

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

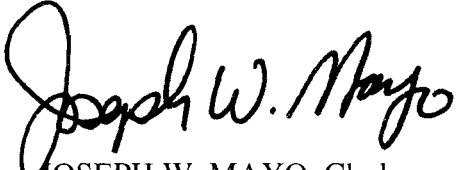
No. 2676

H.P. 1932

House of Representatives, April 6, 2000

**An Act to Repeal Certain Inactive Boards and Commissions and to
Amend Certain Laws Governing Boards and Commissions.**

Reported by Representative AHEARNE for the Joint Standing Committee on State and
Local Government pursuant to Joint Order H.P. 1850.


JOSEPH W. MAYO, Clerk

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

2 **Sec. 1. 5 MRSA §49**, as amended by PL 1995, c. 368, Pt. HH,
4 §1, is repealed.

6 **Sec. 2. 5 MRSA §50**, as enacted by PL 1993, c. 476, §1, is
8 repealed.

10 **Sec. 3. 5 MRSA §453-A, sub-§1**, as enacted by PL 1991, c. 799,
 §3 and c. 883, §1, is amended to read:

12 **1. Appointment.** The members of the board are appointed by
14 the Governor and are subject to review by the joint standing
16 committee of the Legislature having jurisdiction over taxation
 matters and to confirmation by the Legislature, except that the
18 Governor may not appoint any members to the board until such time
 as funds accrue to the Mining Excise Tax Trust Fund.

20 **Sec. 4. 5 MRSA §454-A, sub-§5**, as enacted by PL 1991, c. 799,
 §5, is amended to read:

22 **5. Biennial report and annual plan.** The Upon appointment
24 of the board members pursuant to section 453-A, subsection 1, the
 board shall prepare:

26 A. A biennial report to be submitted to the Governor and
28 the Legislature. The report must include an audited
30 financial statement of the fund and a listing of activities
 undertaken by the board in the preceding biennium. The
32 report must be submitted 30 days prior to the convening of
 each first regular session of the Legislature; and

34 B. An annual general plan of expenditures and activities of
36 the coming year. The general plan must be submitted to the
 Legislature for approval 30 days prior to the convening of
 each regular session.

38 **Sec. 5. 5 MRSA §1589, sub-§4**, as amended by PL 1995, c. 464,
40 §13, is further amended to read:

42 **4. Copies of proposals to Bureau of the Budget and Office**
44 **of Fiscal and Program Review.** Copies of each approved proposal
46 for the expenditure of funds available in each departmentwide and
 statewide account in accordance with subsection 2 must be
48 submitted from each department's or agency's quality management
 council ~~and the Maine Quality Management Council, respectively,~~
 to the Bureau of the Budget and the Office of Fiscal and Program
 Review.

2 **Sec. 6. 5 MRSA §1589, sub-§6**, as repealed by PL 1995, c. 368,
Pt. HH, §5 and as amended by PL 1995, c. 464, §13, is repealed
and the following enacted in its place:

4
6 **6. Report required.** The Department of Administrative and
Financial Services shall report to the joint standing committees
of the Legislature having jurisdiction over state and local
8 government matters and appropriations and financial affairs
annually no later than February 1st, the following:

10 A. The total amount appropriated or allocated, by
12 department, under this section;

14 B. A description of initiatives submitted under subsection
4; and

16 C. A recommendation from the Department of Administrative
18 and Financial Services on any changes needed to further
total quality management efforts in State Government.

20 **Sec. 7. 5 MRSA §1877-A, sub-§1, ¶C**, as amended by PL 1997, c.
22 618, §1, is further amended to read:

24 C. The degree to which personnel needs of state agencies
are being met. ~~This portion of the report must also include
26 the evaluation of the Civil Service Policy Review Board with
respect to this same issue;~~

28 **Sec. 8. 5 MRSA §7032, sub-§7**, as enacted by PL 1985, c. 785,
30 Pt. B, §38, is repealed.

32 **Sec. 9. 5 MRSA §7034, sub-§2**, as enacted by PL 1985, c. 785,
Pt. B, §38, is amended to read:

34 **2. Cooperate with agencies.** Cooperate with ~~the Policy
36 Review Board~~ and work closely with all state agencies with
respect to the personnel needs and matters of each agency. The
38 bureau shall strive to assure ensure that personnel policies are
understood and carried out by the agencies;

40 **Sec. 10. 5 MRSA §7036, sub-§§3, 5, 6 and 8**, as enacted by PL
42 1985, c. 785, Pt. B, §38, are amended to read:

44 **3. Provide information.** Provide information to Bureau of
Employee Relations, ~~work with the Policy Review Board~~ and assure
46 ensure that the needs of the departments, agencies and state
employees and the policies developed pursuant to these needs are
48 provided to the Bureau of Employee Relations;

2 **5. Be responsible for development and implementation of**
3 **system of registers of eligibles.** Be responsible for the
4 development and use of registers of eligibles and the updating of
5 these registers ~~in--accordance--with--policies--and--proceedures~~
6 ~~approved-by-the-Policy-Review-Board.~~

7 The director shall implement the procedures authorized by this
8 subsection with the goal to establish an efficient hiring process
9 that meets the satisfaction of the agencies that the office
10 serves;

11 **6. Develop and oversee job application process.** Develop
12 and oversee the administration of the job application process ~~in~~
13 ~~accordance-with-policies-and-proceedures-approved-by-the-Policy~~
14 ~~Review-Board~~ with the goal to establish a very efficient process
15 that meets the needs established in subsection 4;

16 **8. Establish and implement job performance evaluation**
17 **process.** Establish and implement, ~~in--accordance-with-policies-and~~
18 ~~proceedures--approved-by-the-Policy-Review-Board,~~ an employee job
19 performance evaluation process to be used by all agencies with
20 employees in the classified service. The job performance
21 evaluation procedure shall must be consistent in its use and
22 application among all classified service employees;

23 **Sec. 11. 5 MRSA §7036, sub-§16,** as enacted by PL 1985, c. 785,
24 Pt. B, §38, is repealed.

