

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R.S.

L.D. 1348

DATE: 6/16/95

(Filing No. H- 516)

STATE AND LOCAL GOVERNMENT

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 959, L.D. 1348, Bill, "An Act to Reform the Process of Periodic Review of Programs and Agencies"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 3 MRSA c. 33, as amended, is repealed.

Sec. 2. 3 MRSA c. 35 is enacted to read:

CHAPTER 35

STATE GOVERNMENT EVALUATION

§951. Short title

This chapter may be known and cited as the "State Government Evaluation Act."

§952. Scope

This chapter provides for a system of periodic review of agencies and independent agencies of State Government in order to evaluate their efficacy and performance. Only those agencies, independent agencies or parts of those agencies and independent agencies that receive support from the General Fund or that are established, created or incorporated by reference in the Maine

R d S.

2 Revised Statutes are subject to the provisions of this chapter.
3 The financial and programmatic review must include, but is not
4 limited to, a review of agency management and organization,
5 program delivery, agency goals and objectives, statutory mandate
6 and fiscal accountability.

7 **§953. Definitions**

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

10 1. Agency. "Agency" means a governmental entity subject to
11 review pursuant to this chapter, but not subject to automatic
12 termination.

13 2. Committee or committee of jurisdiction. "Committee or
14 committee of jurisdiction" means the joint standing committee of
15 the Legislature having jurisdiction over the same policy and
16 substantive matters as an agency subject to review under this
17 chapter.

18 3. Independent agency. "Independent agency" means a
19 governmental entity subject to review and to termination pursuant
20 to this chapter.

21 **§954. Designation by legislative policy committee**

22 1. Authorization. On or before April 1st of any first
23 regular session, the committee of jurisdiction shall review the
24 list of agencies scheduled for review in section 959.

25 2. Waiver from review. The committee of jurisdiction may,
26 with a 2/3 vote of all committee members, do one of the following
27 with regard to an agency review:

28 A. Exempt an agency or independent agency from review and
29 establish a new review date;

30 B. Establish a modified review process in which an agency
31 or independent agency may be asked to provide less
32 information than required by this section or additional
33 information; or

34 C. Add an additional agency or independent agency for
35 review, except that an agency that has been reviewed in
36 accordance with this chapter in the legislative session
37 immediately preceding the current legislative session may
38 not be added for review.

39 **§955. Committee schedule**

R.S.

2 1. Review established. The committee of jurisdiction shall
4 establish its agency review schedule in accordance with this
6 chapter, and upon approval of the necessary resources by the
8 Legislative Council, and shall provide each agency with a written
10 notice of its intent to review an agency by no later than May 1st
12 of the first regular session of the Legislature.

14 2. Submission of program evaluation report. Each agency
16 and independent agency shall prepare and submit no later than
18 November 1st prior to the second regular session of the
20 Legislature, a program evaluation report as required in section
22 956, to the Legislature through the committee of jurisdiction.

24 3. Conduct review. The committee of jurisdiction shall
26 begin its agency review process no later than February 1st of the
28 second regular session of the Legislature and in accordance with
30 this chapter.

32 4. Report issued. For those agencies and independent
34 agencies selected for review by the committee of jurisdiction,
36 the committee shall submit to the Legislature no later than March
38 15th of the second regular session of the Legislature the
40 findings, administrative recommendations or legislation required
42 to implement recommendations made as a result of its review,
44 analysis and evaluation.

46 5. Follow-up review. The committee of jurisdiction shall
48 establish in its final report a specified time in which the
50 committee may review the progress of an agency in meeting the
52 recommendations of the committee report. A follow-up review may
54 consist of written progress reports, public hearings with the
56 agency and committee or any other method approved by the
58 committee of jurisdiction in its final report.

60 §956. Program evaluation report

62 1. Report required. Each agency and independent agency
64 shall prepare and submit to the Legislature, through the
66 committee of jurisdiction, a program evaluation report by a date
68 specified by the committee.

70 2. Program evaluation report; contents. Each report must
72 include the following information in a concise but complete
74 manner:

76 A. Enabling or authorizing law or other relevant mandate,
78 including any federal mandates;

R.S.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

B. A description of each program administered by the agency or independent agency, including the following for each program:

(1) Established priorities, including the goals and objectives in meeting each priority;

(2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and

(3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives;

C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility;

D. Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers' compensation;

E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years;

F. When applicable, the regulatory agenda and the summary of rules adopted;

G. Identification of those areas where an agency has coordinated its efforts with other agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements;

H. Identification of the constituencies served by the agency or program, noting any changes or projected changes;

I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

J. Identification of emerging issues for the agency or program in the coming years; and

K. Any other information specifically requested by the committee of jurisdiction.

§957. Committee analysis and recommendations

1. Authority. For each agency or independent agency or a component part of each agency or independent agency subject to review pursuant to section 952, the committee of jurisdiction may conduct an analysis and evaluation that may include, but need not be limited to, an evaluation of the program evaluation report, the extent to which the agency or independent agency operates in accordance with its legislative authority and the degree of success achieved by the agency or independent agency in meeting its statutory and administrative mandate. In consultation with the Legislative Council, the committee shall select agencies or independent agencies for review either in accordance with the scheduling guidelines provided in this chapter or at any time determined necessary or warranted by the committee.

