of the State, to consist of  
the Commissioner of Public Safety, referred to in this chapter  
called as the "commissioner," who shall be appointed by the  
Governor, subject to review by the joint standing committee of  
the Legislature having jurisdiction over state and local  
government matters and to confirmation by the Legislature Senate,  
to serve at the pleasure of the Governor, and the following as  
created and established: the Bureau of State Police, the Bureau  
of Liquor Enforcement, the Office of the State Fire Marshal, the

2 Maine Criminal Justice Academy, the Maine Highway Safety  
Commission, the Bureau of Highway Safety and the Bureau of  
4 Intergovernmental-Drug-Enforcement Corrections.

6 Sec. D-3. 25 MRSA §2902, sub-§4, as amended by PL 1989, c.  
648, §3 and c. 700, Pt. A, §101, is repealed and the following  
8 enacted in its place:

10 4. Maine Highway Safety Commission. The Maine Highway  
12 Safety Commission, as authorized by Title 5, section 12004-L,  
14 subsection 83, which is under the direction of the commissioner  
16 and advisory to the Governor. The commission consists of not  
18 more than 25 members selected by the Governor from state, civic  
20 and industrial organizations and individuals with interests  
22 relating to highway safety. The Commissioner of Public Safety,  
24 the Commissioner of Transportation, the Commissioner of Health  
26 and Developmental Services, the Secretary of State and the  
28 Attorney General serve as ex officio members. The ex officio  
30 members shall appoint persons in major policy-influencing  
32 positions as their designees to represent them at meetings of the  
34 commission with voting privileges. The commission members serve  
36 at the pleasure of the Governor and are entitled to compensation  
38 in accordance with Title 5, chapter 379. The commission shall  
40 stimulate active support for highway safety measures and programs  
42 and advise the Bureau of Highway Safety regarding these issues.  
44 The commission shall annually report its findings and  
46 recommendations, including any necessary implementing  
48 legislation, to the Governor and the joint standing committee of  
50 the Legislature having jurisdiction over state and local  
52 government matters;

32 Sec. D-4. 25 MRSA §2902, sub-§6, as amended by PL 1989, c.  
648, §4, is repealed.

34 Sec. D-5. 25 MRSA §2902, sub-§7, as enacted by PL 1989, c.  
36 648, §5, is amended to read:

38 7. Bureau of Highway Safety. The Bureau of Highway Safety,  
40 which shall be is under the direction of the Director of the  
42 Bureau of Highway Safety. The bureau is responsible for the  
44 State's highway safety program. The bureau is authorized to  
46 develop and implement a process for obtaining information about  
48 highway safety programs administered by other state and local  
50 agencies and to provide and facilitate the provision of financial  
52 and technical assistance to other state agencies and political  
subdivisions for the purpose of developing and carrying out  
highway safety programs; and

50 Sec. D-6. 25 MRSA §2902, sub-§8 is enacted to read:

52 8. Bureau of Corrections. The Bureau of Corrections, which  
is under the direction of the Director of the Bureau of

2 Corrections. The bureau is responsible for the maintenance and  
4 operation of the State's correctional system under Title 34-A.

6 Sec. D-7. 25 MRSA c. 353, as amended, is repealed.

8 Sec. D-8. 34-A MRSA §1201, as amended by PL 1991, c. 314,  
§9, is further amended to read:

10 **§1201. Legislative intent**

12 Recognizing the need to firmly control all of the State's  
14 correctional and detention facilities, provide for the safety of  
16 staff and clients, undertake appropriate programming for the  
18 classification, education, rehabilitation and maintenance of  
20 clients and assure an effective system for the supervision of  
22 parolees and probationers, it is the intent of the Legislature  
24 to create a--Department the Bureau of Corrections within the  
26 Department of Public Safety to improve the administration of  
28 correctional facilities, jails, programs and services for clients.

30 Sec. D-9. 34-A MRSA §1202, as enacted by PL 1983, c. 459,  
§6, is amended to read:

32 **§1202. Establishment**

34 There is established a--Department the Bureau of Corrections  
36 to--be within the Department of Public Safety, which is  
38 responsible for the direction and general administrative  
40 supervision, guidance and planning of adult and juvenile  
42 correctional facilities and programs within the State.

44 ~~1.---Cabinet---level---The---department---is---a---cabinet-level~~  
46 ~~department.~~

48 **2. Director.** The department bureau is under the control  
50 and supervision of the Commissioner Director of the Bureau  
52 of Corrections.

50 Sec. D-10. 34-A MRSA §1401, sub-§1, as enacted by PL 1983, c.  
459, §6, is amended to read:

52 **1. Appointment.** The Governor Commissioner of Public Safety  
shall appoint the Commissioner Director of the Bureau  
of Corrections, subject to review by the joint standing committee of  
the Legislature having jurisdiction over health and institutional  
services and to confirmation by the Senate, to serve at the  
pleasure of the Governor Commissioner of Public Safety.

50 Sec. D-11. 34-A MRSA §1401, sub-§2, as enacted by PL 1983, c.  
459, §6, is repealed.

2 **Sec. D-12. 34-A MRSA §1401, sub-§3**, as enacted by PL 1983, c.  
459, §6, is amended to read:

4 **3. Qualifications.** To qualify for appointment as  
6 commissioner director, a person must have training and experience  
in correctional administration or satisfactory experience in the  
8 direction of work of a comparable nature.

10 **Sec. D-13. Department of Public Safety; transition.** As of July 1,  
1993, the Department of Public Safety shall assume the duties,  
12 powers and responsibilities of the Department of Corrections.

14 **Sec. D-14. Bureau of Corrections.** The Bureau of Corrections is  
created within the Department of Public Safety. On July 1, 1993,  
16 the bureau shall assume all responsibilities of the Department of  
Corrections. Not later than November 1, 1992, the Commissioner  
18 of Public Safety shall submit to the Legislature all legislation  
necessary to implement the transfer of authority and personnel  
20 from the Department of Corrections to the Department of Public  
Safety.

22 **Sec. D-15. State assumption of responsibility for county jails.** The  
Commissioner of Public Safety, in consultation with the Maine  
24 Sheriffs' Association, shall develop a plan for the integration  
of the county jail system with the state correction system to  
26 increase overall efficiency and reduce the burden on local  
property taxes. The commissioner shall submit the plan with any  
28 necessary implementing legislation to the joint standing  
committee of the Legislature having jurisdiction over  
30 correctional matters on or before November 1, 1992.

32 **Sec. D-16. Effective date.** Sections 1 to 12 of this Part take  
effect July 1, 1993.

34 **PART E**

36 **Sec. E-1. 5 MRSA §1812-D**, as enacted by PL 1989, c. 585, Pt.  
38 C, §3, is amended to read:

40 **§1812-D. Coordination of procurement information and**  
42 **policies**

44 The Bureau of Purchases shall coordinate with the Department  
of Transportation, ~~the Department of Agriculture, Food and Rural~~  
46 ~~Resources, and the Department of Environmental Protection and the~~  
Office of Waste Reduction and Recycling to develop a central data  
48 base of information, including, but not limited to, procurement  
policies, market information, technical data and demonstration  
50 project results. This data shall must be compiled annually and  
provided to local public agencies by the ~~Office of Waste~~  
Reduction and Recycling Bureau of Purchases.

2 **Sec. E-2. 5 MRSA §12004-I, sub-§22**, as repealed and replaced  
by PL 1989, c. 585, Pt. A, §6, is repealed.

4 **Sec. E-3. 5 MRSA §13051, last ¶**, as enacted by PL 1987, c. 816,  
6 Pt. P, §4, is repealed.

8 **Sec. E-4. 5 MRSA §13052, last ¶**, as enacted by PL 1987, c. 816,  
10 Pt. P, §5, is repealed.

12 **Sec. E-5. 10 MRSA §1041, sub-§18**, as enacted by PL 1989, c.  
585, Pt. C, §11, is amended to read:

14 **18. Recycling and waste reduction.** Provide financial  
assistance to businesses for recycling and waste reduction  
16 projects that are consistent with the management goals and  
objectives outlined in the state waste management and recycling  
18 plan under Title 38, chapter 24. ~~The Maine Waste Management~~  
Agency ~~shall provide assistance to the authority in determining~~  
20 ~~authority shall determine the consistency, technical eligibility~~  
and merit of application for recycling loans.

22 **Sec. E-6. 10 MRSA §1063, sub-§2, ¶1-1**, as enacted by PL 1989,  
24 c. 585, Pt. C, §14, is amended to read:

26 I-1. In the case of recycling and waste reduction projects,  
the proposed facility is consistent with and will contribute  
28 to the management goals and objectives outlined in the state  
waste management and recycling plan under Title 38, chapter  
30 24 and will reduce the amount of solid or hazardous waste  
requiring disposal. ~~The Maine Waste Management Agency shall~~  
32 ~~provide assistance to the authority in determining~~ authority  
~~shall determine the consistency, technical eligibility and~~  
34 ~~merit of applications for assistance under this subchapter.~~

36 **Sec. E-7. 12 MRSA §683, first ¶**, as amended by PL 1991, c. 76,  
is further amended to read:

38 The Maine Land Use Regulation Commission, as established by  
40 Title 5, section 12004-D, subsection 1 to carry out the purposes  
stated in section 681, is created within the Department of  
42 Conservation and Resource Use, Bureau of Lands, and in this  
chapter called the "commission." The commission is charged with  
44 implementing this chapter in all of the unorganized and  
deorganized areas of the State. The commission consists of 7  
46 public members, none of whom may be state employees, who must be  
appointed by the Governor, subject to review by the joint  
48 standing committee of the Legislature having jurisdiction over  
energy and natural resources ~~matters~~ and to confirmation by the  
50 Legislature Senate, for staggered 4-year terms. Among the public  
members, there must be 4 who must be knowledgeable in at least  
52 one of each of the following areas: commerce and industry;  
fisheries and wildlife;

2 forestry; and conservation. Of the potential appointees to the  
3 commission, the Governor shall actively seek and give  
4 consideration to persons residing in or near the unorganized  
5 areas of the State and to persons residing on unorganized coastal  
6 islands. At least 2 members must be residents within the  
7 commission's jurisdiction.

8 **Sec. E-8. 12 MRSA §5011, first ¶**, as amended by PL 1977, c. 78,  
9 §107, is further amended to read:

10 There is created and established the Department of  
11 Conservation and Resource Use to preserve, protect and enhance  
12 the land resources of the State of Maine; to encourage the wise  
13 use of the scenic, mineral and forest resources of the State of  
14 Maine, and to ensure that coordinated planning for the future  
15 allocation of lands for recreational, forest production, mining  
16 and other public and private uses is effectively accomplished;  
17 and to provide for the effective management of public and private  
18 lands in the State of Maine. The Department of Conservation and  
19 Resource Use shall consist consists of a Commissioner of  
20 Conservation and Resource Use, hereafter in this Part called  
21 "commissioner," appointed by the Governor and who shall be is  
22 subject to review by the Joint Standing Committee on Natural  
23 Resources and to confirmation by the Legislature Senate, to serve  
24 at the pleasure of the Governor; and the following as heretofore  
25 created and established are incorporated into the Department of  
26 Conservation and Resource Use:

27 **Sec. E-9. 12 MRSA §5011, sub-§7**, as enacted by PL 1973, c.  
28 460, §16, is amended to read:

29 **7. Land use regulation.** Land Use Regulation Commission;

30 **Sec. E-10. 12 MRSA §5011, sub-§§8 to 10** are enacted to read:

31 **8. Inland fisheries and wildlife.** Department of Inland  
32 Fisheries and Wildlife;

33 **9. Marine resources.** Department of Marine Resources; and

34 **10. Land quality control.** Department of Environmental  
35 Protection, Bureau of Land Quality Control.

36 **Sec. E-11. 12 MRSA §5012, first ¶**, as amended by PL 1983, c.  
37 819, Pt. A, §15, is further amended to read:

38 The commissioner is the chief executive officer of the  
39 Department of Conservation and Resource Use. He-The commissioner  
40 shall coordinate and supervise the activities and programs of the  
41 bureaus and agencies which that are part of the department;  
42 undertake comprehensive planning and analysis with respect to the  
43 functions and responsibilities of the department; and develop and

44 implement, whenever necessary, procedures and practices to  
45 promote economy, efficiency and coordination in and between the  
46 various agencies and bureaus of the department. He- The  
47 commissioner shall reorganize or combine the bureaus of the  
48 department or the planning, operations and other functions among  
49 the bureaus of the department as he--deems the commissioner  
50 determines necessary to improve the efficiency of department  
51 services. From time to time he- the commissioner shall recommend  
52 to the Governor and Legislature such changes in the laws relating  
53 to the organization, functions, services or procedures of the  
54 agencies and bureaus of the department as he--shall--deem the  
55 commissioner determines desirable. The commissioner shall  
56 prepare a budget for the department; and shall organize and  
57 maintain within the department an administrative services  
58 division to which he- the commissioner may assign personnel from  
59 the agencies and bureaus of the department.

18 **Sec. E-12. 12 MRSA §5012, 4th ¶**, as amended by PL 1987, c.  
19 308, §7, is further amended to read:

20 The commissioner may, subject to the approval of the  
21 Governor, apply for and accept on behalf of the State any funds,  
22 other personal or real property, including grants, bequests,  
23 gifts or contributions from any person, corporation or  
24 government, including the Government of the United States. Such  
25 funds shall must be received by the Treasurer of State on behalf  
26 of the State and deposited in an appropriate new or existing  
27 account in the department. All such funds may, subject to the  
28 rules promulgated adopted by the Governor, be expended by the  
29 Commissioner of Conservation and Resource Use.

32 **Sec. E-13. 12 MRSA §5013**, as amended by PL 1985, c. 785, Pt.  
33 B, §64, is repealed and the following enacted in its place:

34 **§5013. Department organization**

35 The Department of Conservation and Resource Use, referred to  
36 in this section as the department, is composed of the following  
37 bureaus.

38 **1. Land use.** The Bureau of Lands shall provide necessary  
39 staff support for the planning, zoning and other regulatory  
40 functions of the Maine Land Use Regulation Commission under  
41 chapter 206-A. The Bureau of Lands shall also administer the  
42 provisions of Title 38, chapter 24 regarding the siting of solid  
43 waste disposal facilities and any other responsibilities  
44 enumerated in chapter 432.

45 **2. Fish and wildlife management.** The Bureau of Fish and  
46 Wildlife Management shall administer the provisions of Part 10.



2 3. Public lands management. The Bureau of Public Lands  
4 Management shall plan for and manage the use of all publicly  
6 owned lands held and managed by the former Bureau of Public Lands  
8 under chapter 202; the former Bureau of Parks and Recreation  
10 under chapters 203 and 206 and the former Department of Inland  
12 Fisheries and Wildlife under chapter 713, subchapter I.

8 4. Forest resources. The Bureau of Forest Resources shall  
10 administer the provisions of Part 11 regarding the protection,  
12 marketing and management of forest resources.

12 5. Marine resources. The Bureau of Marine Resources shall  
14 administer the provisions of Part 9 regarding the protection,  
16 marketing and management of marine resources.

16 6. Agricultural resources. The Bureau of Agriculture shall  
18 administer the provisions of Title 7, Title 32, chapters 27 and  
20 28 and any other provisions of law formerly administered by the  
22 former Department of Agriculture, Food and Rural Resources and  
24 not administered by another bureau under this Title or repealed.

22 7. Science and research. The Bureau of Science and Research  
24 shall conduct all scientific research necessary to support the  
26 functions of the department. The Bureau of Science and Research  
28 shall also provide laboratory services to all other bureaus of  
30 the department.

28 8. Enforcement. The Bureau of Enforcement shall enforce all  
30 laws administered by the department.

30 9. Administration. The Bureau of Administration shall  
32 provide all necessary staff support to the commissioner and shall  
34 provide personnel, financial, data management and administrative  
36 management services to all bureaus of the department.

36 Every person appointed as a bureau director, a director of  
38 administrative services or of planning and program services or  
40 appointed in another supervisory capacity in the department must  
42 have experience and skill in the field of the functions of that  
44 position. So far as is practicable in the judgment of the  
46 commissioner, appointments to positions must be made by promoting  
48 employees of the State serving in positions that are classified  
50 and in every instance when a person is promoted from a classified  
52 position upon termination of service in a classified supervisory  
position, the employee, if that employee so requests, is restored  
to the classified position from which that employee has been  
promoted or to a position equivalent in salary grade in the same  
state agency, without impairment of personnel status or the loss  
of seniority, retirement or other rights to which uninterrupted  
service in the classified position would have entitled that  
employee, provided that if that employee's service in the  
unclassified supervisory position has been terminated for cause,

2 the employee's right to be restored must be determined by the  
4 State Civil Service Appeals Board.

4 Sec. E-14. 12 MRSA c. 432 is enacted to read:

6 CHAPTER 432

8 BUREAU OF LANDS

10 §5301. Establishment

12 The Bureau of Lands is established in the Department of  
14 Conservation and Resource Use and referred to in this chapter as  
16 the bureau. The bureau is administered by the Executive Director  
18 of the Maine Land Use Regulation Commission. For the purposes of  
20 this chapter, "director" means the Executive Director of the  
22 Maine Land Use Regulation Commission.

20 Notwithstanding any other provision of law, the director  
22 shall administer the following:

22 1. The State Register of Critical Areas. The State  
24 Register of Critical Areas laws codified under Title 5, chapter  
26 312:

26 2. Community development. The community development laws  
28 codified under Title 5, chapter 383, subchapter III:

28 3. Soil and Water Conservation Commission. The Soil and  
30 Water Conservation Commission established under chapter 1,  
32 subchapter II:

32 4. Farmland registration. The farmland registration laws  
34 codified under chapter 2-B:

34 5. Use regulation. The land use regulation laws codified  
36 under chapter 206-A:

36 6. Mandatory shoreland zoning. The mandatory shoreland  
38 zoning laws codified under Title 38, chapter 3, subchapter 1,  
40 article 2-B:

40 7. Natural resources protection. The natural resources  
42 protection laws codified under Title 38, chapter 3, subchapter 1,  
44 article 5-A:

44 8. Site location of development. The site location of  
46 development laws codified under Title 38, chapter 3, subchapter  
48 1, article 6:

2 9. Maine Refuse Disposal District Enabling Act. The Maine  
3 Refuse Disposal District Enabling Act codified under Title 38,  
4 chapter 17; and

5 10. Waste management. The waste management laws codified  
6 under Title 38, chapter 24.

7 **Sec. E-15. 32 MRSA §1726**, as enacted by PL 1989, c. 585, Pt.  
8 C, §16, is repealed.

9 **Sec. E-16. 32 MRSA §1732, sub-§1**, as enacted by PL 1989, c.  
10 849, §1, is repealed.

11 **Sec. E-17. 32 MRSA §§1735, 1737 and 1738**, as enacted by PL  
12 1989, c. 849, §1, are repealed.

13 **Sec. E-18. 32 MRSA §1871**, as amended by PL 1991, c. 591, Pt.  
14 R, §6, is further amended to read:

15 **§1871. Rules**

16 The commissioner shall, in accordance with the  
17 Administrative Code Maine Administrative Procedure Act and after  
18 a public hearing, adopt, amend and repeal such reasonable rules  
19 and regulations as it deems the commissioner determines necessary  
20 to carry out and interpret the provisions, purposes and intent of  
21 this chapter. The department shall ~~have~~ has the authority to  
22 establish regulations rules governing local redemption centers  
23 which ~~that~~ receive beverage containers from dealers supplied by  
24 distributors other than the distributors servicing the area areas  
25 in which the local redemption center ~~is~~ centers are located in  
26 order to prevent the distributors servicing the area areas within  
27 which the redemption center ~~is~~ centers are located from being  
28 unfairly penalized.

29 In accordance with the Maine Administrative Procedure Act,  
30 the Treasurer of State shall, with the assistance of the  
31 commissioner and ~~the Maine Waste Management Agency~~, adopt rules  
32 to implement the provisions of section 1866, subsection 7 and  
33 section 1866-A. The Treasurer of State may also adopt rules  
34 pursuant to section 1869, subsection 3.