25 **Sec. 12. 5 MRSA §7038, first ¶,** as enacted by PL 1985, c. 785,
26 Pt. B, §38, is amended to read:

27 The director ~~in-consultation-with-the-Policy-Review-Board~~
28 ~~shall-be~~ is responsible for the development and monitoring of a
29 ~~communications'~~ communications process between management and
30 subordinate employees in each agency of State Government.

31 **Sec. 13. 5 MRSA §7041,** as corrected by RR 1995, c. 2, §6, is
32 repealed.

33 **Sec. 14. 5 MRSA §7042,** as amended by PL 1987, c. 240, §2, is
34 repealed.

35 **Sec. 15. 5 MRSA §7051, sub-§6, ¶B,** as enacted by PL 1985, c.
36 785, Pt. B, §38, is amended to read:

37 B. The director ~~and-Policy-Review-Board~~ shall establish a
38 policy to protect persons in temporary positions from
39 remaining in a temporary position for an unreasonable period
40 of time, not to exceed one year, as determined by the board.

2 **Sec. 16. 5 MRSA §7052**, as enacted by PL 1985, c. 785, Pt. B,
§38, is amended to read:

4 **§7052. Appointments and promotions**

6 Appointments to and promotions in the classified service
shall must be made according to merit and fitness, from eligible
8 lists developed by the director pursuant to procedures and
policies established by the director ~~and the Policy Review~~
10 ~~Board~~. No A person may not be appointed, transferred, promoted
or reduced as an officer, clerk or employee or laborer in the
12 classified service in any manner or by any means other than those
prescribed by law or rule pursuant to this chapter.

14 **Sec. 17. 5 MRSA §7061, first ¶**, as repealed and replaced by PL
16 1987, c. 541, is amended to read:

18 The director, in accordance with policies and procedures
established by the director ~~and the Policy Review Board~~ and in
20 accordance with this section, shall record the duties and
responsibilities of all positions in state service and establish
22 classes for these positions. The titles of the positions and
classes shall must be used in all personnel, accounting, budget,
24 appropriation and financial records of all state departments,
commissions and institutions.

26 **Sec. 18. 5 MRSA §7062, first ¶**, as enacted by PL 1985, c. 785,
28 Pt. B, §38, is amended to read:

30 The director, in accordance with policies and procedures
established by the director ~~and the board~~, shall prepare for each
32 class of positions in the classified service registers of persons
eligible for appointment to positions in each class. Each
34 eligible register shall ~~consist~~ consists of a list of all the
persons who have shown by competitive tests, as provided in
36 section 7063, that they possess the qualifications ~~which~~ that
entitle them to be considered eligible for appointment to any
38 position in the class for which the eligible register is to be
prepared, and of employees who have resigned or been dismissed,
40 laid off or granted leaves of absence and whose names have been
restored to the eligible register in accordance with this chapter.

42 **Sec. 19. 5 MRSA §7062, sub-§2**, as enacted by PL 1985, c. 785,
44 Pt. B, §38, is amended to read:

46 **2. Establishment of direct hire procedures.** The director
~~in consultation with the Policy Review Board~~ shall, based on
48 recruitment and retention needs and the provision of section
7036, subsection 22, establish where practicable direct hire
50 procedures.

2 **Sec. 20. 5 MRSA §12004-F, sub-§14**, as enacted by PL 1989, c.
503, Pt. A, §11, is repealed.

4 **Sec. 21. 5 MRSA §12004-G, sub-§6**, as enacted by PL 1987, c.
6 786, §5, is repealed.

8 **Sec. 22. 5 MRSA §12004-G, sub-§6-A**, as enacted by PL 1993, c.
10 381, §3, is repealed.

12 **Sec. 23. 5 MRSA §12004-G, sub-§8-A**, as amended by PL 1991, c.
843, §1, is repealed.

14 **Sec. 24. 5 MRSA §12004-G, sub-§26-C**, as enacted by PL 1995, c.
16 541, §1, is repealed.

18 **Sec. 25. 5 MRSA §12004-G, sub-§27-A**, as enacted by PL 1989, c.
529, §1, is repealed.

20 **Sec. 26. 5 MRSA §12004-G, sub-§28**, as amended by PL 1995, c.
22 560, Pt. K, §3 and affected by §83, is repealed.

24 **Sec. 27. 5 MRSA §12004-H, sub-§2**, as enacted by PL 1987, c.
786, §5, is repealed.

26 **Sec. 28. 5 MRSA §12004-H, sub-§9**, as amended by PL 1989, c.
28 503, Pt. A, §21, is repealed.

30 **Sec. 29. 5 MRSA §12004-H, sub-§11**, as enacted by PL 1987, c.
786, §5, is repealed.

32 **Sec. 30. 5 MRSA §12004-I, sub-§6-D**, as corrected by RR 1993,
c. 2, §5, is repealed.