§958. Termination of independent agencies

1. Termination process. The committee of jurisdiction may recommend to the Legislature that any independent agency be terminated if indicated or warranted by the committee's review, analysis and evaluation of the independent agency. An independent agency may be accorded a grace period of not more than one year from the effective date of the legislation approving termination in which to complete its business. During the grace period, the statutory powers and duties of the independent agency are not limited or reduced.

2. Disposition of property, funds and records. During the grace period, the Legislature shall determine the disposition of:

A. All property, including any land, buildings, equipment and supplies used by the independent agency;

B. All funds remaining in any account of the independent agency; and

C. All records resulting from the activities of the independent agency.

3. Expiration of grace period. Upon the expiration of the grace period, the independent agency shall cease its activities and terminate.

§959. Scheduling guideline for review of agencies or independent agencies

RdS.

1 1. Scheduling guidelines. Except as provided in subsection
2 2, reviews of agencies or independent agencies must be scheduled
3 in accordance with the following.

4
5 A. The joint standing committee of the Legislature having
6 jurisdiction over agriculture, conservation and forestry
7 matters shall use the following list as a guideline for
8 scheduling reviews:

10 (1) Baxter State Park Authority in 1997;

12 (2) Department of Conservation in 1997;

14 (3) Blueberry Advisory Committee in 1999;

16 (4) Board of Pesticides Control in 1999;

18 (5) Maine Blueberry Commission in 1999;

20 (6) Seed Potato Board in 1999;

22 (7) Maine Dairy and Nutrition Council in 2001;

24 (8) Maine Dairy Promotions Board in 2001;

26 (9) Maine Milk Commission in 2001;

28 (10) State Harness Racing Commission in 2001;

30 (11) Maine Agricultural Bargaining Board in 2003;

32 (12) Department of Agriculture, Food and Rural
34 Resources in 2003; and

36 (13) State Soil and Water Conservation Commission in
38 2003.

38 B. The joint standing committee of the Legislature having
39 jurisdiction over banking and insurance matters shall use
40 the following list as a guideline for scheduling reviews:

42 (1) State Employee Health Commission in 1999.

44 C. The joint standing committee of the Legislature having
45 jurisdiction over business and economic development matters
46 shall use the following list as a guideline for scheduling
47 reviews:

48 (1) Maine Development Foundation in 1997;
50

2 (2) Board of Examiners in Physical Therapy in 1997;

4 (3) Board of Examiners on Speech Pathology and
Audiology in 1997;

6 (4) Board of Hearing Aid Dealers and Fitters in 1997;

8 (5) Department of Professional and Financial
Regulation in 1997;

10 (6) Maine Athletic Commission in 1997;

12 (7) Manufactured Housing Board in 1997;

14 (8) Maine State Board for Licensure of Architects,
Landscape Architects and Interior Designers in 1997;

16 (9) Oil and Solid Fuel Board in 1997;

18 (10) Plumbers' Examining Board in 1997;

20 (11) Real Estate Commission in 1997;

22 (12) State Board of Barbers in 1997;

24 (13) State Board of Certification for Geologists and
Soil Scientists in 1997;

26 (14) State Board of Cosmetology in 1997;

28 (15) State Board of Examiners of Psychologists in 1997;

30 (16) State Board of Funeral Service in 1997;

32 (17) State Board of Licensure for Professional
Foresters in 1997;

34 (18) State Board of Substance Abuse Counselors in 1997;

36 (19) Department of Economic and Community Development
in 1997;

38 (20) Board of Underground Oil Storage Tank Installers
in 1997;

40 (21) Board of Occupational Therapy Practice in 1999;

42 (22) Board of Respiratory Care Practitioners in 1999;

44 (23) Maine State Housing Authority in 1999;

R.S.