35 **Sec. E-19. 36 MRSA §2526, sub-§3**, as enacted by PL 1989, c.  
36 927, §1, is amended to read:

37 **3. Eligible machinery and equipment.** Purchases eligible  
38 for the credit allowed under this section include structures,  
39 machinery, equipment and devices used to reduce, reuse or recycle  
40 solid waste, at least 90% of which is generated within the  
41 State. ~~A certificate that the structures, machinery, equipment~~  
42 ~~and devices qualify for the credit provided for in this section~~  
43 ~~from the Maine Waste Management Agency is required before the tax~~

44 ~~credit may be taken. Machinery and equipment associated with the~~  
45 ~~separation of wastes prior to incineration are eligible when the~~  
46 ~~Maine Waste Management Agency certifies that the separated wastes~~  
47 ~~are being recycled for a credit under this section.~~

48 **Sec. E-20. 36 MRSA §5219-D, sub-§3**, as enacted by PL 1989, c.  
49 927, §6, is amended to read:

50 **3. Eligible machinery and equipment.** Purchases eligible  
51 for the credit allowed under this section include structures,  
52 machinery, equipment and devices used to reduce, reuse or recycle  
53 solid waste, at least 90% of which is generated within the  
54 State. ~~A certificate that the structures, machinery, equipment~~  
55 ~~and devices qualify for the credit provided for in this section~~  
56 ~~from the Maine Waste Management Agency is required before the tax~~  
57 ~~credit may be taken. Machinery and equipment associated with the~~  
58 ~~separation of wastes prior to incineration are eligible when the~~  
59 ~~Maine Waste Management Agency certifies that the separated wastes~~  
60 ~~are being recycled for a credit under this section.~~

61 **Sec. E-21. 38 MRSA §1382, first ¶**, as amended by PL 1991, c.  
62 517, Pt. B, §2, is further amended to read:

63 Members of the board of trustees are appointed by the  
64 Governor, subject to review by the joint standing committee of the  
65 Legislature having jurisdiction over natural resources and to  
66 confirmation by the Legislature Senate. The board of trustees  
67 consists of ~~8~~ 6 members as follows: one member from the  
68 Department of Environmental Protection; ~~one member from the~~  
69 ~~Department of Agriculture, Feed and Rural Resources; one member~~  
70 ~~from the Maine Waste Management Agency; one member from an~~  
71 ~~environmental interest group; one member from the Maine Waste~~  
72 ~~Water Control Association; one member from the Maine Municipal~~  
73 ~~Association; one member representing users of sludge or~~  
74 ~~residuals; and one member representing generators of sludge and~~  
75 ~~residuals.~~

76 **Sec. E-22. 38 MRSA c. 24, first 5 lines** are repealed and the  
77 following enacted in their place:

78 **CHAPTER 24**  
79 **WASTE MANAGEMENT**

80 **SUBCHAPTER I**  
81 **HIERARCHY**

82 **Sec. E-23. 38 MRSA §2102**, as enacted by PL 1989, c. 585, Pt.  
83 A, §7, is repealed.

84 **Sec. E-24. 38 MRSA §2103**, as amended by PL 1991, c. 517, Pt.  
85 B, §§5 and 6, is repealed.

2 Sec. E-25. 38 MRSA §2104 to 2110, as enacted by PL 1989, c.  
585, Pt. A, §7, are repealed.

4 Sec. E-26. 38 MRSA c. 24, sub-c. III, as amended, is repealed.

6 **Sec. E-27. Transition provisions.**

8 1. **Positions abolished.** On July 1, 1993, the following  
positions are abolished:

10 A. All positions within the Maine Waste Management Agency,  
12 including the Executive Director of the Maine Waste  
Management Agency, the Director of the Office of Planning,  
14 the Director of the Office of Siting and Disposal Operations  
and the Director of the Office of Waste Reduction and  
16 Recycling;

18 B. Within the Department of Economic and Community  
Development, the Deputy Commissioner of Administration, the  
20 Deputy Commissioner of Development, the Deputy Commissioner  
of Tourism, the Associate Commissioner of Development Policy  
22 and the Deputy Commissioner for Comprehensive Land Use  
Planning or their successor positions; and

24 C. Within the Department of Environmental Protection, the  
26 Director of the Bureau of Land Quality Control.

28 2. **Entities abolished.** On July 1, 1993, the following  
agencies, bureaus and offices are abolished:

30 A. The Maine Waste Management Agency and the Waste  
32 Management Advisory Council;

34 B. The Office of Comprehensive Land Use Planning within the  
Department of Economic and Community Development; and

36 C. The Bureau of Land Quality Control within the Department  
38 of Environmental Protection.

40 3. **Maine Revised Statutes amended; revision clause.** The  
Revisor of Statutes shall implement the following revisions when  
42 updating, publishing or republishing the statutes:

44 A. Wherever in the Maine Revised Statutes, Title 5, chapter  
312, the words "Director of the State Planning Office"  
46 appear or reference is made to those words, they are amended  
to read the "Director of the Bureau of Lands in the  
48 Department of Conservation and Resource Use";

50 B. Wherever in Title 5, chapter 383, subchapters III and VI,  
the words "Commissioner of Economic and Community

2 Development," "Office of Community Development" or "Deputy  
Commissioner for Community Development" appear or reference  
is made to those words, they are amended to read  
4 "Commissioner of Conservation and Resource Use," the "Bureau  
of Lands within the Department of Conservation and Resource  
6 Use" or the "Director of the Bureau of Lands within the  
Department of Conservation and Resource Use";

8 C. Wherever in Title 12, chapter 1 the words "Commissioner  
of Agriculture, Food and Rural Resources" appear or  
reference is made to those words, they are amended to read  
10 the "Commissioner of Conservation and Resource Use";

12 D. Wherever in Title 38, chapter 3, subchapter I, article  
5-A or 6, the words "Commissioner of Environmental  
14 Protection," "Board of Environmental Protection" or  
"Department of Environmental Protection" appear or reference  
is made to those words, they are amended to read the  
16 "Commissioner of Conservation and Resource Use"; and

18 E. Wherever in Title 38, chapter 17 or 24, the words  
"Executive Director of the Maine Waste Management Agency" or  
20 "agency" appear or reference is made to those words, they  
are amended to read the "Director of the Bureau of Lands  
22 within the Department of Conservation and Resource Use" or  
the "Bureau of Lands within the Department of Conservation  
24 and Resource Use."

26 4. **Departments abolished.** Effective July 1, 1993, the  
Department of Marine Resources and the Department of Inland  
28 Fisheries and Wildlife are abolished and all functions of those  
30 departments become functions of the Department of Conservation  
and Resource Use, established under Title 12, chapter 432.

32 5. **Rules.** On July 1, 1993, all rules issued, administered  
and enforced by the Maine Waste Management Agency, the Bureau of  
34 Land Quality Control and the Office of Community Development  
become rules issued, administered and enforced by the Director of  
36 the Bureau of Lands and remain in effect until amended or  
repealed by the Commissioner of Conservation and Resource Use.  
38

40 **Sec. E-28. Effective date.** Sections E-1 to E-26 are effective  
on July 1, 1993.  
42

44 **PART F**

46 **Sec. F-1. 7 MRSA §1,** as amended by PL 1987, c. 435, §2, is  
repealed.  
48

50 **Sec. F-2. 7 MRSA §1-A,** as enacted by PL 1979, c. 731, §4, is  
repealed.  
52

2       **Sec. F-3. 7 MRSA §1-B**, as amended by PL 1989, c. 700, Pt. A,  
§29, is repealed.

4       **Sec. F-4. 7 MRSA §2**, as amended by PL 1991, c. 9, Pt. I, §6,  
is repealed.

6       **Sec. F-5. 7 MRSA §3**, as repealed and replaced by PL 1979, c.  
8 731, §8, is repealed.

10       **Sec. F-6. 7 MRSA §5**, as amended by PL 1979, c. 731, §9, is  
repealed.

12       **Sec. F-7. 7 MRSA §8** is repealed.

14       **Sec. F-8. 7 MRSA §10**, as amended by PL 1975, c. 771, §98, is  
16 repealed.

18       **Sec. F-9. 7 MRSA §11** is repealed.

20       **Sec. F-10. 7 MRSA §12**, as amended by PL 1983, c. 308, §§3 and  
22 14, is repealed.

24       **Sec. F-11. 7 MRSA §13**, as amended by PL 1983, c. 308, §§4 and  
26 14, is repealed.

28       **Sec. F-12. 7 MRSA §14**, as amended by PL 1983, c. 308, §§5 and  
30 14, is repealed.

32       **Sec. F-13. 7 MRSA §17**, as enacted by PL 1973, c. 541, is  
34 repealed.

36       **Sec. F-14. 7 MRSA §19**, as enacted by PL 1991, c. 415, §2, is  
38 repealed.

40       **Sec. F-15. 7 MRSA c. 2** is repealed.

42       **Sec. F-16. 7 MRSA c.c. 8-B, 8-C and 8-D**, as amended, are  
44 repealed.

46       **Sec. F-17. 7 MRSA c. 10** is repealed.

48       **Sec. F-118 7 MRSA §332, sub-§1**, as amended by PL 1989, c. 503,  
50 Pt. B, §39, is further amended to read:

52       **1. Membership.** The Aroostook Water and Soil Management  
Board, as established by Title 5, section 12004-G, subsection 4,  
shall consist consists of the following: The Chair of the Maine  
Potato Board; one person designated by the Maine Potato Board who  
shall be is a farmer with irrigation experience; a representative  
of each of the 3 Aroostook County Soil and Water Conservation  
Districts chosen by the boards of supervisors of the 3 districts,  
each representative chosen being a farmer; the Director of the

2       Maine Agricultural Experiment Station; the Director of the  
3 University of Maine Cooperative Extension Service; the State  
4 Conservationist of the United States Department of Agriculture  
5 Soil Conservation Service; the Director of the Maine Geological  
6 Survey; and the Director of the Northern Maine Regional Planning  
7 Commission; and the Commissioner of Agriculture, Feed and Rural  
8 Resources.

10       **Sec. F-19. 7 MRSA §332, sub-§6**, as enacted by PL 1987, c. 435,  
§3, is amended to read:

12       **6. Staff.** Staff to the board shall must be provided by the  
14 Department of Agriculture, Feed and Rural Resources Commissioner  
of Conservation and Resource Use.

16       **Sec. F-20. 7 MRSA §333**, as enacted by PL 1987, c. 435, §3, is  
18 amended to read:

20       **§333. Aroostook Water and Soil Management Fund**

22       There is established a nonlapsing Aroostook Water and Soil  
24 Management Fund. The Commissioner of Agriculture, Feed and Rural  
26 Resources Conservation and Resource Use may accept money for this  
fund from the Federal Government or any public or private source  
and make expenditures from this fund in order to carry out  
activities related to the program.

28       **Sec. F-21. Registration of farmland.** The Bureau of Agriculture  
30 established in the Maine Revised Statutes, Title 12, chapter 432  
shall administer Title 7, chapter 2-B, Registration of Farmland.  
32 Wherever in Title 7, chapter 2-B, the words "commissioner" or  
"department" appear or reference is made to these words, they are  
34 amended to read and mean "director" or "bureau" and the Revisor  
of Statutes shall implement this revision when updating,  
36 publishing or republishing the laws.

38       **Sec. F-22. Maine Pesticide Control Act.** The Department of  
40 Environmental Protection shall administer the Maine Pesticide  
Control Act of 1975, Maine Revised Statutes, Title 7, chapter  
103, subchapter II-A. Wherever in Title 7, chapter 103,  
42 subchapter II-A the words "commissioner" or "department" appear  
or reference is made to these words, they are amended to read and  
44 mean "Commissioner of Environmental Protection" and "Department  
of Environmental Protection" and the Revisor of Statutes shall  
46 implement this revision when updating, publishing or republishing  
the laws.

48       **Sec. F-23. Board of Pesticides Control.** The Board of Pesticides  
50 Control, the Maine Revised Statutes, Title 22, chapter 258-A, is  
transferred to the Department of Environmental Protection.  
52 Wherever in Title 22, chapter 258-A the words "commissioner" or  
"department" appear or reference is made to

2 these words, they mean "Commissioner of Environmental Protection"  
3 and "Department of Environmental Protection" and the Revisor of  
4 Statutes shall implement this revision when updating, publishing  
or republishing the laws.

6 **Sec. F-24. Soil and Water Conservation Commission.** The  
7 Director of the Bureau of Land, established under the Maine  
8 Revised Statutes, Title 12, chapter 432, shall assume all  
9 responsibilities of the Commissioner of Agriculture, Food and  
10 Rural Resources relating to the Soil and Water Conservation  
11 Commission. Wherever in Title 12, chapter 1, subchapter II, the  
12 words "Commissioner of Agriculture, Food and Rural Resources"  
13 appear or reference is made to these words, they are amended to  
14 read and mean the "Director of the Bureau of Lands." The Revisor  
15 of Statutes shall implement this revision when updating,  
16 publishing or republishing the laws.

18 **Sec. F-25. Maine Dairy Promotions Board and Maine Dairy and  
19 Nutrition Council.** The Maine Agricultural Experiment Station shall  
20 administer the Maine Revised Statutes, Title 7, chapters 604 and  
21 604-A. Wherever in Title 7, chapters 604 and 604-A the words  
22 "Commissioner of Agriculture, Food and Rural Resources" or  
23 "Department of Agriculture, Food and Rural Resources" appear or  
24 reference is made to these words, they are amended to read and  
25 mean the "Director of the Maine Agricultural Experiment Station"  
26 or the "Maine Agricultural Experiment Station." The Revisor of  
27 Statutes shall implement this revision when updating, publishing  
28 or republishing the laws.

30 **Sec. F-26. Transitional study.** As provided in Part L, the  
31 Commission on the Reorganization of State Government shall review  
32 functions of the Department of Agriculture, Food and Rural  
33 Resources not eliminated or redistributed by this Part to  
34 determine the programs and services vital to the State and to  
35 develop all legislation needed to repeal or implement the  
36 reallocation of these programs and services.

38 **Sec. F-27. Effective date.** Sections F-1 to F-25 are effective  
39 July 1, 1993.

## 42 PART G

44 **Sec. G-1. Reorganization of health, social and developmental  
45 services.** It is the intent of the Legislature that on July 1,  
46 1993, the Department of Human Services, the Department of Mental  
47 Health and Mental Retardation, the Office of Substance Abuse, the  
48 Office of Community Services and the Bureau of Veterans' Services  
49 are abolished and the functions of those agencies are transferred  
50 to a newly created Department of Children and Families, a newly  
51 created Department of Health and Developmental Services and to  
52 other existing state agencies as specified in this Act.

2 **Sec. G-2. Joint select committee charged.** The Commission on the  
3 Reorganization of State Government shall develop with the advice  
4 and assistance of officials of the executive branch all  
5 legislation needed to implement the reorganization of services in  
6 accordance with this Part, including amendments to the statutes,  
7 reallocation of funds and transitional language as needed.  
8

## 12 PART H

14 **Sec. H-1. 34-B MRSA §3201,** as enacted by PL 1983, c. 459,  
15 §7, is amended to read:

### 16 §3201. Maintenance

18 The commissioner shall maintain ~~2--state--mental--health~~  
19 ~~institutes--for--the--mentally--ill--one--at--Bangor--called--the--Bangor~~  
20 ~~Mental--Health--Institute--and--the--other--at--Augusta--called--the~~  
21 ~~Augusta--Mental--Health--Institute--~~ in-patient facilities,  
22 state-operated or privately operated, that ensure adequate  
23 treatment and care for persons with mental illness in Maine who  
24 are at high risk because of difficult and significant mental  
25 health problems. These facilities shall foster education and  
26 research as an integral part of their services, encourage and  
27 support the movement of services into Maine communities through  
28 joint planning with regional and community mental health service  
29 providers and reduce, whenever possible, dependence on  
30 institutional care.

32 **Sec. H-2. 34-B MRSA §3202, sub-§1,** as enacted by PL 1983, c.  
33 459, §7, is amended to read:

36 **1. Chief administrative officer.** The chief administrative  
37 officer of ~~each--state--mental--health--institute~~ any state-operated  
38 mental health facility is called the superintendent.

40 **Sec. H-3. 34-B MRSA §3202, sub-§3,** as amended by PL 1989, c.  
41 501, Pt. BB, §4, is further amended to read:

42 **3. Appointment.** The commissioner shall, with the advice of  
43 the Advisory Committee on Mental Health, appoint the  
44 superintendent of ~~each--state--mental--health--institute~~ any  
45 state-operated mental health facility. The Governor shall  
46 establish the salary of ~~each--superintendent~~ the superintendents.

48 **A.** The commissioner and the advisory committee shall give  
49 due consideration to the appointee's qualifications and  
50 experience in administration and to the appointee's  
51 qualifications and experience in health matters.  
52

B. The appointments are at the pleasure of the commissioner.

Sec. H-4. 34-B MRSA §5401, as amended by PL 1985, c. 503, §6, is repealed.

Sec. H-5. 34-B MRSA §5402, as amended by PL 1985, c. 776, is repealed.

Sec. H-6. 34-B MRSA §5403, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Establishment. ~~There--is--established~~ The department shall maintain the Aroostook Residential Center at Presque Isle in Aroostook County, which:

A. ~~Shall be maintained for the~~ provide training, education, treatment and care of persons ~~who are mentally-retarded with mental retardation;~~ and

B. May provide living accommodations for ~~mentally-retarded~~ persons with mental retardation in order that they may attend educational and training programs.

Sec. H-7. Pineland Center and the Augusta Mental Health Institute to be closed. By July 1, 1996, the Department of Mental Health and Mental Retardation shall discharge all residents of the Augusta Mental Health Institute and shall close that facility. By July 1, 1998, the department shall discharge all residents of Pineland Center and shall close that facility. The department shall prepare a discharge plan for each resident prior to the resident's discharge, and shall ensure that community-based or other services as indicated in the discharge plans are provided. To the greatest extent possible under state and federal law, funds for services provided at Pineland Center and the Augusta Mental Health Institute must be reallocated to support continued services for residents as those residents move into other settings. The department may continue to provide state-operated in-patient services and preference should be given to continuing to provide direct state services to those residents who require them because of difficult and significant problems that are less likely to be resolved in a private setting.

Sec. H-8. Effective date. Sections H-1 through H-6 take effect on July 1, 1996.

## PART I

Sec. I-1. 22 MRSA c. 1054, as amended, is repealed.

Sec. I-2. 22 MRSA c. 1054-B is enacted to read:

## CHAPTER 1054-B

### THE JOB OPPORTUNITIES ACT

#### §3790-A. Policy and intent; short title

This chapter may be known and cited as the "Job Opportunities Act."

It is the policy of the State to use available resources and institutions to provide education, training and job opportunities to qualified and eligible recipients of public assistance and supplemental family support with the goal of enabling them to become self-sufficient and to eliminate their dependency on public assistance and supplemental family support. It is the intent of this chapter to commit these resources and institutions to this goal, to structure Maine's public assistance programs to include job-based eligibility and to ensure effective coordination that results in recipients of public assistance and supplemental family support becoming self-sufficient.

#### §3790-B. Definitions

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

1. Committee. "Committee" means the Maine Aid to Families with Dependent Children Coordinating Committee established in section 3790-C.

2. Council. "Council" means the Advisory Council to the Maine Aid to Families with Dependent Children Coordinating Committee established in section 3790-D.

3. Recipient. "Recipient" means an individual who has been determined to be eligible for the aid to families with dependent children program.

4. Registrant. "Registrant" means a recipient of Aid to Families with Dependent Children under the United States Social Security Act, Subchapter IV-A, who has registered with the Department of Human Services or its successor for education, training, supportive services and employment activities pursuant to the United States Social Security Act, Subchapter IV-F2 or its successors.

#### §3790-C. Maine Aid to Families with Dependent Children Coordinating Committee

1. Committee established. The Maine Aid to Families with Dependent Children Coordinating Committee, established by Title 5, section 12004-I, subsection 35, consists of the Commissioner

of Human Services or the successor agency head, the Commissioner of Labor or the successor agency head, the Commissioner of Education or the successor agency head, the Executive Director of the Maine Technical College System and the Chancellor of the University of Maine System or their designees.

2. Committee purpose. The purpose of this committee is to carry out state policy and legislative intent to provide educational, training and job opportunities for citizens receiving public assistance or supplemental family support pursuant to this chapter.

3. Duties and responsibilities. The duties and responsibilities of the committee include:

A. Reviewing the plans and design of the State's public assistance programs including the aid to families with dependent children program, other income maintenance or supportive programs, the Welfare Employment, Education and Training Program, and the Additional Support for People in Retraining and Education Program;

B. Reviewing priorities and allocations of funds under the Welfare Employment, Education and Training Program, the aid to families with dependent children program, other income maintenance or supportive programs, and the Additional Support for People in Retraining and Education Program in order to consolidate and streamline program management and delivery;

C. Coordination with and participation in the Advisory Council to the Maine Aid to Families with Dependent Children Coordinating Committee, authorized by Title 5, section 12004-I, subsection 36, including the implementation of recommendations for the design and delivery of public assistance and supplemental family support programs;

D. Facilitation of the development of training, educational and employment placement opportunities pursuant to section 3375-A;

E. Coordination and consolidation of public assistance staff so that a one caseworker per family system is established and each case worker is trained to provide information about and coordination of assistance that will enable recipients to become self-sufficient;

F. Ensuring that there is substantial coordination and consolidation between the Welfare Employment, Education and Training Program and the federal Job Training Partnership Act or its successors and among the aid to families with dependent children program, other income maintenance or

support programs and the Additional Support for People in Retraining and Education Program; and

G. Implementation of any other responsibilities and duties, in accordance with any pertinent federal and state law, any additions to those laws and any regulations adopted under those laws.

#### **§3790-D. Advisory council**

1. Council established. The Advisory Council to the Maine Aid to Families with Dependent Children Coordinating Committee established by Title 5, section 12004-I, subsection 36 consists of 8 members as follows:

A. One representative of recipients of aid to families with dependent children, appointed by the President of the Senate;

B. One representative of advocates for persons of low income, appointed by the Speaker of the House of Representatives;

C. One representative of persons who provide job training, appointed by the Governor;

D. Two members of the Legislature appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

E. One public member appointed jointly by the President of the Senate and the Speaker of the House of Representatives who shall serve as chair; and

F. Two representatives of providers of general assistance appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

The members of the committee serve as ex officio members and provide the staffing assistance and full cooperation of their departments.

2. Purpose. The purpose of this council is to design state policy and legislative intent to provide educational, training and job opportunities for recipients of public assistance or other family support pursuant to this chapter; to ensure that the design consolidates public assistance programs under a one caseworker per family model; and to make work an eligibility requirement.