34 **Sec. 31. 5 MRSA §12004-I, sub-§19**, as enacted by PL 1987, c.
36 786, §5, is repealed.

38 **Sec. 32. 5 MRSA §12004-I, sub-§20-A**, as enacted by PL 1989, c.
40 486, §1 and c. 503, Pt. A, §25, is repealed.

42 **Sec. 33. 5 MRSA §12004-I, sub-§37-B**, as enacted by PL 1993, c.
410, Pt. FFF, §2, is repealed.

44 **Sec. 34. 5 MRSA §12004-I, sub-§47-B**, as enacted by PL 1993, c.
381, §7, is repealed.

46 **Sec. 35. 5 MRSA §12004-I, sub-§§58-A, 58-B and 58-C**, as enacted
48 by PL 1989, c. 931, §1, are repealed.

2 **Sec. 36. 5 MRSA §12004-I, sub-§58-D**, as enacted by PL 1991, c.
319, §1, is repealed.

4 **Sec. 37. 5 MRSA §12004-I, sub-§59**, as enacted by PL 1987, c.
786, §5, is repealed.

6 **Sec. 38. 5 MRSA §12004-I, sub-§§59-B and 59-C**, as enacted by PL
8 1991, c. 316, §1, are repealed.

10 **Sec. 39. 5 MRSA §12004-I, sub-§63**, as enacted by PL 1987, c.
786, §5, is repealed.

12 **Sec. 40. 5 MRSA §12004-I, sub-§65**, as amended by PL 1993, c.
14 738, Pt. B, §1 and affected by §9, is repealed.

16 **Sec. 41. 5 MRSA §12004-I, sub-§72-C**, as enacted by PL 1995, c.
18 379, §2, is repealed.

20 **Sec. 42. 5 MRSA §12004-I, sub-§77-A**, as enacted by PL 1993, c.
476, §4, is repealed.

22 **Sec. 43. 5 MRSA §12004-I, sub-§83**, as enacted by PL 1987, c.
24 786, §5, is repealed.

26 **Sec. 44. 5 MRSA §12004-L, sub-§§7 and 9**, as amended by PL 1993,
c. 738, Pt. B, §2 and affected by §9, are repealed.

28 **Sec. 45. 5 MRSA §12005-A, first ¶**, as amended by PL 1991, c.
30 844, §1, is amended to read:

32 Every board listed in this chapter is required to appoint a
34 clerk of the board who is responsible for submitting reports to
36 the Secretary of State as required by this chapter. This clerk
38 shall submit an annual report to the Secretary of State on forms
40 provided by the Secretary of State. This report must be
submitted no later than December ~~15th~~ 31st of each calendar year
and must include information required by this section and any
other information ~~deemed~~ determined necessary by the Secretary of
State to fulfill the purposes of this chapter. This information
must include:

42 **Sec. 46. 5 MRSA §12005-A, sub-§8**, as corrected by RR 1993, c.
44 1, §15, is amended to read:

46 **8. Vacancies.** The number of vacancies on the board on
December ~~15th~~ 31st and the term of the vacancy.

48 **Sec. 47. 5 MRSA §12006, sub-§§1 and 2**, as repealed and replaced
50 by PL 1993, c. 349, §13, are amended to read:

2 **1. Notice of failure to report.** The Secretary of State
3 shall send notice by certified mail on or before January ~~15th~~ 5th
4 of each year to any board that has failed to report pursuant to
5 section 12005-A.

6 **2. Legislative repeal of inactive boards.** The Secretary of
7 State shall submit legislation to the joint standing committee of
8 the Legislature having jurisdiction over state government matters
9 on or before ~~March-2nd~~ January 15th in the first regular session
10 of each biennium to repeal those boards that have not reported on
11 their activities to the Secretary of State under this section or
12 section 12005-A during either of the prior 2 calendar years or
13 have been inactive during the preceding 24 months.

14 **Sec. 48. 5 MRSA §12009, sub-§1,** as amended by PL 1991, c. 780,
15 Pt. Y, §105, is further amended to read:

16 **1. Report to Commissioner of Administrative and Financial**
17 **Services.** The Secretary of State, by January ~~30th~~ 15th of each
18 year, shall submit to the Commissioner of Administrative and
19 Financial Services a list of the boards, with the name and
20 address of each clerk who failed to report as required in section
21 12005-A.

22 **Sec. 49. 5 MRSA §12015, sub-§2,** as enacted by PL 1983, c. 814,
23 is repealed.

24 **Sec. 50. 5 MRSA §13127,** as amended by PL 1999, c. 556, §7, is
25 repealed.

26 **Sec. 51. 5 MRSA §13128,** as amended by PL 1989, c. 903, §3, is
27 repealed.

28 **Sec. 52. 5 MRSA §13129,** as amended by PL 1993, c. 410, Pt. E,
29 §20, is repealed.

30 **Sec. 53. 5 MRSA §13130, sub-§4,** as amended by PL 1993, c. 410,
31 Pt. E, §21, is further amended to read:

32 **4. Use and administration of trust.** Trust funds must be
33 used to provide grants to meet the purposes of this section.
34 ~~Administration of the awards is pursuant to section 13129. In~~
35 ~~addition, the~~ The foundation shall administer the trust as
36 follows.