- 2 (24) Radiologic Technology Board of Examiners in 1999;
- 4 (25) Arborist Examining Board in 1999;
- 6 (26) Board of Accountancy in 1999;
- 8 (27) Board of Commissioners of the Profession of
10 Pharmacy in 1999;
- 12 (28) Electricians' Examining Board in 1999;
- 14 (29) State Board of Social Worker Licensure in 1999;
- 16 (30) Board of Counseling Professionals Licensure in
18 2001;
- 20 (31) Board of Real Estate Appraisers in 2001;
- 22 (32) Finance Authority of Maine in 2001;
- 24 (33) Petroleum Advisory Committee in 2001;
- 26 (34) State Board of Veterinary Medicine in 2001;
- 28 (35) Board of Chiropractic Licensure in 2003;
- 30 (36) Board of Dental Examiners in 2003;
- 32 (37) Board of Osteopathic Licensure in 2003;
- 34 (38) Board of Licensure in Medicine in 2003;
- 36 (39) Board of Licensure of Podiatric Medicine in 2003;
- 38 (40) Nursing Home Administrators Licensing Board in
40 2003;
- 42 (41) State Board of Nursing in 2003;
- 44 (42) State Board of Optometry in 2003;
- 46 (43) Board of Licensure for Professional Land
48 Surveyors in 2003;
- 50 (44) Maine State Pilotage Commission in 2003;
- (45) State Board of Registration for Professional
 Engineers in 2003;

RdS.

COMMITTEE AMENDMENT "A" to H.P. 959, L.D. 1348

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

- (46) Acupuncture Licensing Board in 2005;
- (47) Board of Licensing of Auctioneers in 2005; and
- (48) Board of Licensing of Dietetic Practice in 2005.

D. The joint standing committee of the Legislature having jurisdiction over criminal justice matters shall use the following list as a guideline for scheduling reviews:

- (1) Department of Public Safety, except for the Bureau of Liquor Enforcement, in 2001; and
- (2) Department of Corrections in 2003.

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters shall use the following list as a guideline for scheduling reviews:

- (1) Telecommunications Relay Services Advisory Council in 1997;
- (2) Department of Education in 1997;
- (3) Maine Arts Commission in 1999;
- (4) Maine Conservation School in 1999;
- (5) Maine Historic Preservation Commission in 1999;
- (6) Maine Library Commission in 1999;
- (7) Maine State Museum Commission in 1999;
- (8) Office of State Historian in 1999;
- (9) Board of Trustees of the Maine Maritime Academy in 2001;
- (10) Board of Trustees of the University of Maine System in 2001;
- (11) Educational Leave Advisory Board in 2001;
- (12) Maine Technical College System in 2001;
- (13) Maine Health and Higher Educational Facilities Authority in 2003; and

(14) Maine Educational Loan Authority in 2003.

F. The joint standing committee of the Legislature having jurisdiction over human resource matters shall use the following list as a guideline for scheduling reviews:

(1) Alcohol and Drug Abuse Planning Committee in 1997;

(2) Office of Substance Abuse in 1997;

(3) Maine Advisory Committee on Mental Retardation in 1999;

(4) Maine Health Care Finance Commission in 1999;

(5) Maine Emergency Medical Services in 2001;

(6) Department of Human Services in 2001;

(7) Board of the Maine Children's Trust Incorporated in 2003;

(8) Governor's Committee on Employment of People with Disabilities in 2003;

(9) Maine Developmental Disabilities Council in 2003;
and

(10) Department of Mental Health and Mental Retardation in 2005.

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Inland Fisheries and Wildlife in 1997; and

(2) Advisory Board for the Licensing of Taxidermists in 2005.

H. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall use the following list as a guideline for scheduling reviews:

(1) Maine Court Facilities Authority in 1999;

(2) Maine Human Rights Commission in 2001;

18. 2 (3) Maine Indian Tribal-State Commission in 2003; and

4 (4) Department of the Attorney General in 2003.

6 I. The joint standing committee of the Legislature having
jurisdiction over labor matters shall use the following list
as a guideline for scheduling reviews:

8 (1) Maine State Retirement System in 1997;

10 (2) Department of Labor in 1999;

12 (3) Maine Labor Relations Board in 2001;

14 (4) Workers' Compensation Board in 2001; and

16 (5) Maine Occupational Information Coordinating
18 Committee in 2001.

20 J. The joint standing committee of the Legislature having
jurisdiction over legal and veterans' affairs shall use the
22 following schedule as a guideline for scheduling reviews:

24 (1) Department of Defense and Veterans' Services in
26 2001;

28 (2) State Liquor and Lottery Commission in 1999; and

30 (3) Bureau of Liquor Enforcement within the Department
of Public Safety in 1999.

32 K. The joint standing committee of the Legislature having
jurisdiction over marine resource matters shall use the
34 following list as a guideline for scheduling reviews:

36 (1) Atlantic States Marine Fisheries Commission in
38 1997;

40 (2) Department of Marine Resources in 1997;

42 (3) Atlantic Sea Run Salmon Commission in 1999;

44 (4) Lobster Advisory Council in 1999; and

46 (5) Maine Sardine Council in 1999.