3. Duties and responsibilities. The duties and responsibilities of the council include:

2 A. Reviewing the plans and operations of the Welfare  
4 Employment, Education and Training Program, the federal Job  
6 Training Partnership Act or its successors, the aid to  
8 families with dependent children program, other supplemental  
10 family support programs and the Additional Support for  
12 People in Retraining and Education Program to ensure full  
14 consolidation of these programs;

16 B. Developing specific work requirements for all recipients  
18 that must be satisfied in order to qualify. These include  
20 the requirement that, with the exception of the first  
22 6-month enrollment period, recipients be employed during the  
24 time period that they receive assistance, regardless of  
26 their family status and within the constraints of maternity  
28 and paternity leave laws;

30 C. Designing a full program of employment assistance  
32 including work assignments, public works and nonprofit  
34 organization jobs that are identified and provided for those  
36 recipients who have not demonstrated the ability to find  
38 work on their own. These jobs may include positions created  
40 or administered by grant diversion programs or economic  
42 development programs operated by nonprofit agencies;

44 D. Designing a program that provides a work waiver for  
46 recipients who provide child care for working recipients and  
48 that provides at least 4 1/2-days of work for unemployed  
50 recipients;

52 E. Developing a system for evaluating and granting waiver  
requests. The system must give primary responsibility for  
the evaluation of requests and for waiver decisions to  
caseworkers. The system must allow for waivers to be  
tailored to the circumstances of a particular participant  
and must allow for waivers to be conditioned on programs or  
activities creatively designed to reduce dependence;

F. Developing rules and regulations that allow recipients  
to retain Medicaid or other state provided medical benefits  
if their employer does not provide health care benefits;

G. Developing rules and regulations that allow recipients  
to retain outside income, decreasing public assistance as  
outside income grows. Employment income is complementary to  
public assistance up to an income limit, which results in  
loss of benefits;

H. Redesigning all public assistance and supplemental  
family support programs so that they become short-term,  
emergency-based programs designed to require employment and  
eligibility review every 6 months;

2 I. Designing public assistance and supplemental family  
4 support programs that encourage municipal governments to  
6 serve as program managers and that ensure full coordination  
8 of benefits and services so that recipients do not become  
10 dependent upon public assistance;

12 J. Develop and submit waiver requests or other necessary  
14 plan changes to the federal government that qualify the  
16 State for continued federal assistance within the newly  
18 formulated guidelines; and

20 K. Prepare and present legislation that implements changes  
22 that ensure: that the State's public assistance and  
24 supplemental family support programs are emergency-based and  
26 do not foster dependence; that eligibility is based on  
28 willingness to work and public work is provided when the  
30 recipient is unable to find employment; and that health and  
32 other benefits are not reduced because the recipient is  
34 receiving outside income up to an established cap.

#### §3790-E. Training, education and placements

In order to require that recipients obtain jobs that  
eliminate their dependency on public assistance, the committee,  
in consultation and coordination with the council, shall:

1. Services. Encourage the development and ensure  
coordination of training, education and preapprenticeship  
programs, supportive services, income maintenance and aid to  
families with dependent children programs, and remedial and  
preparatory programs at the University of Maine System, the Maine  
Technical College System, the State Apprenticeship and Training  
Council, nonprofit local and regional agencies and other  
institutions and programs of government;

2. Placement. Encourage the University of Maine System,  
the Maine Technical College System and other institutions and  
programs to promote opportunities for educational placement for  
recipients who meet admission requirements;

3. Employment. Provide employment opportunities for those  
recipients who are unable to obtain employment on their own; and

4. Procedures. Establish procedures with the goal of  
ensuring that appropriate education and training support  
resources, jobs, grants-in-aid and scholarships are made  
available to eligible recipients and that recipients are employed  
during the period they receive public assistance.

#### §3790-F. Welfare Employment, Education and Training Program



2 1. Authorization. The Department of Labor or its successor  
3 is authorized to administer and operate, in cooperation with the  
4 Department of Human Services or its successor and the Department  
5 of Education or its successor, the Welfare Employment, Education  
6 and Training Program, in accordance with federal laws, any  
7 amendments and additions to those laws, and any regulations  
8 adopted under those laws.

10 2. Purpose. The purposes of the Welfare Employment,  
11 Education and Training Program are to use available educational,  
12 vocational, supportive and employment services within the State  
13 in order to ensure that recipients find and keep employment and,  
14 to the extent possible, to eliminate recipients' dependency on  
15 public assistance.

16 3. Assessment. The assessment for a registrant is as  
17 follows.

18 A. The assessment for each registrant must be accomplished  
19 through direct personal contact with one assigned  
20 caseworker. Each caseworker must be fully trained in the  
21 full range of services and benefits for which the recipient  
22 is eligible and that will move the recipient off of public  
23 assistance and enable self-sufficiency. The registrant  
24 shall participate fully in the assessment process and is  
25 required to work in order to qualify.

26 B. The caseworker shall identify work placements provided  
27 by public entities or nonprofit agencies that the recipient  
28 can perform in the event that the recipient is not able to  
29 find employment.

30 4. Employability plan. There must be an employability plan  
31 that sets forth the registrant's occupational goal and the  
32 manpower and supportive services necessary to reach that goal.  
33 The plan must be designed to lead to employment and ultimately to  
34 self-support. The registrant shall participate fully in the  
35 development of the plan. Resources of the Department of Human  
36 Services or its successor, the Department of Labor or its  
37 successor, the Department of Education or its successor and any  
38 other agency or program must be utilized in the development and  
39 goals of the plan.

40 5. Supportive services. Each registrant must receive the  
41 supportive and manpower services necessary to participate  
42 successfully in any education, training or employment program in  
43 accordance with the registrant's employability plan.

44 6. Education and training opportunities. In the  
45 development of the employability plan, all available education  
46 and training opportunities, including, but not limited to,  
47 opportunities available through use of funds other than those

2 available under the Welfare Employment, Education and Training  
3 Program must be considered.

4 7. Program waiver. After an assessment conducted pursuant  
5 to subsection 3 the assigned caseworker may elect to issue a  
6 waiver to a participant, which may permit the participant to  
7 receive benefits without participation in a work or education  
8 program. Waivers may be issued based on disability, family  
9 circumstances or other good cause. Waivers may be for a limited  
10 period or open ended and may be conditioned on participation in  
11 other programs. Waivers may not in any circumstances be issued  
12 to a recipient who fails to cooperate with an implementing agency  
13 or who intentionally does not fulfill the requirements of a work  
14 or education program.

### 16 §3790-G. Availability of funds

18 Nothing in this chapter may be construed to mean that any  
19 department, agency, institution or program is required to  
20 obligate or expend funds beyond existing funds available for  
21 these purposes.

### 22 §3790-H. Work incentive demonstration program

24 The Commissioner of Human Services or the successor agency  
25 head may implement a work incentive demonstration program under  
26 the United States Social Security Act, Title IV-C, Section 445,  
27 consistent with the requirements and intent of this chapter. No  
28 provision of this chapter may prevent the Department of Human  
29 Services or its successor from serving as the single state agency  
30 required under the United States Social Security Act, Title IV-C,  
31 Section 445(b)(1)(A) to administer a work incentive demonstration  
32 program.

## 34 **PART J**

36 Sec. J-1. 5 MRSA §12004-A, sub-§9-A, as amended by PL 1989, c.  
37 895, §20, is further amended to read:

40 9-A. Board of                   \$35/Day                   32 MRSA §13852  
41 Licensing Counseling   §13872  
42 Professionals Licensure.

44 This subsection is repealed October 1, 1990.

46 Sec. J-2. 5 MRSA §12004-A, sub-§38, as amended by PL 1989, c.  
47 450, §2, is repealed.

48 Sec. J-3. 5 MRSA §12004-A, sub-§41, as enacted by PL 1987, c.  
49 786, §5, is repealed.

52 Sec. J-4. 5 MRSA §12004-A, sub-§46 is enacted to read:

2        46. Board of Edu- Expenses        20-A MRSA  
3        ational Personnel Only            §13042  
4        Licensure

6        Sec. J-5. 5 MRSA c. 383, sub-c. I, as amended, is repealed.

8        Sec. J-6. 10 MRSA c. 901, as amended, is repealed.

10       Sec. J-7. 20-A MRSA cc. 501, 502 and 502-A; as amended, are  
12       repealed.

14       Sec. J-8. 20-A MRSA c. 502-B is enacted to read:

16                    CHAPTER 502-B

18                    BOARD OF EDUCATIONAL PERSONNEL LICENSURE

20                    SUBCHAPTER I

22                    GENERAL PROVISIONS

24        §13041. Definitions

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

30        1. Accredited educational institution. An "accredited  
32        educational institution" is an institution accredited by the  
34        National Association of State Directors of Teacher Education and  
36        Certification or the National Council for Accreditation of  
38        Teacher Education.

40        2. Board. "Board" means the Board of Educational Personnel  
42        Licensure.

44        3. College-level course. "College-level course" means any  
46        education class or program that includes at least 15 contact  
48        hours per credit.

50        4. Commissioner. "Commissioner" means the Commissioner of  
52        Labor and Commerce.

54        5. Department. "Department" means the Department of Labor  
56        and Commerce.

58        6. Provisional teacher license. "Provisional teacher  
60        license" is the entry-level license issued to an individual who  
62        has not previously taught in the State.

64        7. Professional teacher license. "Professional teacher  
66        license" is a renewable license issued to an individual who has

2        held a provisional license and has met the qualifications of  
4        section 13051.

6        8. Master teacher license. "Master teacher license" is a  
8        renewable license issued to an individual who has achieved  
10       additional professional standards in accordance with section  
12       13052.

14        §13042. Board of Educational Personnel Licensure; establishment;  
16        compensation

18        1. Establishment. The Board of Educational Personnel  
20        Licensure within the Department of Labor and Commerce as  
22        established by Title 5, section 12004-A, subsection 46, shall  
24        carry out the purposes of this chapter.

26        2. Members. The board consists of 10 members. Seven  
28        members are appointed by the Governor, one of whom must be a  
30        member of the public and 6 must be licensed teachers under this  
32        chapter. Three members, appointed by the Chancellor of the  
34        University of Maine System, must be representatives of the  
36        University of Maine System who as faculty provide training to  
38        teachers. Each nonpublic member must have been, for at least 5  
40        years immediately preceding appointment, actively engaged as a  
42        teacher or teacher trainer. The public member may not be  
44        currently employed in or receiving compensation for teaching.  
46        Each member must be a citizen of the United States and a resident  
48        of this State.

50        3. Timetable. The Governor and the Chancellor of the  
52        University of Maine System shall make initial appointments by  
54        January 1, 1993. The initial Governor's appointees, with the  
56        exception of the representative of the general public, must be  
58        licensed in accordance with this chapter following their  
60        appointment and qualification as members of the board. The board  
62        shall elect a chair and secretary at its first meeting of each  
64        year, provided that no person may serve as chair for more than 3  
66        years. The commissioner shall call the first meeting of the  
68        board, which must take place within 30 days of the completion of  
70        the appointments of the initial members.

72        4. Terms of office. Of the first board members, the  
74        Governor shall appoint 3 for a term of one year, 3 for a term of  
76        2 years, and one for a term of 3 years. Otherwise, board members  
78        must be appointed for a term of 3 years, except that any person  
80        chosen to fill a vacancy must be appointed only for the unexpired  
82        term of the board member replaced. Upon expiration of a board  
84        member's term, the board member shall continue to serve until a  
86        successor has been appointed and qualified.

88        5. Removal. The Governor may remove any member of the  
90        board for cause. The reason for the termination of each

2 appointment must be communicated to each member so terminated.  
3 The appointment of any member of the board must be terminated if  
4 a member is absent for 6 consecutive board meetings without good  
5 and just cause that is communicated to the chair.

6 6. Compensation. Members of the board are compensated  
7 according to the provisions of Title 5, chapter 379, provided  
8 that expenses do not exceed the fees collected by the board. If  
9 the fees to be collected under this chapter are insufficient to  
10 pay the expenses provided by this section, the board members are  
11 entitled to a pro rata payment in any years in which those fees  
12 are insufficient.

13 7. Meetings: quorum. The board shall hold at least 2  
14 regular meetings each year. Additional meetings may be held upon  
15 the call of the chair or secretary or upon the written request of  
16 any 2 board members. Five members of the board constitute a  
17 quorum.

18 **§13043. Powers and duties of the board**

19 The board and commissioner have the following powers and  
20 duties in addition to all other powers and duties otherwise set  
21 forth in this chapter.

22 1. Standards. The board shall administer and enforce this  
23 chapter, set forth education and examination standards and  
24 evaluate the qualifications for licensure.

25 2. Rules. The board may adopt, in accordance with the  
26 Title 5, chapter 375, rules necessary to carry out the purposes  
27 of this chapter.

28 3. Complaints. The board shall investigate or cause to be  
29 investigated all complaints made on its own motion or on written  
30 complaint filed with the board and all cases of noncompliance  
31 with or violation of this chapter or any rules adopted by the  
32 board.

33 4. Records. The board shall keep records and minutes as  
34 are necessary to the ordinary dispatch of its functions.

35 5. Reports. The board shall submit to the commissioner its  
36 annual report of its operations for the preceding fiscal year no  
37 later than August 1st of each year.

38 6. Contracts. The board may enter into contracts to carry  
39 out its responsibilities under this chapter.

40 7. Budget. The board shall submit to the commissioner its  
41 budgetary requirements in the same manner provided in Title 5,  
42 section 1665.

2 8. Employees. The commissioner may appoint, subject to the  
3 Civil Service Law, such employees as may be necessary to carry  
4 out this chapter. Any person so employed shall be in the  
5 department and under the administrative and supervisory direction  
6 of the commissioner.

7 9. Officers. The board shall elect from among its members  
8 officers as it determines necessary. The secretary shall keep  
9 records and minutes of all activities and meetings.

10 10. Code of ethics. The board shall adopt a code of ethics  
11 generally in keeping with standards established by the  
12 professional associations concerned with the areas of board  
13 responsibility.

14 11. Hearings. The board shall conduct hearings to assist  
15 with investigations and to determine whether grounds exist for  
16 suspension, revocation or denial of a license, or as otherwise  
17 determined necessary to the fulfillment of its responsibilities  
18 under this chapter.

19 The board may not refuse to renew a license for any reason other  
20 than failure to pay a required fee, unless it has afforded the  
21 licensee an opportunity for an adjudicatory hearing. The board  
22 shall hold an adjudicatory hearing at the written request of any  
23 person who is denied a license without a hearing for any reason  
24 other than failure to pay a required fee, provided that the  
25 request for a hearing is received by the board within 30 days of  
26 the applicant's receipt of a written notice of the denial of the  
27 application, the reasons for the denial and the right to request  
28 a hearing. Hearings must be conducted in conformity with Title  
29 5, chapter 375, subchapter IV, to the extent applicable.

30 12. Issue licenses. The board shall issue licenses as  
31 necessary to implement this chapter.

32 13. Examination. The board shall design and adopt an  
33 examination or other suitable criteria for establishing a  
34 candidate's knowledge, skill and experience. Any criteria  
35 adopted by the board for establishing a candidate's knowledge,  
36 skill and experience must be clearly defined, have an  
37 established baseline scoring procedure that is objectively  
38 measured, be in writing and be available to the public upon  
39 request.

40 **§13044. Licensing**

41 1. Mandatory licensing. Effective October 1, 1993, a  
42 person must be licensed under this chapter in order to:

2 A. Teach in any public elementary or secondary school in  
3 the State:

4 B. Teach in any private school receiving basic approval  
5 from the state board; or

6 C. Be compensated for work as an educational specialist or  
7 school administrator.

8 2. Penalty. A person not licensed under this chapter is  
9 barred from receiving any salary or fringe benefits if the person  
10 teaches or performs any other professional function in a public  
11 school and:

12 A. The person has never held the required license; or

13 B. The person knew or should have known that the person's  
14 license had expired. Prima facie evidence of that knowledge  
15 consists of records on file in either the department or the  
16 employing school administrative unit that the person was  
17 notified that the person's license had lapsed or that it  
18 would be lapsing on a given date.

19 The person shall forfeit to the employing school administrative  
20 unit any salary or fringe benefits received in violation of this  
21 subsection.

22 **§13045. List of persons licensed; records confidential**

23 1. Records. The board shall keep a list of licensees.  
24 This list is a public record. The board shall send copies of the  
25 list to school boards and superintendents on their request.

26 2. Records confidential. Transcripts, recommendations and  
27 other documents submitted in support of an application for  
28 licensure or collected by the department for verification of  
29 licensure and maintained by the board are confidential. These  
30 records may only be made available to the following:

31 A. School boards and superintendents;

32 B. Authorized personnel of the department in fulfilling  
33 assigned duties; and

34 C. Individuals and their representatives who request to  
35 examine their own records.

36 3. Complaints confidential. Complaints, charges or  
37 accusations made and investigated pursuant to section 13059,  
38 replies to those complaints, charges or accusations and any other  
39 information or materials that may result in action to deny,  
40 revoke or suspend licensure are confidential.

2 4. Duplication costs. Individuals requesting copies of  
3 their records bear the costs of copying them.

4 **§13046. Registration list furnished; fee**

5 1. Application. A person eligible to receive or holding  
6 any state education personnel license may register as a candidate  
7 for employment in the public schools on application to the board  
8 and payment of \$5. The board may prescribe the manner of the  
9 application.

10 2. Providing information. On request, the board shall  
11 furnish:

12 A. Information relative to registered persons to school  
13 boards or superintendents; and

14 B. Information relative to vacancies in positions in public  
15 schools to registered persons.

16 3. Responsibility of board. The board, or a member of the  
17 board, may not be held responsible for, nor be understood to  
18 vouch for, the fitness or success of a person who may secure a  
19 position in a public school through the operation of this  
20 section. The acceptance of this enrollment and the payment of  
21 the required fee may not be construed as a guarantee for securing  
22 employment in a school.

23 4. Fee. Payment of the fee entitles the person paying the  
24 fee to registration for one year.

25 **§13047. Comity; transition**

26 The board may waive examination for an applicant licensed or  
27 certified as a teacher, education specialist, or school  
28 administrator by another state whose requirements are determined  
29 by the board to be at least equivalent to those requirements in  
30 this chapter. Notwithstanding any other requirements of this  
31 chapter, a teacher who is eligible to hold a provisional teacher  
32 license pursuant to an interstate agreement authorized by chapter  
33 511, has at least 2 academic years of prior teacher experience  
34 outside the State and has taught for fewer than 2 years in Maine  
35 with a provisional teacher license may be awarded a professional  
36 teacher license, if recommended by the administrative unit's  
37 support system and if the teacher is otherwise determined to be  
38 eligible by the board.

39 Any person licensed, certified or registered under former  
40 chapter 501, 502 or 502-A is, upon the effective date of this  
41 chapter, automatically licensed, certified or registered under  
42 this chapter for the remainder of the time the person would have

2 been licensed, certified or registered without renewal under  
3 former chapter 501, 502 or 502-A. Any initial license,  
4 certificate or registration application or license, certificate  
5 or registration renewal or reinstatement proceeding pending under  
6 former chapter 501, 502 or 502-A upon the effective date of this  
7 chapter is governed by this chapter.

8 **§13048. Licensure fee; disposition of fees**

10 1. Fees. The board shall assess fees for initial teacher,  
11 education specialist and administrator licenses and for the  
12 renewal of inactive provisional and professional teacher,  
13 education specialist and administrator licenses. The fee is \$50  
14 for the initial licensing process for those teachers and  
15 education specialists found eligible and those found ineligible.  
16 A renewal fee of \$50 must be assessed for each inactive teacher  
17 and education specialist. The fee is \$100 for the initial  
18 licensing process for those administrators found eligible and  
19 those found ineligible. A renewal fee of \$100 must be assessed  
20 for each inactive administrator.

22 2. Accounting. The board shall:

24 A. Collect and account for all licensure fees; and

26 B. Report and apply these fees to the Treasurer of State to  
27 be credited to the General Fund.

28 **SUBCHAPTER II**

30 **LICENSURE OF EDUCATIONAL PERSONNEL**

32 **§13049. General authorization**

34 1. Licensure rules. All licenses issued or revoked after  
35 October 1, 1993 must be issued or revoked in accordance with this  
36 chapter. The board shall adopt rules prior to June 1, 1993 to  
37 carry out the purposes of this chapter under which the board  
38 shall:

40 A. License teachers and other professional personnel for  
41 service in a public school or in an approved private school;

43 B. License adult education teachers and other teaching and  
44 professional personnel in publicly supported educational  
45 programs other than postsecondary institutions, colleges and  
46 universities; and

48 C. Approve the employment of teacher aides, teacher  
49 assistants and other semiprofessional personnel for service  
50 in schools.

2 2. Health and moral character. Rules adopted by the board  
3 under this chapter must require that an applicant for licensure  
4 furnish evidence of good moral character and knowledge of  
5 physiology and hygiene, with special reference to the effects of  
6 alcohol, stimulants and narcotics upon the human system.

8 3. Teacher licenses. Board rules must recognize at least 3  
9 categories of teacher license as identified in sections 13050 to  
10 13052.