37 A. Unless otherwise specified by the source of a
38 contribution to the trust, 50% of a contribution to the
39 trust must be deposited in a principal account and
40 maintained as a permanent endowment. The income earned on
41 funds held in this account, combined with the remaining 50%

2 of funds contributed to the trust, must be deposited in an
operating account and made available for disbursement as
4 grants to accomplish the purposes of this section and as
expenditures for purposes of administering the trust.

6 B. An executive agency is not eligible to receive funding
from the trust unless the agency jointly undertakes a
8 research proposal with another entity that is not an
executive agency.

10 C. The foundation shall give preference to institutions,
12 organizations or entities located and operated in the State.

14 D. Principal, or interest earned from principal, with
special instructions from contributors must be awarded in
16 accordance with the contributors' instructions.

18 E. All money in the trust not immediately required for
payment, pursuant to the provisions of this chapter, must be
20 invested by the Treasurer of State as authorized by section
138, except that the securities in which the trust money is
22 invested must remain part of the trust until exchanged for
other securities and the income from all investments must
24 remain a part of the trust unless prohibited by federal law.

26 **Sec. 54. 5 MRSA §13130, sub-§5**, as enacted by PL 1989, c. 903,
§6, is amended to read:

28 **5. Report, amendment and termination of trust.** The ~~beard~~
30 foundation shall file a report as follows.

32 A. The ~~beard~~ foundation shall report to the Legislature on
a biennial basis concerning the activities of the trust.
34 ~~The--report--may--be--submitted--as--part--of--the--research~~
~~priorities--statement--required--pursuant--to--section--13128,~~
36 ~~subsection-1.~~

38 B. In the event the ~~beard~~ foundation determines that the
provisions of the trust should be amended, the ~~beard~~
40 foundation shall make appropriate recommendations to the
Legislature in its biennial report.

42 C. The ~~beard~~ foundation may recommend in its biennial
44 report that the trust be terminated if termination is
determined to be appropriate ~~by--unanimous--vote--of--the~~
46 ~~beard~~. In the event that the Legislature terminates the
trust, the principal and operating funds are disbursed in a
48 manner consistent with the purpose of the trust.

2 **Sec. 55. 5 MRSA §17159, sub-§4**, as amended by PL 1997, c. 651,
§4, is repealed.

4 **Sec. 56. 5 MRSA §17159, sub-§§5 to 7**, as enacted by PL 1995, c.
541, §3, are repealed.

6 **Sec. 57. 5 MRSA §19111**, as corrected by RR 1995, c. 2, §15,
8 is repealed.

10 **Sec. 58. 5 MRSA §19112**, as amended by PL 1997, c. 342, §§1
and 2, is repealed.

12 **Sec. 59. 5 MRSA §19113**, as enacted by PL 1993, c. 738, Pt. B,
14 §3 and affected by §3 and affected by §9, is repealed.

16 **Sec. 60. 5 MRSA §19114**, as amended by PL 1995, c. 560, Pt. K,
18 §82 and affected by §83, is repealed.

20 **Sec. 61. 5 MRSA §19115**, as enacted by PL 1993, c. 738, Pt. B,
§3 and affected by §9, is repealed.

22 **Sec. 62. 7 MRSA §231**, as amended by PL 1993, c. 410, Pt. E,
24 §22, is repealed.

26 **Sec. 63. 7 MRSA §232**, as amended by PL 1991, c. 837, Pt. A,
§16, is repealed.

28 **Sec. 64. 7 MRSA §233**, as amended by PL 1989, c. 798, §2, is
repealed.

30 **Sec. 65. 7 MRSA §§234 to 236**, as enacted by PL 1987, c. 805,
32 §2, are repealed.

34 **Sec. 66. 7 MRSA §423, sub-§3**, as enacted by PL 1981, c. 154,
§1, is repealed.

36 **Sec. 67. 7 MRSA §427**, as amended by PL 1989, c. 503, Pt. B,
38 §41, is repealed.

40 **Sec. 68. 7 MRSA §§428 to 430**, as enacted by PL 1981, c. 154,
§1, are repealed.

42 **Sec. 69. 7 MRSA §993, sub-§1** is repealed.

44 **Sec. 70. 7 MRSA §995**, as amended by PL 1989, c. 503, Pt. B,
46 §43, is repealed.

48 **Sec. 71. 7 MRSA §996**, as amended by PL 1981, c. 513, §11, is
repealed.

50

2 **Sec. 72. 7 MRSA §997**, as amended by PL 1977, c. 694, §§92 to
96, is repealed.

4 **Sec. 73. 7 MRSA §§998 to 1006**, as amended by PL 1981, c. 513,
§11, are repealed.

6 **Sec. 74. 7 MRSA §1008**, as amended by PL 1985, c. 450, is
8 repealed.

10 **Sec. 75. 7 MRSA §1008-A**, as amended by PL 1987, c. 434, §1,
is repealed.

12 **Sec. 76. 7 MRSA §1008-B**, as corrected by RR 1997, c. 2, §27,
14 is repealed.

16 **Sec. 77. 7 MRSA §§1008-C and 1008-F**, as amended by PL 1985,
c. 450, are repealed.

18 **Sec. 78. 7 MRSA §1008-G**, as amended by PL 1987, c. 434, §4,
20 is repealed.

22 **Sec. 79. 7 MRSA §1008-I**, as enacted by PL 1989, c. 181, is
repealed.