48 L. The joint standing committee of the Legislature having
jurisdiction over natural resource matters shall use the
50 following list as a guideline for scheduling reviews:

COMMITTEE AMENDMENT "A" to H.P. 959, L.D. 1348

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

- (1) Department of Environmental Protection in 1997;
- (2) Board of Environmental Protection in 1997;
- (3) Advisory Commission on Radioactive Waste in 1999;
and
- (4) Saco River Corridor Commission in 2005.

M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

- (1) Capitol Planning Commission in 1997;
- (2) State Civil Service Appeals Board in 1999;
- (3) State Claims Commission in 1999;
- (4) Maine Municipal Bond Bank in 2001;
- (5) Office of Treasurer of State in 2001;
- (6) Department of Administrative and Financial Services, except for the Bureau of Taxation in 2003;
- (7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2003;
- (8) Local Government Records Board in 2003; and
- (9) State Planning Office in 2005.

N. The joint standing committee of the Legislature having jurisdiction over taxation matters shall use the following schedule as a guideline for scheduling reviews:

- (1) State Board of Property Tax Review in 2001; and
- (2) Department of Administrative and Financial Services, Bureau of Taxation in 2003.

O. The joint standing committee of the Legislature having jurisdiction over transportation matters shall use the following schedule as a guideline for scheduling reviews:

- (1) Maine Turnpike Authority in 1997;
- (2) The Bureau of Motor Vehicles within the Department of the Secretary of State in 1999; and

2 (3) The Department of Transportation in 1999.

4 P. The joint standing committee of the Legislature having
 6 jurisdiction over utilities and energy matters shall use the
 following list as a guideline for scheduling reviews:

8 (1) Public Advocate in 1997;

10 (2) Board of Directors, Maine Municipal and Rural
 12 Electrification Cooperative Agency in 1999; and

14 (3) Public Utilities Commission in 1999.

16 2. Waiver. Notwithstanding this list of agencies arranged
 18 by year, an agency or independent agency may be reviewed at any
 time by the committee pursuant to section 954.

20 **§960. Future or reorganized agencies and independent agencies**

22 The chief staff administrator of a newly created or
 24 substantially reorganized agency or independent agency shall
 26 contact the committee to ensure placement of that agency or
 independent agency in the scheduling guideline outlined in
 section 959. The committee and the Legislative Council shall
 determine the placement of that agency or independent agency in
 the scheduling guideline.

28 **§961. Legislative Council**

30 The Legislative Council shall issue rules necessary for the
 32 efficient administration of this chapter and shall provide the
 34 committees of jurisdiction with assistance as required to carry
 out the purposes of this chapter.

36 **§962. Legal claims**

38 Termination, modification or establishment of agencies or
 40 independent agencies as a result of the review required by this
 42 chapter does not extinguish any legal claims against the State,
 any state employee or state agency or independent agency. The
 provisions of this chapter do not relieve the State or any agency
 or independent agency of responsibility for making timely payment
 of the principal and interest of any debt issued in the form of a
 bond or note.

46 **§963. Review**

48 The joint standing committee of the Legislature having
 50 jurisdiction over state and local government matters shall review

R.S.

the provisions and effects of this chapter no later than June 30, 2000 and at least once every 10 years after June 30, 2000.

Sec. 3. 5 MRSA §13063, sub-§6, ¶D, as enacted by PL 1993, c. 430, §1, is amended to read:

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter 33 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program.

Sec. 4. 32 MRSA §94, as amended by PL 1991, c. 588, §26, is further amended to read:

§94. Sunset

The operations and conduct of Maine Emergency Medical Services must be reviewed in accordance with the Maine Sunset Act, Title 3, chapter 33 35, no later than June 30, 2003.

Sec. 5. 38 MRSA §1453-A, sub-§7, as enacted by PL 1993, c. 664, §15, is amended to read:

7. Repeal. This commission is subject to review and terminates in accordance with Title 3, chapter 33 35, not including the grace period, no later than June 30, 1999, unless continued or modified by law.'

Further amend the bill by inserting at the end before the statement of fact the following:

·FISCAL NOTE

The proposed program evaluation process will increase costs to the Legislature beginning in fiscal year 1997-98. Additional staff may be required to handle the additional workload during second regular sessions. The number of additional staff and corresponding General Fund appropriations required will depend on the number and scope of the evaluations, which can not be determined at this time.'

RdS

COMMITTEE AMENDMENT "A" to H.P. 959, L.D. 1348

STATEMENT OF FACT

2
4
6

The amendment replaces the original bill. The amendment repeals the previous sunset review process and establishes a new process in which the committees of jurisdiction conduct the program evaluations for agencies and independent agencies.

COMMITTEE AMENDMENT