12 4. Appeal. An applicant who has been denied issuance or  
13 renewal of a license by the board under this chapter may appeal  
14 that denial in accordance with rules established by the board and  
15 consistent with Title 5, chapter 375.

16 5. Administrator licenses. The board rules must establish  
17 qualifications for licensing superintendents of schools,  
18 principals and directors of vocational education and must also  
19 establish qualifications for such other licenses for  
20 administrators as may be determined to be necessary and  
21 beneficial for the efficient operation of the schools.

22 6. Alternative license. The board shall promote existing  
23 alternative licensing requirements and procedures for  
24 administrator licensing and make changes necessary to facilitate  
25 this process.

28 **§13050. Provisional teacher license**

30 1. Qualifications. Board rules governing the  
31 qualifications for a provisional teacher license must require  
32 that a license may only be issued to an applicant who at a  
33 minimum:

34 A. For elementary school, has met any academic and  
35 preprofessional requirements established by the board for  
36 teaching at the elementary school level and has graduated  
37 from an accredited educational institution upon completion  
38 of:

40 (1) A 4-year program in liberal arts and sciences; or

42 (2) An approved 4-year teacher preparation program and  
43 has majored in the subject area to be taught or an  
44 interdisciplinary program in liberal arts;

46 B. For secondary school, has met any academic and  
47 preprofessional requirements established by the board for  
48 teaching at the secondary level and has graduated from an  
49 accredited educational institution upon completion of:

50 (1) A 4-year program in liberal arts and sciences; or  
51 (2) A 4-year program in liberal arts and sciences; or

2 (2) An approved 4-year teacher preparation program and  
4 has majored in the subject area to be taught; or

6 C. Is otherwise qualified by having met separate  
8 educational criteria for specialized teaching areas  
10 including, but not limited to, special education, home  
12 economics, agriculture, vocational education, art, music,  
14 business education, physical education and industrial arts,  
16 as established by the state board for teaching in these  
18 specialized areas.

20 2. Endorsements. The provisional teacher license must be  
22 issued with an endorsement that specifies the grades and subject  
24 area that the teacher is qualified to teach. The state board  
26 shall by rule establish the criteria for assessing teacher  
28 proficiency and subject matter competency for the provisional  
30 license. A holder of a provisional teacher license may not teach  
32 outside of the area of endorsement unless the holder has received  
34 a waiver from the commissioner in accordance with board rules.  
36 These endorsements do not apply to teachers in private schools  
38 approved for attendance purposes only.

40 3. Two-year limit. The provisional teacher license is  
42 issued for a 2-year period and may only be renewed in accordance  
44 with section 13054.

46 4. Qualifying examinations. The provisional teacher  
48 license may only be issued to those applicants who have taken the  
50 teacher qualifying examinations set forth in subchapter III.

#### 52 §13051. Professional teacher license

54 1. Qualifications. Board rules governing the  
56 qualifications for a professional teacher license must require  
58 that the license may only be issued to an applicant who, at a  
60 minimum:

62 A. Holds a provisional teacher license or has held a  
64 professional teacher license that has expired within the  
66 last 5 years;

68 B. Taught in a classroom for 2 academic years; and

70 C. Received a recommendation to the superintendent and  
72 commissioner by an approved support system, pursuant to  
74 section 13053.

76 2. Endorsements. The professional teacher license must be  
78 issued with an endorsement that specifies the grades and subject  
80 area that the teacher is qualified to teach. A holder of a  
82 professional teacher license may not teach outside the area of

2 endorsement unless the holder has received a waiver from the  
4 board in accordance with board rules.

6 3. Five-year license. A professional teacher license is  
8 issued for a 5-year period and may be renewed in accordance with  
10 section 13054.

#### 12 §13052. Master teacher license

14 1. Qualifications. Board rules governing the  
16 qualifications for a master teacher license must require that the  
18 license may only be issued to an applicant who, at a minimum:

20 A. Possesses a professional teacher license;

22 B. Has demonstrated exemplary professional skills in  
24 classroom instruction and who may have additionally  
26 contributed to the profession in such areas as:

28 (1) Curriculum development;

30 (2) Teacher in-service training and effective staff  
32 development; or

34 (3) Student teacher supervision; and

36 C. Has obtained the support system's positive  
38 recommendation based on the contents of a teacher action  
40 plan pursuant to section 13053.

42 2. Endorsements. The holder of a master teacher license  
44 must possess, at a minimum, the endorsements held under the  
46 professional license.

48 3. Five-year license. A master teacher license is issued  
50 for a 5-year period and may be renewed in accordance with section  
52 13054.

#### 54 §13053. Support system

56 1. Employment. No public or private school approved for  
58 tuition purposes under section 2901, subsection 2, paragraph B,  
60 may employ a provisional teacher unless it has an approved,  
62 locally designed, support system or has received specific  
64 authorization from the state board.

66 2. Purpose. The purpose of an approved support system is  
68 to:

70 A. Provide strong support services for developing good  
72 teaching and classroom management skills to teachers with  
74 provisional licenses;

2 B. Provide assistance and review to all individuals who are  
4 candidates for a higher level license; and

6 C. Assist all teachers in becoming better teachers.

8 This support system is separate from local practices and  
10 procedures regarding the supervision and evaluation of a teacher  
12 for retention by an administrative unit.

14 3. Approval. Each administrative unit's support system is  
16 subject to approval by the state board in accordance with rules  
18 adopted by the state board. The rules must require, at a  
20 minimum, that an approved support system include the following:

22 A. A majority of classroom teachers, including a master  
24 teacher, if available, and other personnel such as  
26 administrators, personnel from the state board or  
28 institutions of higher education and other outside  
30 consultants as the state board may approve;

32 B. A description of the duties and responsibilities of the  
34 support system in the preparation of a teacher action plan  
36 for both provisional teachers and applicants for master  
38 teacher licenses;

40 C. A description of the duties of the master teacher  
42 responsible for the design and coordination of a teacher  
44 action plan; and

46 D. A description of any current or planned linkages the  
48 support system has or will have with institutions of higher  
50 education, department personnel and members of the public in  
52 the operation of its support system.

4. Teacher action plan. A teacher action plan is developed  
by the support system in consultation with the teacher who is the  
subject of the plan. The teacher action plan must describe the  
specific skills that must be developed and improved by the  
teacher, as well as any other requirements, which may include  
additional professional graduate and advanced study, in order  
that the teacher may achieve a positive recommendation to receive  
a higher level of license. A teacher action plan must contain  
the basis for the positive or negative recommendation of a  
support system as to whether a teacher is granted a professional  
teacher license or a master teacher license as applicable.

**§13054. Renewal of teacher licenses**

Teacher licenses issued in accordance with this chapter may  
be renewed pursuant to board rules that must include, but are not  
limited to the following.

2 1. Provisional teacher license. A provisional teacher  
4 license is not renewable except for the following:

6 A. Teachers employed in private schools approved for  
8 attendance purposes only;

10 B. Unemployed teachers who apply to renew their licenses  
12 during periods of unemployment so long as they have been  
14 employed for less than 2 consecutive school years while  
16 holding a provisional teacher license;

18 C. Notwithstanding paragraphs A and B, the board may grant  
20 an extension for not more than 2 years based on:

22 (1) The recommendation of the superintendent;

24 (2) The recommendation of the support system that  
26 includes a teacher action plan describing the goals to  
28 be met by the teacher to achieve a professional  
30 license, specific steps needed to achieve those goals  
32 and criteria for measuring whether those steps have  
34 been successfully completed; and

36 (3) A fact-finding hearing held by the board if there  
38 is an inconsistency between the recommendations in  
40 subparagraphs (1) and (2). At that hearing the teacher  
42 action plan, superintendent's recommendations and  
44 support system recommendations must be presented. With  
46 the consent of the teacher the hearing may be open to  
48 the public; and

D. Notwithstanding paragraphs A, B and C, on a case-by-case  
basis to be determined by the commissioner on the basis of  
documented hardship or other extraordinary circumstances as  
set forth in board rules.

2 2. Professional teacher license. A professional teacher  
4 license may be renewed for a 5-year period in accordance with  
6 board rules that must require, at a minimum, a recommendation of  
8 a support system and that the teacher complete at least 6 hours  
10 of professional or academic study, or in-service training  
12 designed to improve the performance of the teacher in the field  
14 for which the teacher holds an endorsement, or in a related  
16 subject area. Teachers who desire to qualify for a master  
18 teacher license shall coordinate their continuing professional  
20 education with the requirements of an applicable teacher action  
22 plan.

24 3. Master teacher license. A master teacher license may be  
26 renewed for a 5-year period in accordance with board rules that  
28 must require, at a minimum, that the master teacher has obtained  
30

2 a recommendation of the support system that the master teacher  
3 has maintained a high level of professional teacher skills. If  
4 the holder of a master teacher license fails to maintain master  
5 teacher skills or chooses not to seek a renewal of the master  
6 teacher license, the teacher is deemed to hold a professional  
7 teacher license and shall meet the requirements for its renewal.

8 **§13055. Visiting teacher permit**

10 A visiting teacher permit is designed to allow those who do  
11 not intend to enter the teaching profession full time to offer  
12 their special expertise to schools. The visiting teacher shall  
13 act as an adjunct to existing staff and may not be used to avoid  
14 the hiring of professional, licensed teachers. A visiting  
15 teacher permit must be issued for a limited period in accordance  
16 with board rules.

18 **§13056. Superintendent license**

20 1. Initial license. A superintendent's license is the  
21 license required for employment as a superintendent of a school  
22 administrative unit in the State. Board rules must require that  
23 qualifications for the license include the following:

24 A. Evidence of at least 3 years of satisfactory teaching  
25 experience in schools or equivalent experience;

26 B. Evidence of previous administrative experience in  
27 schools or equivalent experience;

28 C. Academic and professional knowledge as demonstrated  
29 through the completion of required graduate or undergraduate  
30 courses or programs, performance in examinations or  
31 completion of specialized programs approved for this purpose;

32 D. A basic level of knowledge in the following areas:  
33 community relations, school finance and budget, supervision  
34 and evaluation of personnel, federal and state civil rights  
35 and education laws, organizational theory and planning,  
36 educational leadership, educational philosophy and theory,  
37 effective instruction, curriculum development, staff  
38 development, cultural differences and discriminatory and  
39 nondiscriminatory hiring practices and other competency  
40 areas as determined by board rules; and

41 E. Satisfactory completion of an approved internship or  
42 practicum related to the duties of a superintendent.

43 2. License renewal. A superintendent's license is limited  
44 to 5 years and may be renewed based on further approved study or  
45 demonstrated professional growth and improvement through an  
46 approved administrator action plan in accordance with board rule.

2 **§13057. Principal license**

4 1. Initial license. A principal's license is the license  
5 required for employment as principal of a public school and as  
6 chief administrator of a private school approved for attendance  
7 purposes pursuant to section 2901, subsection 2, paragraph B.  
8 Board rules must require that qualifications for the license  
9 include the following:

10 A. Three years of satisfactory teaching experience or an  
11 equivalent relevant experience;

12 B. Academic and professional knowledge as demonstrated  
13 through the completion of graduate or undergraduate courses  
14 or programs, performance in examinations or completion of  
15 specialized programs approved for this purpose;

16 C. A basic level of knowledge in the following areas:  
17 community relations, school finance and budget, supervision  
18 and evaluation of personnel, federal and state civil rights  
19 and education laws, organizational theory and planning,  
20 educational leadership, educational philosophy and theory,  
21 effective instruction, curriculum development, staff  
22 development, cultural differences and discriminatory and  
23 nondiscriminatory hiring practices and other competency  
24 areas as determined by board rules; and

25 D. Satisfactory completion of an approved internship or  
26 practicum in the duties of a principal.

27 2. License renewal. A principal's license is limited to 5  
28 years and may be renewed based on further approved study or  
29 demonstrated professional growth and improvement through an  
30 approved administrator action plan in accordance with board rules.

32 **§13058. Director of vocational education license**

34 1. Initial license. A director of vocational education  
35 license is required of each director of a vocational region or  
36 center established pursuant to this Title and of a vocational  
37 program in an approved school. Board rules must require that  
38 qualifications for the license include the following:

39 A. Three years of satisfactory experience in teaching or  
40 vocational training or an equivalent experience;

41 B. Academic and professional knowledge as demonstrated  
42 through the completion of graduate or undergraduate courses  
43 or programs, performance in examinations or completion of  
44 specialized programs approved for this purpose;



2 C. A basic level of knowledge in the following areas:  
3 community relations, school finance and budget, supervision  
4 and evaluation of personnel, federal and state civil rights  
5 and education laws, organizational theory and planning,  
6 educational leadership, educational philosophy and theory,  
7 effective instruction, curriculum development, staff  
8 development and other competency areas as determined by  
9 board rules; and

10 D. Satisfactory completion of an approved internship or  
11 practicum in the duties of a director of vocational  
12 education.

13 2. License renewal. A license issued under this section is  
14 limited to 5 years and may be renewed based on further graduate  
15 study or demonstrated professional growth and improvement through  
16 an approved administrator action plan in accordance with board  
17 rules.

18 **§13059. Revocation or suspension of licensure**

19 1. General. The board's rules must specify the procedure  
20 to be followed in seeking the revocation or suspension of a  
21 license.

22 2. Grounds. The board may suspend, revoke or refuse to  
23 renew a license pursuant to Title 5, section 10004. In addition,  
24 the board may take any other action pursuant to Title 10, section  
25 8003, subsection 5. The board's actions may be taken based on  
26 any of the following grounds:

27 A. Evidence that a person has injured the health or welfare  
28 of a child through physical or sexual abuse or  
29 exploitation. Notwithstanding Title 5, chapter 341, a  
30 certified court record that a person licensed under this  
31 Title was convicted in any state or federal court of a  
32 criminal offense involving the physical or sexual abuse or  
33 exploitation of a child within the previous 5 years is  
34 sufficient grounds for revocation or suspension of that  
35 person's license;

36 B. The practice of fraud or deceit in obtaining a license  
37 or in registering under this chapter or in connection with  
38 service rendered within the scope of the license issued;

39 C. Habitual intemperance in the use of alcohol or the  
40 habitual use of narcotic, hypnotic or other drugs listed as  
41 controlled substances by the drug enforcement  
42 administration, which use has resulted in the licensee being  
43 unable to perform duties or perform those duties in a manner  
44 that would endanger the health or safety of the children to  
45 be served;

2 D. A medical finding of incompetency;

3 E. The licensee has had any professional or occupational  
4 license revoked for disciplinary reasons, or any application  
5 rejected for reasons related to untrustworthiness, within 3  
6 years of the date of application; or

7 F. Violation of any provisions of this chapter or any rule  
8 of the board.

9 3. Procedure. Except as provided in Title 5, section  
10 10004, a license may not be denied, suspended or revoked nor  
11 renewal refused for the reasons set forth in subsection 2 without  
12 prior written notice and opportunity for hearing on that denial,  
13 suspension or revocation. The burden of proof is on the board in  
14 any proceeding to suspend or revoke a license. A license may not  
15 be denied, suspended or revoked under this section except by  
16 majority vote of the board.

17 4. Complaints. Any person may file a complaint with the  
18 board seeking disciplinary action against the holder of a license  
19 issued by the board. Complaints must be in writing in a form  
20 prescribed by the board by rule. If the board determines that a  
21 complaint alleges facts that, if true, would require denial,  
22 revocation, suspension, nonrenewal of a license or other  
23 disciplinary action, the board shall conduct a hearing pursuant  
24 to Title 5, chapter 375. Whenever the board establishes that a  
25 complaint does not state facts that warrant a hearing, the  
26 complaint may be dismissed. Persons making complaints must be  
27 advised in writing of each formal decision made by the board  
28 regarding that complaint.

29 Any individual whose license has been denied, suspended or  
30 revoked may apply to the board for licensure reinstatement one  
31 year after the date of the board's original action. A competency  
32 review must be a condition of reinstatement. The board shall  
33 determine the nature of this review.

34 The board shall conduct its proceedings in accordance with the  
35 provisions of Title 5, chapter 375, subchapter IV.

36 **§13060. Denial of licensure**

37 Evidence that an applicant for initial licensure or renewal  
38 has injured the health or welfare of a child through physical or  
39 sexual abuse or exploitation is grounds for a denial of a  
40 license. Notwithstanding Title 5, chapter 341, every person who,  
41 within 5 years of the application for initial license or renewal,  
42 has been convicted in any state or federal court of a criminal  
43 offense involving the physical or sexual abuse or exploitation of  
44 a child may be presumed by the board to lack good moral character

2 for the purposes of this chapter. This presumption is a  
3 rebuttable presumption. Notwithstanding Title 5, chapter 341,  
4 the board may consider all records of prior criminal convictions  
5 involving child abuse or exploitation in determining an  
6 applicant's eligibility for a license.

7 **§13061. Reinstatement of licensure**

8 Revoked licenses may only be reinstated in accordance with  
9 board rules. The following provisions govern the reinstatement  
10 of any license revoked for reasons of child abuse or exploitation.

11 1. Time period. Notwithstanding Title 5, chapter 341, a  
12 license revoked for reasons of child abuse or exploitation may  
13 not be reinstated within 5 years of the revocation and in no case  
14 less than 3 years from the expiration or parole or discharge from  
15 imprisonment for a criminal conviction involving child abuse or  
16 exploitation.

17 2. Rehabilitation. In determining whether a license may be  
18 reinstated, the board shall determine whether the applicant has  
19 been sufficiently rehabilitated to warrant the public trust. The  
20 applicant must be required to demonstrate sufficient evidence of  
21 rehabilitation, notwithstanding Title 5, chapter 341, and the  
22 board shall state in writing the basis for any decision that  
23 denies reinstatement of a license.

24 3. Denial. Denial of reinstatement pursuant to subsection  
25 2 may be appealed.

26 **§13062. Periodic review**

27 The board shall review teacher and administrator licensure  
28 standards every 6 years and report the results to the Legislature  
29 along with any proposed legislation.

30 **SUBCHAPTER III**

31 **QUALIFYING EXAMINATIONS FOR INITIAL TEACHERS**

32 **§13063. Purpose**

33 The Legislature declares that the purpose of this subchapter  
34 is to establish standardized qualifying examinations for the  
35 persons seeking provisional teacher certificates to teach in the  
36 State.

37 **§13064. Qualifying examination**

38 The provisional teacher license may only be issued to those  
39 applicants who have taken the teacher qualifying examinations.  
40 The examinations may be administered in separate parts and may be

41 taken by applicants for provisional teacher licenses at any time  
42 after completion of the sophomore year of attendance at a  
43 postsecondary higher education institution. The examinations  
44 must test the applicant in the following areas:

45 1. Communication skills. Communication skills, which  
46 include listening, reading and writing;

47 2. General knowledge. General knowledge, which includes  
48 concepts from a variety of disciplines, including literature and  
49 fine arts, mathematics, science and social studies; and

50 3. Professional knowledge. Professional knowledge, which  
51 focuses on the knowledge and cognitive processes the teacher uses  
52 in decision-making, with emphasis on how those processes will be  
53 applied in the classroom. The applicant is responsible for the  
54 costs associated with taking the teacher qualifying examinations.

55 **§13065. Scores**

56 The score on the teacher qualifying examinations becomes  
57 part of a teacher's licensure records. These records are  
58 confidential to the extent authorized under section 13045.

59 An applicant is not eligible to receive a provisional  
60 teaching license unless the applicant has received a minimum  
61 qualifying score on the teacher qualifying examinations. The  
62 minimum qualifying score must be determined by the board.

63 An applicant must be informed of the results of the  
64 qualifying examinations and has the right to retake the  
65 examinations in whole or in part.

66 **Sec. J-7. 26 MRSA c. 19, as amended, is repealed.**

67 **Sec. J-8. 26 MRSA c. 19-A is enacted to read:**

68 **CHAPTER 19-A**

69 **DEPARTMENT OF LABOR AND COMMERCE**

70 **§1403. Definitions**

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

73 1. Commissioner. "Commissioner" means the Commissioner of  
74 Labor and Commerce.

75 2. Department. "Department" means the Department of Labor  
76 and Commerce.

3. Director. "Director" means the administrative head of a bureau, regardless of the title assigned to the position.

**§1404. Department of Labor and Commerce established; responsibilities**

The department is established as the principal labor and business department of State Government. On July 1, 1993, the department shall assume the responsibilities enumerated in this section.

**1. Labor services.** The department shall:

A. Achieve the most effective utilization of the employment and training resources of the State by developing and maintaining an accountable state employment training policy;

B. Ensure safe working conditions and protect against loss of income; and

C. Enhance opportunities of individuals to improve their economic status.

**2. Commerce services.** The department shall:

A. Regulate financial institutions, insurance companies and commercial sports;

B. License and regulate professions and occupations;

C. Provide programs that encourage business investment, business assistance and industrywide assistance and market development; and

D. Provide assistance to independent agencies that promote statewide economic development.

**§1405. Commissioner appointment**

The department is under the supervision and control of the commissioner who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over state government matters and to confirmation by the Senate. The commissioner serves at the pleasure of the Governor.

**§1406. Provision of services**

The department and its subunits shall, in achieving the purposes for which they are established, work closely with all state departments and agencies to provide services promptly and in a cooperative manner.

**§1407. Powers and duties of commissioner**

**1. Deputy; assistant.** The commissioner may appoint a deputy commissioner who shall perform the duties of the commissioner during the commissioner's absence, in addition to the deputy commissioner's regular duties. The commissioner may appoint and employ an assistant to the commissioner to be under the commissioner's immediate supervision, direction and control who serves at the commissioner's pleasure and shall perform such duties as the commissioner prescribes, except as otherwise provided by law.