24 **Sec. 80. 10 MRSA §318** is enacted to read:

26 **§318. Repeal**

28 This chapter is repealed August 1, 2003.

30 **Sec. 81. 10 MRSA §1414**, as amended by PL 1989, c. 503, Pt. B,
32 §53, is repealed.

34 **Sec. 82. 12 MRSA §6455, sub-§7**, as enacted by PL 1993, c. 545,
§6, is amended to read:

36 **7. Audit.** ~~Beginning with fiscal year 1994-95, An annual~~
38 ~~audit of the expenditures of the council must be performed. The~~
~~council may contract with the Department of Audit shall annually~~
40 ~~perform a postaudit of expenditures by the or with a private~~
~~sector accounting firm to conduct the audit. The council and~~
42 ~~shall report the results of that audit to the joint standing~~
~~committee of the Legislature having jurisdiction over marine~~
44 ~~resource matters. The If the annual audit is performed by the~~
~~Department of Audit, the council shall reimburse the Department~~
46 ~~of Audit department for its costs incurred by that department to~~
~~conduct that audit.~~

48 **Sec. 83. 20-A MRSA §7724, sub-§1**, as amended by PL 1997, c.
50 534, §4, is further amended to read:

2 **1. Establishment.** The Child Development Services System is
3 established for the purpose of maintaining a coordinated service
4 delivery system for the provision of childfind activities for
5 children, from birth to under age 6, early intervention services
6 for eligible children, from birth to under age 3, and free,
7 appropriate and public education services for eligible children,
8 from age 3 to under age 6, who have a disability. The Child
9 Development Services System consists of regional sites organized
10 as intermediate educational units or as private nonprofit
11 corporations, and one state-level intermediate educational unit
12 ~~and--the--Interdepartmental--Coordinating--Council--for--Early~~
13 ~~Intervention--advisory--board.~~ The Child Development Services
14 System shall ensure application of the provisions of this chapter
15 statewide through a contractual or grant relationship between the
16 Department of Education and each regional site.

18 **Sec. 84. 20-A MRSA §7725, sub-§6,** as enacted by PL 1991, c.
19 843, §3, is repealed.

20 **Sec. 85. 20-A MRSA §7727, sub-§5,** as amended by PL 1997, c.
21 534, §§7 and 8, is repealed.

22 **Sec. 86. 20-A MRSA §7727, sub-§6,** as enacted by PL 1991, c.
23 843, §3, is amended to read:

24 **6. Regional site compliance.** The department, in
25 consultation with regional sites ~~and--the--Interdepartmental~~
26 ~~Coordinating--Council--for--Early--Intervention,~~ shall develop an
27 action plan with timelines to achieve compliance for regional
28 sites that are not in compliance with federal or state law. The
29 department may assume temporary responsibility for operations at
30 a site that fails to meet compliance requirements.

31 **Sec. 87. 20-A MRSA §7731, sub-§6,** as amended by PL 1999, c.
32 296, §7, is further amended to read:

33 **6. Contracts.** Enter into contracts, leases and agreements
34 and any other instruments and arrangements that are necessary,
35 incidental or convenient to the performance of its duties and the
36 execution of its powers under this chapter, except that the board
37 shall provide to the department copies of any contract for review
38 upon the department's request and shall obtain prior department
39 approval of the prototype for provider contracts, any multi-year
40 leases and any memoranda of understanding with other entities.
41 Regional site boards of directors shall consider collaboration
42 with school administrative units that are operating or that wish
43 to develop, pursuant to section 4253 ~~ex-7734-A,~~ early childhood
44 programs in the regional board's catchment area in order to:

50

2 A. Maximize the benefit of state interdepartmental agreements and efforts;

4 B. Maximize the effective use of qualified personnel, facilities and other resources;

6 C. Ensure consistent quality of early childhood programming; and

8 D. Facilitate the transition process, for children and families, from the Child Development Services System to the public school system;

10 **Sec. 88. 20-A MRSA §7733**, as amended by PL 1997, c. 534, §§14 and 15, is repealed.

12 **Sec. 89. 20-A MRSA §7734-C**, as amended by PL 1997, c. 534, §19, is repealed.

14 **Sec. 90. 20-A MRSA §7735**, as enacted by PL 1991, c. 843, §3, is repealed.

16 **Sec. 91. 20-A MRSA §7802, sub-§5**, as enacted by PL 1989, c. 899, §4, is repealed.

18 **Sec. 92. 20-A MRSA §7803, first ¶**, as repealed and replaced by PL 1993, c. 349, §47 and amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

20 An Interdepartmental Committee on Transition pursuant to Title 5, chapter 379, representing the Department of Education, the Department of Human Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Labor, the Department of Corrections, at least 2 of the local coordination sites and the public, must be appointed by the commissioners ~~to work with the interdepartmental council~~ to establish guidelines, including continuation applications, to monitor grants and to evaluate the performance of area coordination programs developed through the grants.

22 **Sec. 93. 20-A MRSA §7804, sub-§6**, as enacted by PL 1989, c. 899, §9, is amended to read:

24 **6. Report.** The ~~interdepartmental council~~ committee shall present to the Legislature an annual report on ~~the~~ its activities ~~of the committee~~. This report shall must provide an evaluation summary of the projects and recommendations, including legislation, necessary to support and maintain a statewide transitional services planning and delivery system.