**2. Other employees.** The commissioner may employ such other deputies, directors and assistants as necessary, subject to the Civil Service Law, except that the superintendents of banking and insurance are nominated by the commissioner and are subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters and to confirmation by the Senate.

In the event of a vacancy in the office of the commissioner because of death, resignation, removal from office or other cause, the various directors, deputies, assistants and other employees shall continue in office and perform their assigned duties until the vacancy is filled by the appointment and qualification of a new commissioner.

**3. Duties.** Commencing on July 1, 1993, the commissioner shall:

A. Serve as the principal aide to the Governor on labor and commerce matters;

B. Supervise and direct the activities of the various bureaus, commissions, councils and boards designated by law to be under the department;

C. Prepare a budget for the department;

D. Appoint, to serve at the commissioner's pleasure, the:

(1) Deputy Commissioner of Labor and Commerce;

(2) Assistant to the Commissioner of Labor and Commerce;

(3) Director of the Bureau of Business;

(4) Director of the Bureau of Labor Standards;

(5) Director of the Bureau of Unemployment Security;

2 (6) Executive Secretary of the Maine Occupational  
4 Information Coordinating Committee;

6 (7) Director of the Bureau of Employment and Training  
8 Programs;

10 (8) Director of the Bureau of Administrative Services;  
12 and

14 (9) Director of the Bureau of Licensing and  
16 Enforcement;

18 E. Coordinate the purchase and use of all department  
20 equipment; and

22 F. Exercise other powers and perform other duties as  
24 designated by law.

26 4. Interim authority limited. Notwithstanding the  
28 establishment of the department in this chapter, the commissioner  
30 may not undertake the administration of programs or services  
32 under section 1408 and currently administered by the Department  
34 of Labor; the Department of Economic and Community Development;  
36 the Department of Professional and Financial Regulation; or the  
38 Department of Agriculture, Food and Rural Resources until July 1,  
40 1993.

42 **§1408. Department organization**

44 The commissioner shall organize the department in the  
46 following manner.

48 1. Bureaus. The commissioner shall organize the department  
50 into bureaus, each with a director, as follows:

A. The Bureau of Unemployment Security, the chief of which  
is the Director of the Bureau of Unemployment Security;

B. The Bureau of Labor Standards, the chief of which is the  
Director of the Bureau of Labor Standards;

C. The Bureau of Employment and Training Programs, the  
chief of which is the Director of the Bureau of Employment  
and Training Programs;

D. The Bureau of Administrative Services, the chief of  
which is the Director of the Bureau of Administrative  
Services;

2 E. The Bureau of Licensing and Enforcement; the chief of  
4 which is the Director of the Bureau of Licensing and  
6 Enforcement;

8 F. The Bureau of Banking, the chief of which is the  
10 Superintendent of Banking;

12 G. The Bureau of Insurance, the chief of which is the  
14 Superintendent of Insurance; and

16 H. The Bureau of Business, the chief of which is the  
18 Director of the Bureau of Business.

20 2. Commissions. The department includes the following  
22 commissions:

24 A. The Maine Unemployment Insurance Commission;

26 B. The Mandated Benefits Advisory Commission;

28 C. The Maine Athletic Commission;

30 D. The Real Estate Commission;

32 E. The Maine State Pilotage Commission;

34 F. The Maine Milk Commission; and

36 G. The Maine Blueberry Commission.

38 3. Councils. The department includes the following  
40 councils:

42 A. The Human Resources Development Council.

44 4. Boards. The department includes the following boards:

46 A. State Board of Registration of Architects and Landscape  
48 Architects;

50 B. State Board of Cosmetology;

52 C. Board of Dental Examiners;

D. Board of Registration in Medicine;

E. State Board of Nursing;

F. Board of Optometric Examiners;

G. Board of Osteopathic Examination and Registration;

2 H. Board of Examiners of Podiatrists:  
4 I. Board of Registration for Professional Engineers:  
6 J. Arborist Examining Board:  
8 K. Board of Licensing of Auctioneers:  
10 L. Board of Barbering and Cosmetology:  
12 M. Board of Commercial Driver Education:  
14 N. Board of Licensing of Dietetic Practice:  
16 O. Electricians' Examining Board:  
18 P. State Board of Licensure for Professional Foresters:  
20 Q. State Board of Funeral Service:  
22 R. State Board of Certification for Geologists and Soil  
Scientists:  
24 S. Board of Hearing Aid Dealers and Fitters:  
26 T. Manufactured Housing Board:  
28 U. Nursing Home Administrators Licensing Board:  
30 V. Board of Occupational Therapy Practice:  
32 W. Oil and Solid Fuel Board:  
34 X. Board of Examiners in Physical Therapy:  
36 Y. Plumbers' Examining Board:  
38 Z. Radiologic Technology Board of Examiners:  
40 AA. Board of Respiratory Care Practitioners:  
42 BB. Board of Examiners on Speech Pathology and Audiology:  
44 CC. State Board of Veterinary Medicine:  
46 DD. Acupuncture Licensing Board:  
48 EE. Board of Directors of the Profession of Pharmacy:  
50 FF. Board of Licensure for Professional Land Surveyors:

2 GG. Maine State Board for Licensure of Architects and  
Landscape Architects:  
4 HH. Board of Chiropractic Examination and Registration:  
6 II. Board of Licensure of Railroad Personnel:  
8 JJ. Board of Licensing Counseling Professionals:  
10 KK. Board of Real Estate Appraisers; and  
12 LL. Maine Potato Board.  
14 5. Independent agencies; affiliation. The commissioner  
shall closely coordinate the activities of the department with  
those of the following independent agencies:  
18 A. Maine World Trade Association;  
20 B. Finance Authority of Maine;  
22 C. Maine Tourism Commission;  
24 D. Small Business Commission; and  
26 E. Maine Science and Technology Commission.  
28 Sec. J-9. 32 MRSA cc. 81, 83 and 119, as amended, are repealed.  
30 Sec. J-10. 32 MRSA c. 119-A is enacted to read:  
32 CHAPTER 119-A  
34 COUNSELING PROFESSIONALS  
36 SUBCHAPTER I  
38 GENERAL PROVISIONS  
40 §13871. Definitions  
42 As used in this chapter, unless the context otherwise  
indicates, the following terms have the following meanings.  
44 1. Accredited educational institution. An "accredited  
educational institution" is an institution accredited by the  
Council on Social Work Education.  
46 2. Associate substance abuse counselor. "Associate  
substance abuse counselor" means a practitioner who provides the  
primary service of professional substance abuse counseling to the

2 public for a fee, monetary or otherwise, who does not engage in  
3 private practice and who meets the criteria established in  
4 subchapter III for an associate substance abuse counselor.

6 3. Board. "Board" means the Board of Licensing Counseling  
7 Professionals.

8 4. Certified social worker independent practice. A  
9 "certified social worker independent practice" is a person who  
10 was licensed as a certified social worker and permitted to engage  
11 in the independent practice of social work pursuant to former  
12 section 7052, before January 1, 1985.

14 5. Clinical professional counselor. "Clinical professional  
15 counselor" means a professional counselor who renders or offers  
16 to render for a fee, monetary or otherwise, to individuals,  
17 families, groups, organizations or the general public, a  
18 counseling service involving the application of the principles  
19 and procedures of counseling to assess and treat intrapersonal  
20 and interpersonal problems and other dysfunctional behaviors and  
21 to assist in the overall development and adjustment of those  
22 served.

24 6. Clinical setting. A "clinical setting" is a setting  
25 where mental disorders are evaluated, prevented, diagnosed and  
26 treated using psychosocial evaluation.

28 7. College level course. "College level course" means any  
29 education class or program that includes at least 15 contact  
30 hours per credit.

32 8. Commissioner. "Commissioner" means the Commissioner of  
33 Labor and Commerce.

34 9. Conditional license. "Conditional license" means a  
35 license granted to an applicant for licensure who has met all the  
36 requirements defined in section 13882, except for supervised  
37 experience.

40 10. Consumer of substance abuse services. A "consumer of  
41 substance abuse services" is a person affected by or recovering  
42 from alcoholism or other drug abuse.

44 11. Counselor. "Counselor" means an individual who for a  
45 fee, monetary or otherwise, engages in any of the procedures of  
46 counseling defined in subsection 23.

48 12. Department. "Department" means the Department of Labor  
49 and Commerce.

50 13. Inactive substance abuse counselor. "Inactive  
51 substance abuse counselor" means a licensed, certified or

2 registered substance abuse counselor who registers with the board  
3 for a leave from the field for a period not to exceed 2 years.  
4 Inactive substance abuse counselors are not required to take the  
5 written or oral examinations nor to provide documentation of  
6 continuing education during the period they have abstained from  
7 practice. Inactive substance abuse counselors must notify the  
8 board for license renewal prior to resuming their practice.

10 14. Licensed clinical social worker. A "licensed clinical  
11 social worker" is a person who has received a license as a  
12 clinical social worker from the board.

14 15. Licensed master social worker. A "licensed master  
15 social worker" is a person who has received a license as a master  
16 social worker from the board.

18 16. Licensed social worker. A "licensed social worker" is  
19 a person who has received a license as a licensed social worker  
20 from the board.

22 17. Licensed substance abuse counselor. "Licensed  
23 substance abuse counselor" means an individual who is providing  
24 the service of professional substance abuse counseling to the  
25 public for a fee, monetary or otherwise, and who meets the  
26 criteria established in subchapter III for a licensed substance  
27 abuse counselor.

28 18. Marital and family therapy services. "Marital and  
29 family therapy services" means the assessment and treatment of  
30 intrapersonal and interpersonal problems through the application  
31 of principles, methods and therapeutic techniques for the purpose  
32 of resolving emotional conflicts, modifying perceptions and  
33 behavior, enhancing communication and understanding among all  
34 family members, and preventing family and individual crises.

36 19. Marriage and family therapist. "Marriage and family  
37 therapist" means a person who renders or offers to render for a  
38 fee, monetary or otherwise, marital and family therapy services.

40 20. Nonprovider. A "nonprovider" means an individual who  
41 neither is presently nor has been any of the following for the  
42 past 3 years:

44 A. A counselor;

46 B. An administrator or board member of a facility or  
47 program that provides counseling services; or

48 C. The spouse of any of those persons listed in paragraphs  
49 A and B.

2 21. Pastoral counselor. "Pastoral counselor" means an  
4 individual who is trained and certified to provide for a fee,  
6 monetary or otherwise, pastoral counseling, which is ministry to  
8 individuals, families, couples, groups, organizations and the  
10 general public involving the application of principles and  
12 procedures of counseling to assess and treat intrapersonal and  
14 interpersonal problems and other dysfunctional behavior of a  
16 social and spiritual nature, and to assist in the overall  
18 development and healing process of those served.

20 22. Private practice. "Private practice" is practicing  
22 counseling or social work on a self-employed basis.

24 23. Procedures of counseling. "Procedures of counseling"  
26 means methods and techniques that include, but are not limited to  
28 the following.

30 A. "Assessment" means selecting, administering and  
32 interpreting instruments designed to assess personal,  
34 interpersonal and group characteristics.

36 B. "Consulting" means the application of scientific  
38 principles and procedures in counseling to provide  
40 assistance in understanding and solving a current or  
42 potential problem that the client may have in relation to a  
44 3rd party, be it an individual, family, a group or an  
46 organization.

48 C. "Counseling" means assisting individuals, families or  
50 groups through a counseling relationship to develop  
52 understanding of intrapersonal and interpersonal problems,  
2 to define goals, to make decisions, to plan a course of  
4 action reflecting their needs, and to use information and  
6 community resources, as these procedures are related to  
8 personal, social, educational and vocational development.

10 D. "Referral" means the evaluation of information to  
12 identify needs or problems of the counselee and to determine  
14 the advisability of referral to other specialists, informing  
16 the counselee of that judgment, and communicating as  
18 requested or considered appropriate with referral sources.

20 24. Professional counselor. "Professional counselor" means  
22 a person who for a fee, monetary or otherwise, renders or offers  
24 to render to individuals, families, groups, organizations or the  
26 general public a service involving the application of principles  
28 and procedures of counseling to assist those served in achieving  
30 more effective personal, emotional, social, educational and  
32 vocational development and adjustment.

34 25. Psychosocial evaluation. "Psychosocial evaluation"  
36 includes the determination and examination by social workers of

38 the psychosocial situation of an individual or group related to  
40 interpersonal and intrapersonal stress, family background, family  
42 interaction, living arrangements and socioeconomic problems and  
44 treatment, evaluation, plans and goals, including the diagnosis  
46 of mental illness and emotional disorders for the purpose of  
48 treatment and therapeutic intervention, but excluding the  
50 diagnosis of organic mental illness or treatment of any illness  
2 by organic therapy, to the extent permitted by the licensure  
4 provisions of this chapter.

6 26. Social work. "Social work" means engaging in  
8 psychosocial evaluation and intervention, including therapy, to  
10 the extent permitted by the licensure provisions of this chapter,  
12 to effect a change in the feelings, attitudes and behavior of a  
14 client, whether an individual, group or community. "Social work"  
16 also means engaging in community organization, social planning,  
18 administration and research.

20 27. Substance abuse counseling services. "Substance abuse  
22 counseling services" means counseling services offered for a fee,  
24 monetary or otherwise, as part of the treatment and  
26 rehabilitation of persons abusing alcohol or other drugs. The  
28 purpose of substance abuse counseling services is to help  
30 individuals, families and groups confront and resolve problems  
32 caused by the abuse of alcohol or other drugs. Substance abuse  
34 counseling services are the 12 core functions defined by rule of  
36 the board.

38 **§13872. Board of Licensing Counseling Professionals:**  
40 **establishment; compensation**

42 1. Establishment. The Board of Licensing Counseling  
44 Professionals within the Department of Labor and Commerce as  
46 established by Title 5, section 12004-A, subsection 9-A, shall  
48 carry out the purposes of this chapter.

50 2. Members. The board consists of 10 members. Seven  
2 members are appointed by the Governor, one of whom must be a  
4 member of the public and 6 must be licensed counseling  
6 professionals under this chapter. Two members must be  
8 professional counselors, 2 must be social workers and 2 must be  
10 substance abuse counselors. Three members, appointed by the  
12 Chancellor of the University of Maine System, must be  
14 representatives of the University of Maine System who as faculty  
16 provide training to each type of counselor. Each nonpublic  
18 member must have been, for at least 5 years immediately preceding  
20 appointment, actively engaged as a practitioner, educator or  
22 researcher. The public member may not be currently practicing or  
24 receiving compensation for counseling services. Each member must  
26 be a citizen of the United States and a resident of this State.

2 3. Timetable. The Governor and Chancellor of the  
4 University of Maine System shall make initial appointments by  
6 January 1, 1993. The initial Governor's appointees, with the  
8 exception of the member of the public, must be licensed in  
10 accordance with this chapter following their appointment and  
12 qualification as members of the board. The board shall elect a  
14 chair and secretary at its first meeting of each year, as long as  
16 no person serves as chair for more than 3 years. The  
18 commissioner shall call the first meeting of the board, which  
20 must take place within 30 days of the completion of the  
22 appointments of the initial members.

24 4. Terms of office. Of the first board members, the  
26 Governor shall appoint 3 for a term of one year, 3 for a term of  
28 2 years and one for a term of 3 years. All other board members  
30 are appointed for a term of 3 years, except that any person  
32 chosen to fill a vacancy must be appointed only for the unexpired  
34 term of the board member replaced. Upon expiration of a board  
36 member's term, the board member continues to serve until a  
successor has been appointed and qualified.

22 5. Removal. The Governor may remove any member of the  
24 board for cause and the reason for the termination of each  
26 appointment must be communicated to each member so terminated.  
28 The appointment of any member of the board must be terminated if  
30 a member is absent for 6 consecutive board meetings without good  
32 and just cause that is communicated to the chair.

34 6. Compensation. Members of the board are compensated  
36 according to the provisions of Title 5, chapter 379, provided  
that expenses do not exceed the fees collected by the board. If  
the fees collected under this chapter are insufficient to pay the  
expenses provided by this section, the board members are entitled  
to a pro rata payment in any years in which those fees are  
insufficient.

38 7. Meetings; quorum. The board shall hold at least 2  
40 regular meetings each year. Additional meetings may be held upon  
42 the call of the chair or secretary or upon the written request of  
44 any 2 board members. Five members of the board constitute a  
quorum.

#### 46 §13873. Powers and duties

48 The board, department and commissioner have the following  
50 powers and duties in addition to all other powers and duties  
52 otherwise set forth in this chapter.

1. Standards. The board shall administer and enforce this  
chapter, set forth education and examination standards and  
evaluate the qualifications for licensure.

2 2. Rules. The board may adopt, in accordance with Title 5,  
4 chapter 375, rules necessary to carry out the purposes of this  
6 chapter.

8 3. Complaints. The board shall investigate or cause to be  
10 investigated all complaints made on its own motion or on written  
12 complaint filed with the board and all cases of noncompliance  
14 with or violation of this chapter or any rules adopted by the  
16 board.

18 4. Records. The board shall keep records and minutes  
20 necessary to the ordinary dispatch of its functions.

22 5. Contracts. The board may enter into contracts to carry  
24 out its responsibilities under this chapter.

26 6. Budget. The board shall submit to the commissioner its  
28 budgetary requirements in the same manner provided in Title 5,  
30 section 1665.

32 7. Register. The department shall make available, at cost,  
34 a register that contains the names of all individuals licensed by  
36 the board.

38 8. Employees. The commissioner may appoint, subject to the  
40 Civil Service Law, such employees as may be necessary to carry  
42 out this chapter. Any person so employed must be in the  
44 department and under the administrative and supervisory direction  
46 of the commissioner.

48 9. Officers. The board shall elect from among its members  
50 officers as it determines necessary. The secretary shall keep  
records and minutes of all activities and meetings.

10. Code of ethics. The board shall adopt a code of ethics  
generally in keeping with standards established by the national  
professional associations concerned with the areas of board  
responsibility.

11. Hearings. The board shall conduct hearings to assist  
with investigations and to determine whether grounds exist for  
suspension, revocation or denial of a license, or as otherwise  
determined necessary to the fulfillment of its responsibilities  
under this chapter.

12. Disclosure statements. Under this chapter all  
licensees and registrants are required to provide disclosure  
statements prior to treatment. The board may adopt, by rule, a  
standard disclosure statement. This disclosure statement must  
include, but not be limited to the name and address of the  
licensee or registrant, the original date and the expiration date



of the license, the proposed course of treatment and financial arrangements for clients.

The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for a hearing is received by the board within 30 days of the applicant's receipt of a written notice of the denial of the application, the reasons for denial and the right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter IV, to the extent applicable.

**13. Issue licenses.** The board shall issue licenses as necessary to implement this chapter.

**14. Client bill of rights.** The board shall specify the information that counselors are to include in a client bill of rights that is to be provided to all clients by all counselors.

**15. Report.** No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position together with such comments and recommendations as the board determines essential. The commissioner shall maintain the board's funds in a separate account and provide the board with a quarterly accounting of its revenues and expenses. When submitting any budget request to the Legislature, the department and the Governor shall provide that any funds for the board be listed in a separate account.

**16. Examination.** The board may design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in counseling, substance abuse counseling or social work must be clearly defined, have an established base-line scoring procedure that is objectively measured, be in writing and be available to the public upon request.

#### **§13874. Licensing**

**1. Licensing.** Effective October 1, 1992, no person, unless specifically exempted by this chapter, may profess to be a clinical professional counselor, professional counselor, marriage and family therapist, licensed pastoral counselor or conditional license holder, unless licensed in accordance with this chapter.

A person, unless specifically exempted by this chapter, may not practice as a substance abuse counselor or profess to the public to be, or assume or use the title or designation of an "inactive substance abuse counselor," "licensed substance abuse counselor" or "associate substance abuse counselor," or the abbreviation "I.S.A.C.," "L.S.A.C." or "A.S.A.C.," or any other title, designation, words, letters or device tending to indicate that such a person is licensed or registered, unless that person is licensed or registered with and holds a current and valid license or certificate of registration from the board.

A person may not make a representation to the public or use the title of social worker, unless licensed by the board as a licensed clinical social worker, licensed master social worker, certified social worker or a licensed social worker. Any person performing the functions of a social worker as part of a profession or occupation or in a voluntary capacity is not subject to this section.

Notwithstanding Title 17-A, section 4-A, any person who violates this subsection is subject to a fine of not less than \$50 nor more than \$500 for each offense.

**2. Violation; injunction.** Except as provided in subsection 1, any person who violates this chapter is guilty of a Class E crime. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

**3. Individual licensing.** Only an individual may be licensed under this chapter.

#### **§13875. Psychological testing; assessment services**

This chapter may not be construed as permitting clinical professional counselors, professional counselors, marriage and family therapists, pastoral counselors, social workers, substance abuse counselors or conditional license holders that profess to the public that they are psychologists or psychological examiners as defined in section 3811, subsection 1, or to offer primarily or solely the services of psychological testing. The board shall adopt ethical standards relating to the utilization of assessment techniques.

#### **§13876. Exemptions to licensure**

**1. Other professionals.** This chapter may not be construed to apply to the activities and services of members of other professions licensed, certified or registered by the State such as, but not limited to psychiatrists, physicians, psychologists

2 or registered nurses performing counseling consistent with the  
4 laws of the State governing their practices.

4 2. Government and school employees. This chapter may not  
6 be construed to apply to the activities and services of an  
8 employee or other agent of a recognized academic institution;  
10 employee assistance program; a federal, state, county or local  
12 government institution, program agency or facility; or a school  
14 committee, school district, school approved for attendance  
purposes pursuant to Title 20-A, section 2901, school board or  
board of trustees, provided that the individual is performing  
those activities solely within the agency or under the  
jurisdiction of that agency and that a license granted under this  
chapter is not a requirement for employment.

16 3. Clergy. This chapter may not be construed to apply to  
18 the activities and services of any priest, rabbi, clergy,  
20 including a Christian Science healer, or minister of the gospel  
22 of any religious denomination when performing counseling services  
as part of religious duties and in connection with a specific  
synagogue or church of any religious denomination.

24 4. Interns. This chapter may not be construed to apply to  
26 the activities and services of a student, intern or trainee in  
28 counseling or marriage and family therapy pursuing a course of  
study in counseling or marriage and family therapy in a  
regionally accredited institution of higher education or training  
institution, if these activities are performed under supervision  
and constitute a part of the supervised course of study.

30 5. Lecturers; consultants. This chapter may not be  
32 construed to apply to the activities and services of visiting  
34 lecturers or the occasional services of qualified consultants  
36 from outside the State or the use of occasional services of  
organizations from outside the State employing qualified  
counselors.

38 6. Peer groups; self-help groups. This chapter may not be  
40 construed to prevent members of peer groups or self-help groups  
42 from performing peer counseling solely in the context of the peer  
groups or self-help groups.

44 7. Management consultants. This chapter may not be  
46 construed to apply to the activities and services of any  
48 management consultant when performing services, counseling or  
50 otherwise with clients other than private individuals. Those  
52 clients include but are not limited to for-profit and  
not-for-profit corporations, partnerships, sole proprietorships,  
academic institutions and governmental entities.

8. Educational and career consultants. This chapter may  
not be construed to apply to the counseling activities of

2 educational, vocational or career consultants when performed as  
4 an adjunct to their prime function of educational, vocational or  
career consultation.

6 9. Human resource and organizational developers. This  
8 chapter may not be construed to apply to the counseling  
10 activities of human resource developers and organizational  
12 developers when this counseling is an adjunct to their prime  
14 function.

16 10. Other. This chapter may not be construed to apply to  
18 the activities and services of individuals who practice as  
20 expressive art therapists, energy field workers, astrologers,  
22 tarot card readers, psychic diviners, aromatherapists, crystal  
24 workers, palm readers or practitioners of similar disciplines as  
26 determined by the board.

#### 18 **§13877. Comity: transition**

20 The board may waive examination for an applicant licensed or  
22 certified as a professional in counseling, clinical counseling,  
24 marriage and family therapy, pastoral counseling, substance abuse  
26 counseling, social work or a comparable field by another state,  
28 territory or possession of the United States, the District of  
Columbia or any foreign country whose requirements are determined  
by the board to be at least equivalent to those requirements in  
this chapter.

30 Any person licensed, certified or registered under former  
32 chapter 81, 83 or 119 upon the effective date of this chapter is  
34 automatically licensed, certified or registered under this  
36 chapter for the remainder of the time the person was licensed,  
certified or registered without renewal under former chapter 81,  
83 or 119. Any initial license, certificate or registration  
application or license, certificate or registration renewal or  
reinstatement proceeding pending under former chapter 81, 83 or  
119 upon the effective date of this chapter is governed by this  
chapter.

#### 40 **§13878. Terms of licenses**

42 1. Biennial renewal. Licenses expire biennially on  
44 December 31st or on such other date as the commissioner  
46 determines. Notice of expiration must be mailed to each  
licensee's last known address at least 30 days in advance of the  
expiration of the license. The notice must include any requests  
for information necessary for renewal.

48 Licenses may be renewed up to 90 days after the date of  
50 expiration upon payment of a late fee of \$10 in addition to the  
52 renewal fee. Any person who submits an application for renewal  
more than 90 days after the license renewal date is subject to

2 all requirements governing new applicants under this chapter,  
3 except that the board, giving due consideration to the protection  
4 of the public, may waive examination if that renewal application  
5 is made within 2 years from the date of that expiration.

6 2. Continuing education and supervision. The board by rule  
7 may establish continuing education and supervision requirements.  
8 Applicants for renewal of a license must show proof of satisfying  
9 the continuing education requirements set forth by the board.

10 **§13879. Disciplinary action grounds; procedure; complaints**

11 1. Grounds. The board may suspend, revoke or refuse to  
12 renew a license or registration pursuant to Title 5, section  
13 10004. In addition the board may take any other action pursuant  
14 to Title 10, section 8003, subsection 5. The board's actions may  
15 be taken based on any of the following grounds:

16 A. The practice of fraud or deceit in obtaining a license  
17 or in registering under this chapter or in connection with  
18 service rendered within the scope of the license issued;

19 B. Habitual intemperance in the use of alcohol or the  
20 habitual use of narcotic, hypnotic or other drugs listed as  
21 controlled substances by the drug enforcement  
22 administration, which use results in the licensee being  
23 unable to perform duties or results in the licensee  
24 performing duties in a manner that endangers the health or  
25 safety of the patients served;

26 C. A medical finding of incompetency;

27 D. Aiding or abetting a person not duly licensed under this  
28 chapter in professing to be so licensed;

29 E. Incompetence in the practice of counseling. A licensee  
30 or registrant is incompetent in the practice of counseling  
31 if the licensee or registrant has engaged in conduct that  
32 evidences a lack of ability or fitness to discharge the duty  
33 owed by the licensee or registrant to a client, patient or  
34 the general public or has engaged in conduct that evidences  
35 a lack of knowledge or inability to apply principles or  
36 skills to carry out the practice for which that person is  
37 licensed or registered;

38 F. Unprofessional conduct, which is the violation of any  
39 client bill of rights, standard of professional behavior or  
40 code of ethics adopted by the board;

41 G. Subject to the limitations of Title 5, chapter 341,  
42 conviction of a crime that involves dishonesty or false  
43 statement or that relates directly to the practice of

2 counseling, or conviction of any crime for which  
3 incarceration for one year or more may be imposed;

4 H. The licensee or registrant has had any professional or  
5 occupational license revoked for disciplinary reasons or any  
6 application rejected for reasons related to  
7 untrustworthiness within 3 years of the date of application;  
8 or

9 I. Violation of any provisions of this chapter or any rule  
10 of the board.

11 2. Procedure. Except as provided in Title 5, section  
12 10004, a license or registration may not be denied, suspended or  
13 revoked nor renewal or registration refused for the reasons set  
14 forth in subsection 1 without prior written notice and  
15 opportunity for hearing on that denial, suspension or  
16 revocation. The burden of proof is on the board in any  
17 proceeding to suspend or revoke a license or registration. A  
18 license or registration may not be denied, suspended or revoked  
19 under this section except by majority vote of the board.

20 3. Complaints. Any person may file a complaint with the  
21 board seeking disciplinary action against the holder of a license  
22 issued by the board or a person registered with the board.  
23 Complaints must be in writing in a form prescribed by the board  
24 by rule. If the board determines that a complaint alleges facts  
25 that, if true, would require denial, revocation, suspension or  
26 nonrenewal of a license or registration, or other disciplinary  
27 action, the board shall conduct a hearing pursuant to Title 5,  
28 chapter 375. Whenever the board establishes that a complaint  
29 does not state facts that warrant a hearing, the complaint may be  
30 dismissed. Persons making complaints must be advised in writing  
31 of each formal decision made by the board regarding that  
32 complaint.

33 Any individual whose license or registration has been denied,  
34 suspended or revoked may apply to the board for licensure or  
35 registration reinstatement one year after the date of the board's  
36 original action. A competency review is a condition of  
37 reinstatement. The board shall determine the nature of this  
38 review.

39 The board shall conduct its proceedings in accordance with the  
40 provisions of Title 5, chapter 375, subchapter IV.

41 **§13880. Privileged communication**

42 Except at the request or consent of the client, a person  
43 licensed under this chapter may not be required to testify in any  
44 civil or criminal action, suit or proceeding at law or in equity  
45 respecting any information that the person licensed or registered

2 may have acquired in providing counseling services or marriage  
4 and family therapy services to the client in a professional and  
6 contractual capacity if that information was necessary to enable  
8 the licensee to furnish professional counseling services to the  
10 client. When the physical or mental condition of the client is  
12 an issue in that action, suit or proceeding or when a court in  
14 the exercise of sound discretion determines that the disclosure  
16 is necessary to the proper administration of justice, information  
18 communicated to or otherwise learned by that licensed or  
20 registered person in connection with the provision of counseling  
22 or marriage and family therapy services is not privileged and  
24 disclosure may be required.

14 This section does not prohibit disclosure by a person  
16 licensed under this chapter of information concerning a client  
18 when that disclosure is required by law and nothing in this  
20 section modifies or affects Title 22, sections 4011 to 4015.

20 This section may not be construed to prevent a 3rd-party  
22 reimburser from inspecting and copying, in the ordinary course of  
24 determining eligibility for or entitlement to benefits, any  
26 records related to the diagnosis, treatment or other services  
28 provided to any persons, including a minor or incompetent, for  
30 which coverage, benefit or reimbursement is claimed as long as  
32 the policy or certificate under which the claim is made provides  
34 that access to those records is permitted. This section may not  
36 be construed to prevent access to any records pursuant to any  
38 peer review or utilization review procedures applied and  
40 implemented in good faith.

#### 32 **§13881. Registration**

34 1. Registration. Effective October 1, 1992, an individual  
36 may not engage in procedures of counseling for a fee, monetary or  
38 otherwise, unless that individual is licensed pursuant to this  
40 chapter or registers with the department. Each individual who is  
42 not licensed and who engages in procedures of counseling shall  
44 register with the department every 2 years. Each individual who  
46 registers shall fill out a form designed by the board.

42 2. Information required. Each individual who registers  
44 shall provide the following information on the form designed by  
46 the board. The board shall compile this information and make it  
48 available to the public upon request and for a fee that covers  
50 the cost of making this information available:

48 A. Name, address and telephone:

50 B. Major fields of training and expertise, including  
52 degrees and professional certifications held, and from where  
conferred:

2 C. Method of billing and previous experience and policy  
4 with regard to 3rd-party payments;

4 D. The fee schedule and provisions for pro bono work or  
6 sliding scale modifications of the fee schedule; and

6 E. A description of practice.

8 3. Bill of rights; code of ethics. Each individual who  
10 registers under this section shall sign, post and make a copy  
12 available to each client of:

14 A. The client bill of rights approved by the board;

14 B. The code of professional ethics approved by the board;  
16 and

18 C. The name and telephone number of the board's complaint  
20 officer and a description of the complaint process.

20 4. Registration fee. Each individual registering under  
22 this section shall pay a registration fee, not to exceed \$50  
24 biennially, established by the board for the purposes of the  
26 administration of this section.

26 5. Registration not allowed. An individual whose license,  
28 certification or registration has been revoked or suspended in  
30 this State or any other state and in this or any related field  
32 may not register to practice in this State unless the period of  
34 revocation or suspension has been completed and the board has  
36 conducted a competency review and determined that rehabilitation  
38 has taken place.

34 6. Disciplinary action. Any individual who is registered  
36 under this section is subject to the provisions of section 13879.

38 7. Registration not certification. Registration does not  
40 imply or certify in any way that the registrant meets any  
42 standards or criteria of education or training.

#### 42 **SUBCHAPTER II**

#### 44 **LICENSING OF PROFESSIONAL COUNSELORS**

#### 44 **§13882. Requirements for licensure as a professional counselor**

46 To be eligible for a license to practice counseling at any  
48 level, an applicant must be at least 18 years of age and must  
50 satisfactorily pass any examination the board prescribes by its  
52 rules. Each applicant shall demonstrate trustworthiness and  
competence to engage in the practice of counseling in such a  
manner as to safeguard the interests of the public.

2        The following must be considered as minimum evidence  
4        satisfactory to the board that an applicant is qualified for  
6        licensure under this chapter.

8        1. Licensed professional counselor. To be qualified as a  
10       licensed professional counselor, an applicant must demonstrate to  
12       the satisfaction of the board adherence to the ethics of the  
14       counseling profession, must have successfully completed the  
16       examination prescribed by the board and must have received:

18       A. A master's degree in counseling or an allied mental  
20       health field from an accredited institution or program  
22       approved by the board. The schooling must have included a  
24       minimum core curriculum as adopted by the board; and

26       B. Two years of experience after attaining a master's  
28       degree with a minimum of 2,000 hours of supervised  
30       experience.

32       2. Licensed clinical professional counselor. To be  
34       qualified as a licensed clinical professional counselor, an  
36       applicant must demonstrate to the satisfaction of the board  
38       adherence to the ethics of the counseling profession, must have  
40       successfully completed the examination prescribed by the board  
42       and must have received:

44       A. A master's degree in counseling or an allied mental  
46       health field from an accredited institution or program  
48       approved by the board. The schooling must have included a  
50       minimum core curriculum, as adopted by the board, of at  
       least 45 semester hours; and

B. Two years of experience after attaining a master's  
       degree, to include at least 3,000 hours of supervised  
       clinical experience with a minimum of 100 hours of personal  
       supervision.

3. Licensed marriage and family therapist. To be qualified  
       as a licensed marriage and family therapist, an applicant must  
       demonstrate to the satisfaction of the board adherence to the  
       ethics of the counseling profession, must have successfully  
       completed the examination prescribed by the board and must have  
       received:

A. A master's degree in marriage and family therapy or its  
       equivalent from an accredited institution or program  
       approved by the board. The schooling must have included a  
       minimum core curriculum to include a one-year clinical  
       practicum adopted by the board; and

B. Two years of experience after attaining a master's  
       degree comprised of at least 1,000 hours of direct clinical  
       contact with couples and families and 200 hours of  
       supervision, at least 100 of which is individual supervision.

4. Licensed pastoral counselor. To be qualified as a  
       licensed pastoral counselor, an applicant must have:

A. Demonstrated to the satisfaction of the board adherence  
       to the standard ethics of the pastoral counseling profession;

B. Received a Master of Divinity degree from an accredited  
       institution or program approved by the board. Academic  
       preparation must include a minimum graduate core curriculum  
       to include 20 credit hours of counseling and human relations  
       and 400 hours of clinical pastoral education;

C. Two years of experience after attaining the degree,  
       comprised of at least 1,000 hours of direct clinical contact  
       with individuals, couples and families;

D. Two hundred hours of supervision, including at least 1/3  
       of those hours with a certified pastoral counseling  
       supervisor, at least 30 hours of which must be  
       interdisciplinary, 30 hours of which must be individual  
       supervision by one supervisor of no more than 3 cases from  
       intake to termination and 70 hours of which must be  
       individual supervision of multiple case material;

E. A call, appointment or charge from a church, synagogue,  
       religious order or other clearly defined legal religious  
       organization to perform these services as a function of  
       ministry; and

F. Completed successfully the examination prescribed by the  
       board pursuant to subsection 6.

5. Supervision. Supervision may be provided by a qualified  
       and duly certified or licensed counseling professional, clinical  
       social worker, psychologist or psychiatrist. Any other  
       supervisor must be individually approved by the board.

6. Examination. All applicants must be required to pass a  
       written examination in subjects the board considers necessary to  
       determine the fitness of the applicant to practice. The board  
       establishes the passing score for all examinations. Examinations  
       must be held at least twice a year. The examination must be  
       graded using established written baseline scores for failure or  
       passage, be based on accepted counseling criteria and include  
       measurable and clearly defined procedures for grading the results  
       and issuing a pass or fail decision. Decisions on all  
       examinations must be in writing and include a grade and, whenever

possible, a summary of the criteria for the grade and an explanation of the procedure for reexamination or appeal.

**7. Existing counselors.** Those individuals who hold at least a master's degree or its equivalent in counseling, an allied mental health field or a behavioral or social science and were actively engaged as a counselor for at least 2 of the preceding 5 years prior to January 1, 1991 have met all the requirements for licensure and may sit for the examination.

**8. License not allowed.** Notwithstanding subsections 1 to 7, an individual whose license, certification or registration has been revoked or suspended in this State or any other state and in this or any other related field may not be licensed under this section, unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that rehabilitation has taken place.

#### **§13883. Fees**

**1. Amount.** Application and examination fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. License fees may not exceed the following amounts.

**A. Original and renewal fees for a clinical professional counselor, professional counselor, marriage and family counselor or pastoral counselor** are \$300 biennially.

**B. Original and renewal fees for a conditional counselor** are \$150 biennially.

### **SUBCHAPTER III**

#### **LICENSING OF SUBSTANCE ABUSE COUNSELORS**

#### **§13884. Substance abuse counselor licensing and registration**

**1. Substance abuse counselor.** In order to safeguard the health and safety of the citizens of the State, any person who performs or offers to perform substance abuse counseling services for a fee, monetary or otherwise, and professes to be a substance abuse counselor is required to submit evidence of the qualifications to practice and must be registered, certified or licensed in accordance with this chapter.

**2. Evidence of qualifications.** Any individual who is providing the service of substance abuse counseling to the public for a fee, monetary or otherwise, and who is not employed in a program certified or licensed by the State is required to submit evidence of the qualifications to practice and must be licensed as a licensed substance abuse counselor as provided in this

subchapter. Any individual who is providing the service of substance abuse counseling to the public for a fee, monetary or otherwise, and who is employed in a program certified or licensed by the State is required to register or be licensed pursuant to this chapter.

**3. Registration and standards.** The board may register and set standards of practice for all persons practicing as substance abuse counselors in this State. Any standards set by the board for practice for substance abuse counselors working in this State must be clearly defined, measurable, written in accordance with accepted standards and available to the public upon request. Educational background must be a consideration in any licensing or registration standards adopted by the board.

#### **§13885. Eligibility requirements for persons providing substance abuse counseling**

To be eligible to practice as a substance abuse counselor, an applicant must:

**1. Age; education.** Be at least 18 years of age, have a high school diploma or its equivalent and demonstrate trustworthiness and competence to engage in the practice of substance abuse counseling in such a manner as to safeguard the interests of the public; and

**2. Abstinence from drugs and alcohol.** Have abstained from the active abuse of alcohol or any other drug that in the judgment of the board has been or could have been detrimental to the applicant's performance or competency as a substance abuse counselor. It is recommended strongly that applicants must have abstained for at least the 2-year period immediately preceding the date that application is made. In considering an applicant for registration, the board may not consider a history of alcoholism or drug addiction as an essential qualification or disqualification for certification or licensure.

#### **§13886. Requirements for registration**

An individual may not practice as a substance abuse counselor for a fee, monetary or otherwise, unless that individual is licensed pursuant to this chapter or registers with the board. Each individual who is not licensed and engages in substance abuse counseling shall register with the board every 2 years. Each individual who registers shall fill out a form designed by the board. A person registered to provide substance abuse counseling services may not practice without supervision or engage in private practice.

#### **§13887. Requirements for qualification as a licensed substance abuse counselor**

2        The board shall issue a license to practice as a licensed  
3 substance abuse counselor upon the affirmative vote of at least 5  
4 members of the board to any applicant who has satisfactorily met  
5 the following minimal requirements:

6        1. Eligibility. Met the eligibility requirements in  
7 section 13885:

8        2. Examination. Obtained passing grades, as established by  
9 the board, on the written and oral examinations the board has  
10 prescribed by rule:

11        3. Education. Obtained at least an associate's degree in  
12 an appropriate social science field from an accredited  
13 institution or program approved by the board with a concentration  
14 of course work in the 12 core functions defined by rule of the  
15 board:

16        4. Supervision. Completed a minimum of 4,000 supervised  
17 direct client service hours in the 12 core functions defined by  
18 rule of the board. This work experience may be gained in any  
19 supervised activity, including volunteer work or student  
20 placement, that relates to the core functions described in the  
21 board's licensing examination; and

22        5. Experience. Provided documentation of experience with a  
23 wide range of clients, in a wide range of treatment settings  
24 while working independently.

25        **§13888. Associate substance abuse counselor**

26        The board may issue a license to practice as an associate  
27 substance abuse counselor upon the affirmative vote of 6 members  
28 of the board to any applicant who has met the following minimal  
29 requirements:

30        1. Eligibility. Met the eligibility requirements in  
31 section 13885:

32        2. Examination. Obtained a passing grade, as established  
33 by the board, on the written exam:

34        3. Education. Completed 300 clock hours of education in  
35 appropriate social science fields or its equivalent in  
36 appropriate substance abuse training, with at least 50% of the  
37 education in college-level courses related to the 12 core  
38 functions defined by rule of the board:

39        4. Supervision. Completed 4,000 supervised direct client  
40 service hours in the 12 core functions defined by rule of the  
41 board. This work experience may be gained in any supervised

2        activity, including volunteer work or student placement, that  
3 relates to the core functions; and

4        5. Experience. Provided documentation of experience in  
5 substance abuse counseling in one particular setting or client  
6 population.

7        **§13889. Reapplication for certificate**

8        Any applicant who is not issued a license or a certificate  
9 of registration may reapply for registration after a period of  
10 not less than 6 months from the date of the last denial.