2 **Sec. 94. 22 MRSA §14, sub-§1**, as amended by PL 1999, c. 483,
§1, is further amended to read:

4 **1. Recovery procedures.** When benefits are provided or will
be provided to a beneficiary under the Medicaid program
6 administered by the department pursuant to the United States
Social Security Act, Title XIX, ~~or under the Maine Health~~
8 ~~Program, section 3189~~, for the medical costs of injury, disease,
disability or similar occurrence for which a 3rd party is, or may
10 be, liable, the commissioner may recover from that party the
reasonable value of the benefits provided. This right of
12 recovery is separate and independent from any rights or causes of
action belonging to a beneficiary under the Medicaid program ~~or~~
14 ~~under the Maine Health Program~~. For Medicaid recipients who
participated in the Medicaid managed care program, "reasonable
16 value" means the total value of coverable medical services
provided measured by the amount that Medicaid would have paid to
18 providers directly for such services, were it not for the managed
care system. The Medicaid program ~~and Maine Health Program are~~
20 is the payers payor of last resort and should provide medical
coverage only when there are no other available resources. The
22 Attorney General, or counsel appointed by the Attorney General,
may, to enforce this right, institute and prosecute legal
24 proceedings directly against the 3rd party in the appropriate
court in the name of the commissioner.

26
28 In addition to the right of recovery set forth in this
subsection, the commissioner must also be subrogated, to the
30 extent of any benefits provided under the Medicaid program ~~or~~
~~under the Maine Health Program~~, to any cause of action or claim
32 that a beneficiary has against a 3rd party who is or may be
liable for medical costs incurred by or on behalf of the
34 beneficiary. The Attorney General, or counsel appointed by the
Attorney General, to enforce this right may institute and
36 prosecute legal proceedings in the name of the injured person,
beneficiary, guardian, personal representative, estate or
38 survivor. If necessary to enforce the commissioner's right of
recovery, the Attorney General, or counsel appointed by the
40 Attorney General, may institute legal proceedings against any
beneficiary who has received a settlement or award from a 3rd
party.

42
44 The commissioner's right to recover the reasonable value of
benefits provided constitutes a statutory lien on the proceeds of
46 an award or settlement from a 3rd party if recovery for Medicaid
costs was or could have been included in the recipient's claim
48 for damages from the 3rd party. The commissioner is entitled to
recover the amount of the benefits actually paid out or, with
50 regard to Medicaid recipients who participated in the managed
care program when the commissioner has determined that collection

2 will be cost-effective, the reasonable value of benefits provided
to the extent that there are proceeds available for such recovery
4 after the deduction of reasonable attorney's fees and litigation
costs from the gross award or settlement. In determining whether
6 collection will be cost-effective, the commissioner shall
consider all factors that diminish potential recovery by the
8 department, including but not limited to questions of liability
and comparative negligence or other legal defenses, exigencies of
10 trial that reduce a settlement or award in order to resolve the
recipient's claim and limits on the amount of applicable
12 insurance coverage that reduce the claim to the amount
recoverable by the recipient. The department's statutory lien
14 may not be reduced to reflect an assessment of a pro rata share
of the recipient's attorney's fees or litigation costs. The
16 commissioner may compromise, or settle and execute a release of,
any claim or waive any claim, in whole or in part, if the
18 commissioner determines the collection will not be cost-effective
or that the best possible outcome requires compromise, release or
20 settlement.

22 **Sec. 95. 22 MRSA §14, sub-§2-A**, as amended by PL 1991, c. 9,
Pt. N, §2, is further amended to read:

24 **2-A. Assignment of rights of recovery.** The receipt of
benefits under the Medicaid program administered by the
26 department pursuant to the United States Social Security Act,
Title XIX, ~~or under the Maine Health Program, section 3189,~~
28 constitutes an assignment by the recipient or any legally liable
relative to the department of the right to recover from 3rd
30 parties for the medical cost of injury, disease, disability or
similar occurrence for which the recipient receives medical
32 benefits. The department's assigned right to recover is limited
to the amount of medical benefits received by the recipient and
34 does not operate as a waiver by the recipient of any other right
of recovery against a 3rd party that a recipient may have.

36
The recipient is also deemed to have appointed the commissioner
38 as the recipient's attorney in fact to perform the specific act
of submitting claims to insurance carriers or endorsing over to
40 the department any and all drafts, checks, money orders or any
other negotiable instruments connected with the payment of
42 3rd-party medical claims.

44 **Sec. 96. 22 MRSA §14, sub-§§2-B and 2-C**, as amended by PL 1991,
c. 9, Pt. N, §3, are further amended to read:

46
2-B. Direct reimbursement to health care provider. When an
48 insured is eligible under the Medicaid program administered by
the Department of Human Services, pursuant to the United States
50 Social Security Act, Title XIX, ~~or under the Maine Health~~

2 ~~Program, section 3189,~~ for the medical costs or injury, disease,
3 disability or similar occurrence for which an insurer is liable,
4 and the insured's claim is payable to a health care provider as
5 provided or permitted by the terms of a health insurance policy
6 or pursuant to an assignment of rights by an insured, the insurer
7 shall directly reimburse the health care provider to the extent
8 that the claim is honored.

9
10 **2-C. Direct reimbursement to the Department of Human**
11 **Services.** When an insured is eligible under the Medicaid program
12 administered by the Department of Human Services, pursuant to the
13 United States Social Security Act, Title XIX, ~~or under the Maine~~
14 ~~Health Program, section 3189,~~ for the medical costs of injury,
15 disease, disability or similar occurrence for which an insurer is
16 liable, and the claim is not payable to a health care provider
17 under the terms of the health insurance policy, the insurer shall
18 directly reimburse the Department of Human Services, upon
19 request, for any medical services paid by the department on
20 behalf of a Medicaid ~~or Maine Health Program~~ recipient to the
21 extent that those medical services are payable under the terms of
22 the health insurance policy.