11        **§13890. Other qualifications**

12        Any individual who has obtained a master's degree in  
13 counseling, substance abuse or a related field and can document  
14 1,000 hours of direct service to clients with problems related to  
15 substance abuse is eligible to apply for licensure and be  
16 licensed in accordance with this chapter. The board may adopt  
17 rules to recognize exceptional education or experience that  
18 qualifies an applicant to apply for licensure.

19        **§13891. Special eligibility provisions**

20        Any person who is licensed by the board or under former  
21 chapter 81 as an associate substance abuse counselor, licensed  
22 substance abuse counselor or inactive substance abuse counselor  
23 who was actively engaged as a substance abuse counselor for one  
24 year prior to October 1, 1993 is deemed to have met all the  
25 requirements for that person's respective credential. Any  
26 registered substance abuse counselor shall, after October 1,  
27 1993, cease using the title "registered substance abuse  
28 counselor" or the initials "R.S.A.C." unless that person has met  
29 the standards for licensure that existed prior to that date.

30        **§13892. Application; membership fees**

31        Application for registration as a registered substance abuse  
32 counselor, licensure as a licensed substance abuse counselor or  
33 licensure as an associate substance abuse counselor must be on  
34 forms prescribed and furnished by the board. Application and  
35 examination fees may be established by the board in amounts that  
36 are reasonable and necessary for their respective purposes.  
37 Successful applicants shall pay biennial fees of \$75 for  
38 registration, \$100 for licensure as an associate substance abuse  
39 counselor and \$150 for licensure as a licensed substance abuse  
40 counselor. The payment of fees is suspended during the term of  
41 inactive status.

42        **§13893. Examinations**

2 The board shall make reasonable arrangements for written and  
4 oral examinations to be held at such times and places as  
6 necessary to accommodate those persons applying to take the  
8 examinations. The examinations must be graded using established  
10 written baseline scores for failure or passage, be based on  
12 accepted substance abuse counseling criteria and include  
14 measurable and clearly defined procedures for grading the results  
16 and issuing a pass or fail decision. Decisions on all  
18 examinations, oral and written, must be in writing and include a  
20 grade, a summary of the criteria for the grade and an explanation  
22 of the procedure for reexamination or appeal. Notice of the  
24 examination results must be forwarded to the applicants within 15  
26 days of the date on which the examination was conducted. The  
28 notice must include a written explanation of the appeal process.  
30 The board may use fees generated from examinations to pay  
32 examination evaluators.

18 The appeal process must include an outside review as  
20 established by rules adopted by the board under Title 5, chapter  
22 375, subchapter II. All applicants have the right to review  
24 their test results and any scoring comments.

#### 24 §13894. Issuance after denial, suspension or revocation

24 Any individual whose license or registration has been  
26 denied, suspended or revoked may apply to the board for licensure  
28 or registration reinstatement one year after the date of the  
30 board's original action. A competency review is a condition of  
32 reinstatement. The board shall determine the nature of this  
34 review and adopt rules in accordance with Title 5, chapter 375,  
36 subchapter II.

#### 34 §13895. Expiration and renewal

34 The license and certificate of registration expire  
36 biennially on August 31st at such other time as the commissioner  
38 may designate. Licensure or registration may be renewed for the  
40 succeeding 2-year period upon written application of the  
42 registrant, the approval of the board and the payment of the fee  
44 provided. A fee for renewal of a license or certificate of  
46 registration is \$150 biennially for licensure as a licensed  
48 substance abuse counselor, \$100 biennially for licensure as an  
50 associate substance abuse counselor and \$75 biennially for  
52 registration, due and payable on or before the expiration date.  
Before a license or certificate of registration may be renewed,  
the applicant must present evidence of continued professional  
learning and training of a type acceptable to the board.

Licensure or registration may be renewed up to 90 days after  
the date of expiration upon payment of a late fee of \$10 in  
addition to the renewal fee. Any person who submits an  
application for renewal more than 90 days after the license

2 renewal date is subject to all requirements governing new  
4 applicants under this chapter, except that the board may in its  
6 discretion, giving due consideration to the protection of the  
8 public, waive examination if that renewal application is made  
10 within 2 years from the date of that expiration or if the  
12 applicant is a registered inactive substance abuse counselor.  
14 The board is responsible for mailing notification of the date of  
16 expiration of a license or a certificate of registration to any  
18 licensed substance abuse counselor, associate substance abuse  
20 counselor, inactive substance abuse counselor or registered  
22 substance abuse counselor not later than 30 days prior to the  
24 date of expiration. At a minimum, applicants for renewal must  
26 document 250 hours of supervised experience within the core  
28 functions defined by rule of the board and the successful  
30 completion of at least 50 hours of continuing education related  
32 to substance abuse during the 2-year period.

#### 18 §13896. Treatment of minors

20 Any person licensed under this subchapter who renders  
22 counseling services to a minor for the treatment of abuse of  
24 drugs or alcohol is under no obligation to obtain the consent of  
26 that minor's parent or guardian or to inform that parent or  
28 guardian of that treatment. This section may not be construed to  
30 prohibit a licensed person who renders treatment from informing  
32 that parent or guardian. For the purposes of this section,  
34 "abuse of drugs" means the use of drugs solely for their  
36 stimulant, depressant or hallucinogenic effect on the higher  
38 functions of the central nervous system and not as a therapeutic  
40 agent recommended by a practitioner in the course of medical  
42 treatment.

#### 34 §13897. Receipts and disbursements

36 All fees received by the board under this chapter must be  
38 used to carry out the purposes of this chapter. Any balance may  
40 not lapse, but must be carried forward as a continuing account to  
42 be expended for the same purposes in the following fiscal years.

### 40 SUBCHAPTER IV

#### 42 LICENSING OF SOCIAL WORKERS

#### 44 §13898. General provisions

46 1. Services to minors for drug abuse. Any person certified  
48 or licensed under this subchapter who renders social work  
50 services to a minor for problems associated with the abuse of  
52 drugs or alcohol is under no obligation to obtain the consent of  
that minor's parent or guardian or to inform that parent or  
guardian of the treatment. This section may not be construed to  
prohibit the licensed person rendering this treatment from



informing that parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect on the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**2. Communication between social workers and clients.**

Except at the request of or the consent of the client, a person licensed under this chapter may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity respecting any information that the person may have acquired in providing social work services to the client in a professional and contractual capacity if that information was necessary to enable that person to furnish professional social work services to the client. When the physical or mental condition of the client is an issue in that action, suit or proceeding or when a court in the exercise of sound discretion deems the disclosure necessary to the proper administration of justice, information communicated to, or otherwise learned by, that person in connection with the provision of social work services is not privileged and disclosure of that information may be required.

This section does not prohibit disclosure of information concerning a client by a person licensed under this chapter when that disclosure is required by law. This section does not modify or affect Title 22, sections 4011 to 4015.

**§13899. Licensure**

**1. License required.** In order to safeguard the life, health and welfare of the people of this State, a person practicing or offering to practice as a certified social worker - independent practice, licensed clinical social worker, licensed master social worker or licensed social worker is required to submit evidence to the board that the person is qualified to so practice and be licensed as provided in this subchapter.

The board may grant a conditional license to a person eligible to take the examination for licensure who is waiting to sit for the examination or retake the examination according to rules issued by the board.

**2. Qualifications.** To be eligible for a license to practice social work at any level, an applicant must be at least 18 years of age and pass satisfactorily any examination the board prescribes by rule. An applicant must demonstrate trustworthiness and competence to engage in the practice of social work in such a manner as to safeguard the interests of the public.

**3. Licensed clinical social worker.** To qualify as a licensed clinical social worker, an applicant must demonstrate to the satisfaction of the board adherence to the ethics of the social work profession; successfully complete the examination prescribed by the board; and have:

**A. A master's or doctoral degree in social work or social welfare in a clinical concentration from an accredited educational institution and:**

(1) Subsequently completed 2 years of social work experience with 96 hours of consultation in a clinical setting; or

(2) Demonstrated 2 years of full-time clinical social work experience or its equivalent and completed the graduate degree prior to January 1, 1987 and completed 2 years of subsequent social work experience with 96 hours of consultation in a private setting; or

**B. A master's or doctoral degree in social work in a nonclinical concentration from an accredited educational institution and:**

(1) Subsequently completed 4 years of social work experience with 192 hours of consultation in a clinical setting; or

(2) Demonstrated 2 years of full-time clinical social work experience or its equivalent and completed the graduate degree prior to January 1, 1987 and completed 4 years of subsequent social work experience with 192 hours of consultation in a private setting.

The board may waive up to one year of the clinical experience required after attaining a master's degree pursuant to this subsection for those candidates who demonstrate to the satisfaction of the board equivalent clinical experience prior to receiving the master's degree in social work.

The board shall issue rules, in accordance with Title 5, chapter 375, defining the clinical experience required for this level of licensure.

**4. Licensed master social worker.** To qualify as a licensed master social worker, an applicant must have a master's or doctoral degree in social work or social welfare from an accredited educational institution, demonstrate to the satisfaction of the board adherence to the ethics of the social work profession and successfully complete the examination prescribed by the board. After meeting these qualifications, the applicant receives a licensed master social worker license. A

2 person with those qualifications wishing to practice social work  
3 in a clinical setting receives upon application a licensed master  
4 social worker, conditional license.

6 5. Licensed social worker. To qualify as a licensed social  
7 worker, an applicant must meet one of the following requirements.

8 A. The applicant must have a bachelor's degree in social  
9 work or social welfare from an accredited educational  
10 institution, demonstrate to the satisfaction of the board  
11 adherence to the ethics of the social worker profession and  
12 successfully complete the examination prescribed by the  
13 board; or

14 B. The applicant must have a bachelor's degree in a related  
15 field from an institution that, at the time the degree was  
16 received, did not have a program accredited by the Council  
17 of Social Work Education but subsequently offered such a  
18 program; demonstrate to the satisfaction of the board  
19 adherence to the ethics of the social worker profession; and  
20 successfully complete the examination prescribed by the  
21 board.

22 The board shall issue rules, in accordance with Title 5, chapter  
23 375, by which an individual who has a bachelor's degree that does  
24 not qualify under paragraph A or B may be eligible for a license.

25 A person having the necessary qualifications prescribed in  
26 this chapter for licensure as a licensed clinical social worker,  
27 licensed master social worker or licensed social worker is  
28 eligible for that license though the person may not be practicing  
29 this profession at the time of making the application.

#### 30 **§13900. Functions**

31 A social worker at any level may not diagnose organic mental  
32 illness or treat any illness by organic therapy.

33 1. Licensed master social worker. A licensed master social  
34 worker may:

35 A. Engage in administration, research, consultation, social  
36 planning and teaching related to the functions of this  
37 section;

38 B. Perform all the functions of a licensed social worker;  
39 and

40 C. Engage in a nonclinical private practice.

41 A licensed master social worker who meets the requirements for  
42 licensure as a licensed clinical social worker prior to January

2 1, 1987, except for completing the licensed clinical social  
3 worker examination, may engage in the clinical consultation of a  
4 licensed master social worker, conditional for the purpose of  
5 preparing the licensed master social worker, conditional for  
6 eventual licensed clinical social worker status or regular  
7 licensure. This includes responsibility for ongoing training and  
8 evaluation. The licensed master social worker has an obligation  
9 to assess the licensed master social worker, conditional's  
10 competence and ethics and share this assessment with the board at  
11 the time the licensed master social worker applies for the  
12 licensed clinical level.

13 In addition to paragraphs A, B and C, a person holding a licensed  
14 master social worker, conditional license may engage in  
15 psychosocial evaluation, including diagnosis and treatment of  
16 mental illness and emotional disorders, and provide clinical  
17 consultation to licensed social workers, social work students,  
18 other professionals practicing related professions and  
19 paraprofessionals engaging in related activities.

20 A licensed master social worker, conditional may not engage in  
21 private clinical practice, unless permitted under section 13899,  
22 subsection 3, and must receive individual consultation 4 hours a  
23 month while practicing social work in a clinical setting.

24 2. Licensed clinical social worker. A licensed clinical  
25 social worker may:

26 A. Practice social work in a clinical setting without  
27 consultation;

28 B. Engage in psychosocial evaluation, including diagnosis  
29 and treatment of mental illness and emotional disorders;

30 C. Engage in clinical private practice of social work;

31 D. Perform all the functions of a licensed master social  
32 worker; and

33 E. Engage in the clinical consultation of a licensed master  
34 social worker for the purpose of preparing the licensed  
35 master social worker for eventual licensed clinical social  
36 worker status or regular licensure. This includes  
37 responsibility for ongoing training and evaluation. The  
38 licensed clinical social worker has an obligation to assess  
39 the licensed master social workers' competence and ethics  
40 and share this assessment with the board at the time the  
41 licensed master social worker applies for the licensed  
42 clinical level.

43 3. Certified social worker - independent practice. A  
44 certified social worker - independent practice may:

2 A. Perform all the functions of a licensed master social  
4 worker;

6 B. Practice social work in a clinical setting without  
8 consultation; and

10 C. Engage in clinical private practice of social work.

12 A certified social worker - independent practice who meets the  
14 requirements for licensure as a licensed clinical social worker  
16 prior to January 1, 1987, except for completing the licensed  
18 clinical social worker examination, may engage in the clinical  
20 consultation of a licensed master social worker, conditional for  
22 the purpose of preparing the licensed master social worker,  
24 conditional for eventual licensed clinical social worker status  
26 or regular licensure. This includes responsibility for ongoing  
28 training and evaluation. The certified social worker -  
30 independent practice has an obligation to assess the licensed  
32 master social worker, conditional's competence and ethics and  
34 share this assessment with the board at the time the licensed  
36 master social worker applies for the licensed clinical level.

38 4. Licensed social worker. A licensed social worker may:

40 A. Engage in psychosocial evaluation, excluding the  
42 diagnosis and treatment of mental illness, and conduct basic  
44 data gathering of records and specific life issues of  
46 individuals, groups and families, assess this data and  
48 formulate and implement a plan to achieve specific goals  
50 related to specific life issues;

52 B. Serve as an advocate for clients or groups of clients  
for the purpose of achieving specific goals relating to  
specific life issues;

C. Refer clients to other professional services;

D. Plan, manage, direct or coordinate social services; and

E. Participate in the training and the education of social  
work students from an accredited institution and supervise  
licensed social workers.

A licensed social worker may not engage in the private practice  
of social work, diagnose mental illness and emotional disorders  
or provide psychotherapy. A licensed social worker with less  
than 2 years' experience must receive consultation from a  
licensed master social worker, a licensed clinical social worker  
or a certified social worker - independent practice in a manner  
prescribed by the board on a group or individual basis 4 hours a  
month. Licensed social workers in health care facilities

licensed by the Department of Human Services must receive  
consultation on a quarterly basis in a manner prescribed by the  
Department of Human Services. The Department of Human Services'  
staff giving consultation to licensed social workers in  
intermediate care facilities must be on the master or clinical  
level by January 1, 1993.

Notwithstanding this subsection, licensed social workers employed  
by the Department of Human Services must receive consultation in  
a manner prescribed by the Department of Human Services.

State agencies employing social workers are responsible for  
providing supervision for those social workers to maintain their  
licenses.

#### \$13900-A. Application; fees

Application for a license as a licensed clinical social  
worker, licensed master social worker or licensed social worker  
must be on a form prescribed and furnished by the board. An  
application fee and an examination fee may be established by the  
board in amounts that are reasonable and necessary for their  
respective purposes. All fees must accompany the application.

The license fee for a licensed social worker must be  
established by the board in an amount not to exceed \$70.

The license fee for a licensed master social worker must be  
established by the board in an amount not to exceed \$110.

The license fee for a licensed clinical social worker must  
be established by the board in an amount not to exceed \$175.

Fees for initial and renewal licenses must be set so that  
total fee receipts do not exceed the amount required to cover  
properly the expense of performing the duties imposed upon the  
board.

If the board denies the issuance of a license to any  
applicant, the application and examination fees are nonrefundable.

#### \$13900-B. Examinations

Written examinations must be held at times and places  
determined by the board and must be based on fundamental social  
work subjects as determined by the board.

The passing grade on any examination must be established by  
the board based on national testing scores set by the testing  
company. A candidate failing an examination may apply for  
reexamination, which must be granted upon payment of a fee  
established by the board in an amount not to exceed the original

2 application and examination fees. A candidate for licensure  
3 having an average grade of less than 50% in the written  
4 examination may not apply for reexamination for one year.

5 **§13900-C. Certificates**

6  
7 The board shall issue a license to any applicant who, in the  
8 opinion of the board, has satisfactorily met the requirements of  
9 this chapter.

10 **§13900-D. Psychosocial evaluation**

11  
12 In the process of making a diagnosis and formulating a  
13 treatment plan for mental illness or emotional disorder, a social  
14 worker shall ensure, consistent with rules promulgated by the  
15 board, that the person is examined by a physician and may take  
16 into account the physician's opinion in forming the psychosocial  
17 evaluation. When a person has been seen by a physician within 3  
18 months prior to seeking mental health treatment, a telephone  
19 conversation between that physician and the social worker may be  
20 held in lieu of the examination required by this section. The  
21 medical visit or the telephone conversation must be documented in  
22 the clinical records of the person. This requirement applies  
23 only in cases when there is a presence of psychopathology. The  
24 board shall define standards by rule in accordance with Title 5,  
25 chapter 375, to implement this section.

26  
27 **Sec. J-11. Reorganization of labor and commerce services.** It is  
28 the intent of the Legislature that the Department of Labor, the  
29 Department of Professional and Financial Regulation and the  
30 Department of Economic and Community Development be abolished on  
31 July 1, 1993. The current functions of the Department of Labor,  
32 the Department of Professional and Financial Regulation and the  
33 Office of Business Development of the Department of Economic and  
34 Community Development are transferred to the newly created  
35 Department of Labor and Commerce.

36  
37 The positions of Commissioner of Labor, Commissioner of  
38 Professional and Financial Regulation and Commissioner of  
39 Economic and Community Development are abolished.

40  
41 **Sec. J-12. Independent status.** It is the intent of the  
42 Legislature that the agencies listed in the Maine Revised  
43 Statutes, Title 26, section 1408, subsection 5 are independent  
44 entities within State Government regardless of any administrative  
45 relationships described in current law. The Commission on the  
46 Reorganization of State Government shall develop and introduce  
47 implementing legislation to accomplish this objective to the  
48 First Regular Session of the 116th Legislature.

49 **Sec. J-13. Transition provisions.**

1. The Board of Licensing Counseling Professionals is the  
2 successor in every way to the powers, duties and functions of the  
3 former State Board of Substance Abuse Counselors, the State Board  
4 of Social Worker Licensure and the Board of Counseling  
5 Professionals Licensure.

6  
7 2. All existing rules and procedures in effect, in  
8 operation or promulgated by the 3 former boards described in  
9 subsection 1, or any of their administrative units or officers,  
10 are hereby declared in effect and continue in effect until  
11 rescinded, revised or amended by the proper authority.

12  
13 3. All existing contracts, agreements and compacts  
14 currently in effect that pertain to the 3 former boards described  
15 in subsection 1 continue in effect.

16  
17 4. Any positions authorized and allocated subject to the  
18 personnel laws to the 3 former boards described in subsection 1  
19 are transferred to the Board of Licensing Counseling  
20 Professionals and continue to be authorized.

21  
22 5. All records, property and equipment previously belonging  
23 to or allocated for the use of the 3 former boards described in  
24 subsection 1 become, on the effective date of this Act, the  
25 property of the Board of Licensing Counseling Professionals.

26  
27 6. All existing forms, licenses, letterheads and similar  
28 items bearing the name of or referring to any of the 3 former  
29 boards described in subsection 1 may be utilized by the Board of  
30 Licensing Counseling Professionals until existing supplies of  
31 those items are exhausted.

32 **PART K**

33 **Sec. K-1. 2 MRSA §6, sub-§1, as amended by PL 1989, c. 700,**  
34 **Pt. A. §8, is further amended to read:**

35 1. **Range 90.** The salaries of the following state officials  
36 and employees shall be are within salary range 91 90:

37 Commissioner of Transportation;

38 Commissioner of Conservation and Resource Use;

39 Commissioner-of-Finance;

40 Commissioner-of-Administration;

41 Commissioner-of-Education;

42 Superintendent of Education;

2 Commissioner of Environmental Protection;  
4 ~~Commissioner of Human Services;~~  
6 ~~Commissioner of Mental Health and Mental Retardation;~~  
8 Commissioner of Families and Children;  
10 Commissioner of Health and Developmental Services;  
12 Commissioner of Public Safety; and  
14 ~~Commissioner of Professional and Financial Regulation;~~  
16 Commissioner of Labor; and Commerce.  
18 ~~Commissioner of Agriculture, Food and Rural Resources;~~  
20 ~~Commissioner of Inland Fisheries and Wildlife;~~  
22 ~~Commissioner of Marine Resources;~~  
24 ~~Commissioner of Corrections; and~~  
26 ~~Commissioner of Economic and Community Development.~~  
28 **Sec. K-2. 2 MRSA §6, sub-§2, as amended by PL 1991, c. 579,**  
30 **§1, and affected by §19, is further amended to read:**  
32 **2. Range 89. The salaries of the following state officials**  
34 **and employees are within salary range 99 89:**  
36 **Superintendent of Banking;**  
38 **~~Bureau of Consumer Credit Protection Superintendent;~~**  
40 **State Tax Assessor; and**  
42 **~~Superintendent of Insurance;~~**  
44 **~~Associate Commissioner for Programs, Department of Mental~~**  
46 **~~Health and Mental Retardation;~~**  
48 **~~Associate Commissioner of Administration, Department of~~**  
50 **~~Mental Health and Mental Retardation;~~**  
52 **~~Associate Commissioner for Institutional Management;~~**  
**~~Executive Director, Maine Waste Management Agency; and~~**  
**~~Chair, State Harness Racing Commission.~~**

2 **Sec. K-3. 2 MRSA §6, sub-§3, as repealed and replaced by PL**  
4 **1989, c. 878, Pt. A, §4, is amended to read:**  
6 **3. Range 88. The salaries of the following state**  
8 **officials and employees shall be are within salary range 89 88:**  
10 **~~Director of Public Improvements;~~**  
12 **State Budget Officer;**  
14 **State Controller;**  
16 **Director of the Bureau of Forestry;**  
18 **Chief of the State Police;**  
20 **Director, State Planning Office;**  
22 **~~Director, Energy Resources Office;~~**  
24 **Public Advocate; and**  
26 **~~Commissioner of Defense and Veterans' Services;~~**  
28 **~~Director of Human Resources;~~**  
30 **~~Director, Bureau of Mental Retardation;~~**  
32 **~~Director, Bureau of Children with Special Needs; and~~**  
34 **~~Director, Bureau of Mental Health.~~**  
36 **Adjutant General.**  
38 **Sec. K-4. 2 MRSA §6, sub-§4, as repealed and replaced by PL**  
40 **1991, c. 591, Pt. E, §1, is amended to read:**  
42 **4. Range 86. The salaries of the following state officials**  
44 **and employees are within salary range 88 86:**  
46 **~~State Purchasing Agent;~~**  
48 **~~Director of the Bureau of Parks and Recreation;~~**  
50 **~~State Director of Alcoholic Beverages;~~**  
52 **Director of Public Lands Management;**  
**~~Director of Employee Relations;~~**  
**Director, Bureau of Lands;**

2 Director, Bureau of Air Quality Control;  
4 ~~Director, Bureau of Land Quality Control;~~  
6 Director, Bureau of Water Quality Control;  
8 Director, Bureau of Oil and Hazardous Materials and Solid  
10 Waste Control;  
12 Director, Bureau of Administration; and  
14 ~~Director, Office of Planning;~~  
16 ~~Director, Office of Waste Reduction and Recycling;~~  
18 ~~Director, Office of Siting and Disposal Operations; and~~  
20 Executive Director, Board of Environmental Protection.

22 Sec. K-5. 2 MRSA §6, sub-§5, as amended by PL 1989, c. 612, is  
24 further amended to read:

26 5. Range 85. The salaries of the following state officials  
28 and employees shall be are within salary range 85 85:

30 Director of Labor Standards;  
32 Deputy Chief of the State Police;  
34 ~~Director of State Lotteries;~~  
36 State Archivist;  
38 Director of Maine Geological Survey;  
40 ~~Executive Director, Maine Land Use Regulation Commission;~~  
42 Director of the Risk Management Division;  
44 Chairman Chair, Maine Unemployment Insurance Commission;  
46 ~~Director of the Bureau of State Employee Health;~~  
48 ~~Child Welfare Services Ombudsman;~~  
50 ~~Director of the Bureau of Intergovernmental Drug Enforcement;~~  
52 Deputy Director, Operations, Retirement System;  
Deputy Director, Investments, Retirement System;

2 Deputy Director, Administrative and Legal Affairs,  
4 Retirement System; and

6 Executive Director, Maine Science and Technology Commission.

8 Sec. K-6. 2 MRSA §6, sub-§6, as amended by PL 1989, c. 875,  
10 Pt. E, §2, is further amended to read:

12 6. Range 83. The salaries of the following state officials  
14 and employees shall be are within salary range 85 83:

16 ~~Director of Veterans' Services;~~  
18 Director of Civil Emergency Preparedness; and  
20 Members, Maine Unemployment Insurance Commission; and,  
22 ~~Director of Military Bureau.~~

24 Sec. K-7. 2 MRSA §6, sub-§7, as amended by PL 1985, c. 372,  
26 Pt. A, §1, is further amended to read:

28 7. Range 81. The salaries of the following state officials  
30 and employees shall be are within salary range 83 81:

32 A. Rehabilitation Administrator, Office of Employment  
34 Rehabilitation;  
36 B. Child Welfare Services Ombudsman;  
38 C. Chair, State Harness Racing Commission; and  
40 D. Assistant Adjutant General.

42 Sec. K-8. 2 MRSA §6, sub-§8, as repealed and replaced by PL  
44 1981, c. 705, Pt. L, §§1 to 3, is repealed.

46 Sec. K-9. Effective date. This Part takes effect July 1, 1993.

## 48 PART L

50 Sec. L-1. Commission committee established. The Commission on  
the Reorganization of State Government is established and  
consists of 19 members of the Legislature, including 5 members of  
the Senate appointed by the President of the Senate and 14  
members of the House of Representatives appointed by the Speaker  
of the House of Representatives. Members must have experience in  
the areas affected by this Act. Each appointing authority shall  
ensure that the composition of appointees from the authority's

2 chamber reflects the proportion of majority and minority parties  
3 in that chamber.

4 All members must be appointed by June 1, 1992.

6 The commission is abolished on July 1, 1993.

8 **Sec. L-2. Convening of commission; election of chair.** The Chair of  
9 the Legislative Council shall call the first meeting of the  
10 commission within 30 days of the appointment of all commission  
11 members and in no case later than July 1, 1992. At that meeting,  
12 the commission shall select a chair from among its members.

14 **Sec. L-3. Working groups.** The chair of the commission may  
15 form working groups on an ad hoc basis to develop legislative  
16 proposals to the full commission. A working group must consist  
17 of at least 3 members who are Legislators and who are members of  
18 the commission in addition to any other persons the chair may  
19 appoint as nonvoting members of the working group.

20 **Sec. L-4. Staff.** The commission shall request staffing  
21 assistance from the Legislative Council.

24 **Sec. L-5. Cooperation from departments.** All officials of the  
25 executive branch agencies affected by this Act shall provide  
26 information, advice and assistance to the commission upon request.

28 **Sec. L-6. Compensation.** The members of the commission are  
29 entitled to the legislative per diem as defined in the Maine  
30 Revised Statutes, Title 3, section 2 for each day's attendance  
31 at commission meetings and reimbursement for travel and other  
32 necessary expenses upon application to the Executive director of  
33 the Legislative Council.

34 **Sec. L-7. Report.** The commission shall present the  
35 recommended legislation to the Legislature by November 1, 1992,  
36 for consideration during the First Regular Session of the 116th  
37 Legislature.

40 **Sec. L-8. Budget.** The Executive Director of the Legislative  
41 Council shall administer the commission's budget.

42 **Sec. L-9. Advisory boards; generally.** The commission shall  
43 consider whether agencies of State Government of department and  
44 cabinet levels should each have a single advisory board to  
45 replace the various boards that serve the current departments.  
46 If the commission decides that each department should have a  
47 single advisory board, it shall submit implementing legislation.

50 **Sec. L-10. Charge to the commission; general.** The commission  
shall develop, with the advice and assistance of

2 officials of the executive branch and other interested members of  
3 the public, all legislation needed to implement the  
4 reorganization of services in accordance with this Act, including  
5 amendments to the statutes, reallocation of funds and  
6 transitional language as needed.

8 **Sec. L-11. Content of legislation; reallocation of responsibilities of the  
9 Department of Education.** The legislation prepared by the  
10 commission regarding Parts A and B of this Act must provide for  
11 at least the following:

12 1. Reassignment to the Office of Government Operations of  
13 public school funding, including general purpose aid to education  
14 and teacher retirement contributions;

16 2. Reassignment to the Office of Government Operations of  
17 school construction, including closing and disposition of  
18 schools, and related bond issuance responsibilities;

20 3. Reassignment to the Office of Government Operations of  
21 all administrative responsibilities for all education-related  
22 grants or other federal, state or private moneys to be disbursed  
23 to school units or municipalities;

24 4. Reassignment to the Bureau of Licensing and Enforcement  
25 in the Department of Labor and Commerce of educator certification  
26 responsibilities that are to be fully funded by fees collected  
27 from educators;

28 5. Reassignment to the Department of Children and Families  
29 of preschool handicapped children's services;

30 6. Reassignment to the Department of Children and Families  
31 of all school nutrition health and donated commodities programs;

32 7. Reassignment to the Department of Health and  
33 Developmental Services of all substance abuse education programs;

34 8. Reassignment to the Board of Trustees of the Maine  
35 Technical College System of all secondary vocational education  
36 programs; and

38 9. Repeal of all programs listed in Part A, section 4 of  
39 this Act.

40 **Sec. L-12. Content of legislation; finance; administration.** The  
41 legislation prepared by the commission regarding Parts A and B of  
42 this Act must provide for at least the following:

44 1. Implementation of all functions and responsibilities of  
45 the Office of Government Operations and its bureaus; and

2 2. Implementation of the decentralization of personnel  
4 services as follows:

6 A. The Bureau of Human Resources is eliminated. All  
8 positions within the Bureau of Human Resources are abolished.

10 (1) Each agency is responsible for its own personnel  
12 hiring by the process of direct hire.

14 (2) All affirmative action, equal employment  
16 opportunity and civil service regulations remain in  
18 effect, but each agency is responsible for the  
20 enforcement of those regulations within that agency.

22 (3) Agencies may not hire new staff to perform  
24 personnel duties. Personnel duties must be assigned to  
26 existing staff within each agency.

28 B. The Office of Employee Relations is eliminated.

30 (1) The senior attorney in the Office of Employee  
32 Relations is assigned to the Office of the Governor.  
34 All other positions within the Office of Employee  
36 Relations are abolished.

38 (2) All labor negotiations and grievances are referred  
40 to and negotiated by the Office of the Governor with  
42 representatives of state employees. The Governor's  
44 existing counsel, law clerk and staff are responsible  
46 for these duties.

48 **Sec. L-13. Content of legislation; justice; corrections; public safety.**  
50 The legislation prepared by the commission regarding Parts C and  
D of this Act must provide for at least the following:

1. In consultation with the Attorney General,  
implementation of the changes in the jurisdiction of the  
Department of the Attorney General as set forth in this Act; and

2. In consultation with the Chief Justice of the Supreme  
Judicial Court, statutory and budgetary changes necessary to  
implement the creation of the Human Rights Court.

**Sec. L-14. Content of legislation; natural resources.** The  
legislation prepared by the commission regarding Part E of this  
Act must provide for at least the following:

1. Reorganization of the Department of Conservation into the  
Department of Conservation and Resource Use incorporating all

responsibilities currently held by the Department of Marine  
Resources and the Department of Inland Fisheries and Wildlife;

2. Establishment of the Bureau of Lands within the  
Department of Conservation and Resource Use;

3. Incorporation into the Bureau of Lands of the siting and  
planning responsibilities of the Maine Waste Management Agency  
and the regulatory responsibilities of the Bureau of Land Quality  
Control in the Department of Environmental Protection and other  
responsibilities of the Bureau of Lands as described in Part E;

4. Effective at the time of successful siting of a new  
publicly owned waste disposal facility, the establishment of  
independent revenue bonding authority, disposal facility  
operation and abolition of the portion of the Bureau of Lands  
with responsibility for siting the disposal facility;

5. Transfer to the Bureau of Lands of the responsibilities  
currently undertaken by the Department of Economic and Community  
Development and the State Planning Office in the area of natural  
resource planning and management, as described in Part E;

6. Transfer of the Board of Pesticides Control and  
responsibility of the Maine Pesticide Control Act of 1975 to the  
Department of Environmental Protection; and

7. Reorganization of the Department of Environmental  
Protection along the functional lines of licensing, enforcement  
and technical services.

**Sec. L-15. Content of legislation; agriculture.** The legislation  
prepared by the commission regarding Part F of this Act must  
provide for at least the following:

1. Transfer of essential inspections and other essential  
duties of the Division of Regulation with the Department of  
Agriculture, Food and Rural Resources to the Bureau of Inspection  
in the Department of Health and Developmental Services;

2. Transfer to the Department of Conservation and Resource  
Use of appropriate production and marketing programs that receive  
federal funds;

3. Transfer of the Maine Milk Commission, the Maine  
Blueberry Commission and the Maine Potato Board to the Department  
of Labor and Commerce; and

4. Repeal or transfer of all agricultural boards,  
commissions and councils not specifically listed in this Act.  
Transfer may be to a bureau within the Department of Labor and  
Commerce or to another appropriate agency. All boards,



2 commissions and councils transferred must be financially  
3 self-supporting or transferring legislation must include  
4 provisions for financial self-sufficiency.

6 **Sec. L-16. Content of legislation; human services; mental health and  
7 mental retardation.** The legislation prepared by the commission  
8 regarding Part G of this Act must provide for at least the  
9 following:

10 1. Abolition of the Department of Human Services; the  
11 Department of Mental Health and Mental Retardation; the Executive  
12 Department, Office of Substance Abuse; the Executive Department,  
13 Division of Community Services; and the Interdepartmental Council;

14 2. Creation of a Department of Children and Families with  
15 at least the following functional clusters: economic security;  
16 child protection and foster care; and family support and  
17 development;

18 3. Creation of a Department of Health and Developmental  
19 Services with at least the following functional clusters: public  
20 health; medical care finance; substance abuse and mental health;  
21 developmental services and physical disability; veterans'  
22 services; and aging;

23 4. Creation of a universal information and referral system  
24 for all health, social and educational services;

25 5. A single case management system within each of the new  
26 departments with a one caseworker per family focus;

27 6. A single contracting, evaluation and licensing system  
28 within each of the new departments;

29 7. Transfer of the Division of Community Services programs  
30 as follows:

31 A. Head Start to the Department of Children and Families;

32 B. Community Services Block Grant to the Department of  
33 Children and Families; and

34 C. Children's Trust Fund to the Department of Children and  
35 Families;

36 8. Consolidation of all services for people who are  
37 homeless or at risk of becoming homeless at the Maine State  
38 Housing Authority, including programs currently provided by the  
39 Department of Economic and Community Development;

40 9. Transfer of Bureau of Rehabilitation services relating  
41 to people with hearing or sight impairments to the Department of

2 Health and Developmental Services and transfer of Bureau of  
3 Rehabilitation services relating to job training and placement to  
4 the Department of Labor and Commerce;

5 10. Authorization for the Department of Children and  
6 Families and the Department of Health and Developmental Services  
7 to share resources such as but not limited to regional office  
8 space, data management services and payroll services;

9 11. Transfer of all juvenile correctional services to the  
10 Department of Children and Families. Juvenile correctional  
11 services include juvenile detention, probation and parole, the  
12 Maine Youth Center and community-based juvenile programs;

13 12. Transfer of the seafood inspection function from the  
14 Department of Marine Resources to the Department of Health and  
15 Developmental Services;

16 13. Transfer of all food inspection functions from the  
17 Department of Agriculture, Food and Rural Resources to the  
18 Department of Health and Developmental Services;

19 14. Transfer of surplus food distribution functions from  
20 the Department of Agriculture, Food and Rural Resources to the  
21 Department of Children and Families;

22 15. Transfer to the Department of Children and Families of  
23 all preschool handicapped children's services currently provided  
24 by the Department of Education;

25 16. Transfer to the Department of Children and Families of  
26 all school nutrition, health and donated commodities programs  
27 currently provided by the Department of Education; and

28 17. Transfer to the Department of Health and Developmental  
29 Services of substance abuse education programs currently provided  
30 by the Department of Education, all substance abuse programs  
31 currently provided by the Executive Department, Office of  
32 Substance Abuse and all substance abuse programs currently  
33 provided by any other department, agency or office of government.

34 **Sec. L-17. Content of legislation; labor; commerce.** The  
35 legislation prepared by the commission regarding Part J of this  
36 Act must provide for the following:

37 1. Transfer of all bureaus, commissions, councils, boards  
38 and programs listed under the Maine Revised Statutes, Title 26,  
39 section 1408 from their current position in the administrative  
40 structure of State Government to the new Department of Labor and  
41 Commerce;

2 2. Transfer of all programs and money of the Office of  
Tourism in the Business Division of the Department of Economic  
and Community Development to the Maine Tourism Commission in the  
Department of Labor and Commerce;

3. Transfer of the Maine Milk Commission, the Maine  
Blueberry Commission and the Maine Potato Commission to the  
Department of Labor and Commerce. Additional boards, commissions  
and entities with labor or commerce related functions may also be  
transferred to the department;

4. Consolidation of the State Board of Social Worker  
Licensure, State Board of Substance Abuse Counselors and Board of  
Counseling Professionals Licensure into the Board of Counseling  
Professionals Licensure; and

5. Clarification of the independent status of the Maine  
Tourism Commission, Maine Small Business Commission, Maine  
Science and Technology Commission, Maine World Trade Association  
and the Finance Authority of Maine while allowing for close  
coordination with the activities of the Department of Labor and  
Commerce.

**Sec. L-18. Study; State Auditor.** The commission shall conduct  
a study of the role and function of the State Auditor. The  
commission shall examine, as a model, the federal General  
Accounting Office and shall develop legislation to expand the  
investigative powers of the State Auditor to serve information  
needs of legislative committee chairs and the senior minority  
members of those committees. The legislation must also provide  
for improved capabilities for the State Auditor to conduct both  
financial and management audits of state agencies.

**Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved except as otherwise  
indicated.

#### STATEMENT OF FACT

This bill enacts a comprehensive restructuring of the  
agencies and departments that comprise State Government. Certain  
key changes in law are made in this bill including repeal of  
certain departments and the enactment of new departments  
incorporating the reorganized programs. The bill creates a  
commission to oversee the development and implementation of  
necessary legislation for full realization of the reorganization.

The following describes each Part in more detail.

#### Parts A and B

These Parts establish the Legislature's intent regarding the  
structure and mission of the Executive Department. The Executive  
Department is restructured to include the Office of the Governor,  
the State Planning Office, the Office of Government Operations,  
the Adjutant General and the Board of Education. The Department  
of Education is abolished and its peripheral functions  
transferred to other agencies. The Department of Administrative  
and Financial Services is converted into the Office of Government  
Operations. Its responsibilities regarding personnel are  
repealed and decentralized to enable greater flexibility and  
initiative among the agencies comprising State Government.

#### Part C

This Part establishes the Human Rights Court and  
consolidates civil and human rights responsibilities within the  
Department of the Attorney General. Advocacy functions and  
consumer protection responsibilities are also consolidated under  
the Attorney General.

#### Part D

This Part combines the Department of Corrections with the  
existing Department of Public Safety. This Part also repeals the  
Bureau of Intergovernmental Drug Enforcement and reestablishes  
the State Police as the lead drug enforcement arm of the State.

#### Part E and F

These Parts reorganize the programs of State Government  
related to natural resources. Part E establishes the Bureau of  
Lands within the existing Department of Conservation, which is  
renamed the Department of Conservation and Resource Use. Certain  
responsibilities of the Department of Environmental Protection  
are transferred to the new bureau. The new bureau is also made  
responsible for the initial siting of a publicly owned solid  
waste disposal facility. The Maine Waste Management Agency is  
abolished. The department itself is reorganized to assume the  
responsibilities of the Department of Marine Resources and the  
Department of Inland Fisheries and Wildlife.

Part F abolishes the Department of Agriculture, Food and  
Rural Resources and redistributes its responsibilities to other  
agencies including the new Department of Labor and Commerce, the  
Department of Health and Developmental Services, the Department  
of Conservation and Resource Use and the Department of  
Environmental Protection.

#### Part G

2 This Part charges the Commission on the Reorganization of  
3 State Government with preparing the legislation needed to  
4 reorganize health, social and developmental services into 2 new  
5 departments.

6  
7  
8 Part H

9 Part H requires the Department of Mental Health and Mental  
10 Retardation to close Pineland Center and the Augusta Mental  
11 Health Institute by January 1, 1998 and January 1, 1996  
12 respectively. All residents of those facilities must receive  
13 discharge plans prior to their discharge.

14  
15 Part I

16 This Part provides for a comprehensive reform of the State's  
17 welfare system.

18  
19 Part J

20  
21 This Part creates a new department in State Government  
22 called the Department of Labor and Commerce. It abolishes the  
23 Department of Labor, the Department of Economic and Community  
24 Development and the Department of Professional and Financial  
25 Regulation. The department assumes all the duties and functions  
26 of the Department of Labor and the Department of Professional and  
27 Financial Regulation and the duties and functions of the Business  
28 Division of the Department of Economic and Community  
29 Development. Additional commissions, boards and independent  
30 agencies are also added to the new department.

31  
32 Part K

33 This Part repeals the references in the salary laws to  
34 agencies and positions that are abolished in this bill effective  
35 July 1, 1993.

36  
37 Part L

38  
39 This Part establishes the Commission on the Reorganization  
40 of State Government to oversee the development and implementation  
41 of legislation for the structural changes made in this bill.  
42 This Part provides a detailed charge to the committee in each of  
43 the areas of major change. The commission is separately directed  
44 in this Part to reorganize the functions of the Secretary of  
45 State and to study the functions of the State Auditor and that  
46 office's relationship to the Legislature.  
47  
48