23 **Sec. 97. 22 MRSA §14, sub-§§2-D and 2-E,** as amended by PL 1991,
24 c. 9, Pt. N, §4, are further amended to read:

25 **2-D. Notification of claim.** A Medicaid ~~or Maine Health~~
26 ~~Program~~ recipient, or any attorney representing a Medicaid ~~or~~
27 ~~Maine Health Program~~ recipient, who makes a claim to recover the
28 medical cost of injury, disease, disability or similar occurrence
29 for which the party received medical benefits under the Medicaid
30 program, pursuant to the United States Social Security Act, Title
31 XIX, ~~or the Maine Health Program, section 3189,~~ shall advise the
32 department in writing with information as required by the
33 department of the existence of the claim.

34
35 **2-E. Notification of pleading.** In any action to recover
36 the medical cost of injury, disease, disability or similar
37 occurrence for which the party received medical benefits under
38 the Medicaid program ~~or Maine Health Program,~~ the party bringing
39 the action shall notify the department of that action at least 10
40 days prior to filing the pleadings. Department records
41 indicating medical benefits paid by the department on behalf of
42 the recipient are prima facie evidence of the medical expenses
43 incurred by the recipient for the related medical services.

44
45 **Sec. 98. 22 MRSA §14, sub-§2-H, ¶¶A and B,** as enacted by PL
46 1991, c. 815, §1, are amended to read:

47
48 **A.** Whenever a participating health care provider or the
49 department submits claims to an insurer, as defined in Title
50

2 24-A, section 4, or to a health maintenance organization on
4 behalf of a Medicaid ~~er-Maine-Health-Program~~ recipient for
6 whom an assignment of rights has been received, or whose
8 rights have been assigned by the operation of law, the
insurer or health maintenance organization doing business in
the State must respond within 60 days of receipt of a claim
by forwarding payment or issuing a notice of denial directly
to the submitter of the claim.

10 B. Whenever a nonparticipating health care provider or the
12 department on behalf of a nonparticipating provider submits
14 claims to an insurer, as defined in Title 24-A, section 4,
16 or a health maintenance organization that operates through a
18 series of participation agreements on behalf of a Medicaid
20 ~~er-Maine-Health-Program~~ recipient for whom an assignment of
22 rights has been received or whose rights have been assigned
by the operation of law, the insurer or health maintenance
organization doing business in the State must respond within
60 days of receipt of a claim by forwarding payment, issuing
a notice of denial or issuing a copy of the explanation of
benefits directly to the submitter of the claim.

24 **Sec. 99. 22 MRSA §14, sub-§3**, as amended by PL 1997, c. 795,
§4, is further amended to read:

26 **3. Definitions.** For purposes of this section, "3rd party"
28 or "liable party" or "potentially liable party" means any entity,
30 including, but not limited to, an insurance carrier that may be
32 liable under a contract to provide health, automobile, workers'
34 compensation or other insurance coverage that is or may be liable
36 to pay all or part of the medical cost of injury, disease,
disability or similar occurrence of an applicant or recipient of
Medicaid ~~er-Maine-Health-Program~~ benefits. For purposes of this
section and sections 18 and 19, an "insurance carrier" includes
health insurers, group health plans as defined in 29 United
States Code, Section 1167(1), service benefit plans and health
maintenance organizations.

38 "Liable party," "potentially liable party" or "3rd party" also
40 includes the trustee or trustees of any mortuary trust
42 established by the recipient or on the recipient's behalf in
44 which there is money remaining after the actual costs of the
funeral and burial have been paid in accordance with the terms of
the trust and in which there is no provision that the excess be
46 paid to the decedent's estate. "Liable party," "potentially
liable party" or "3rd party" may also include the recipient of
the Medicaid ~~er-Maine-Health-Program~~ benefits.

48 **Sec. 100. 22 MRSA §3189**, as amended by PL 1995, c. 696, Pt.
50 A, §37, is repealed.

2 **Sec. 101. 22 MRSA §3189-A**, as amended by PL 1993, c. 673, §6,
is repealed.

4 **Sec. 102. 24 MRSA §2853, sub-§5**, as amended by PL 1991, c.
6 505, §3, is further amended to read:

8 **5. Lawsuits.** The pretrial screening may be bypassed if all
parties agree upon a resolution of the claim by lawsuit. All
10 parties to a claim may, by written agreement, submit a claim to
the binding determination of the panel, either prior to or after
12 the commencement of a lawsuit. Both parties may agree to bypass
the panel and commence a lawsuit for any reason, or may request
14 that certain preliminary legal affirmative defenses or issues be
litigated prior to submission of the case to the panel. The panel
16 has no jurisdiction to hear or decide, absent the agreement of
the parties, dispositive legal affirmative defenses, ~~except~~
18 ~~compliance with practice parameters or risk management protocols~~
~~adopted under section 2973 if the defendant is a participant in~~
20 ~~the medical liability demonstration project established under~~
~~subchapter IX and intends to introduce evidence of compliance at~~
22 ~~trial;~~ and comparative negligence. The panel chair may require
the parties to litigate, by motion, dispositive legal affirmative
24 defenses in the Superior Court prior to submission of the case to
the panel. Any such defense, as well as any motion relating to
26 discovery that the panel chair has chosen not to rule on may be
presented, by motion, in Superior Court without the necessity of
28 a complaint having first been filed.

30 **Sec. 103. 24 MRSA §2855, sub-§1, ¶A-1**, as enacted by PL 1991,
c. 501, §5, is repealed.

32 **Sec. 104. 24 MRSA §2971**, as enacted by PL 1989, c. 931, §4
34 and as amended by PL 1993, c. 600, Pt. B, §21, is repealed.

36 **Sec. 105. 24 MRSA §2972**, as amended by PL 1991, c. 319, §§2
and 3 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

38 **Sec. 106. 24 MRSA §2973**, as enacted by PL 1989, c. 931, §4
40 and as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is
repealed.

42 **Sec. 107. 24 MRSA §2974**, as amended by PL 1991, c. 319, §4
44 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

46 **Sec. 108. 24 MRSA §2975**, as amended by PL 1995, c. 343, §1,
is repealed.

48 **Sec. 109. 24 MRSA §2976**, as amended by PL 1991, c. 734, §1
50 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

2 **Sec. 110. 24 MRSA §2977**, as amended by PL 1995, c. 343, §1,
is repealed.

4 **Sec. 111. 24 MRSA §2978**, as amended by PL 1995, c. 343, §§3
6 and 4, is repealed.

8 **Sec. 112. 24 MRSA §2979**, as enacted by PL 1993, c. 477, Pt.
D, §6 and affected by Pt. F, §1, and as amended by PL 1993, c.
10 600, Pt. B, §§21 and 22, is repealed.

12 **Sec. 113. 24-A MRSA §6305, sub-§2**, as amended by PL 1995, c.
14 570, §10, is further amended to read:

16 **2. Final evaluation of savings.** The final evaluation of
the savings in professional liability insurance claims and claim
18 settlement costs to insurers must be determined by the
superintendent ~~as part of the report filed on or before December~~
20 ~~1, 2000 under Title 24, section 2978, subsection 2.~~ Insurers
shall continue to assess policyholders after 2000 based on the
22 final determination, but the total assessment may not be more
than \$500,000 per year.

24 **Sec. 114. 25 MRSA §2901**, as amended by PL 1997, c. 657, §2,
is further amended to read:

26 **§2901. Department; commissioner**

28 There is created and established the Department of Public
30 Safety to coordinate and efficiently manage the law enforcement
and public safety responsibilities of the State, to consist of
32 the Commissioner of Public Safety, in this chapter called
"commissioner," who is appointed by the Governor, subject to
34 review by the joint standing committee of the Legislature having
jurisdiction over criminal justice matters and to confirmation by
36 the Legislature, to serve at the pleasure of the Governor, and
the following: the Bureau of State Police, the Bureau of Liquor
38 Enforcement, the Office of the State Fire Marshal, the Maine
Criminal Justice Academy, ~~the Maine Highway Safety Commission,~~
40 the Bureau of Highway Safety and the Maine Drug Enforcement
Agency.

42 **Sec. 115. 25 MRSA §2902, sub-§4**, as repealed and replaced by
44 PL 1993, c. 349, §55, is repealed.

46 **Sec. 116. 29-A MRSA §1354, sub-§6, ¶A**, as amended by PL 1995,
c. 605, §2, is further amended to read:

48 A. The Secretary of State shall establish the Technical
50 Review Panel that includes representatives from the

2 Department of Education, the Department of Public Safety,
the American Automobile Association, ~~the--Maine--Highway~~
4 ~~Safety--Commission~~, law enforcement agencies, the insurance
industry, the motor carrier industry and a driver education
6 teacher and instructor. The Technical Review Panel shall
assist the Secretary of State in developing curriculum and
teacher and instructor training and certification.

8
9 **Sec. 117. 30-A MRSA §5953-D**, as renumbered by RR 1993, c. 2,
10 §27, is repealed.

11 **Sec. 118. 30-A MRSA §5959, sub-§1, ¶A**, as corrected by RR
12 1993, c. 2, §29, is amended to read:

13
14 A. Implement sections 5953-A, 5953-B, ~~5953-D~~, 6006-A,
15 6006-B and 6006-D to ensure the self-sustaining nature of
the funds created under sections 6006-A and 6006-B and that
16 portion of the fund under section 6006-D determined to be
self-sustaining; and
17

18
19 **Sec. 119. 30-A MRSA §6006-D, sub-§1, ¶B**, as corrected by RR
20 1993, c. 2, §30, is amended to read:

21
22 B. The bank shall administer the fund. The fund must be
invested in the same manner as permitted for investment of
23 funds belonging to the State or held in the State Treasury.
The fund must be established and held separate from any
24 other funds or money of the State or the bank and used and
administered exclusively for the purpose of this section and
25 ~~section-5953-D~~. The fund consists of the following:

26
27 (1) Sums that are appropriated by the Legislature or
transferred to the fund from time-to-time by the
28 Treasurer of State;

29
30 (2) Principal and interest received from the repayment
of loans made from the fund;

31
32 (3) Capitalization grants and awards made to the State
or an instrumentality of the State by the Federal
33 Government for any of the purposes for which the fund
has been established. These amounts must be paid
34 directly into the fund without need for appropriation
by the State;

35
36 (4) Interest earned from the investment of fund
balances;

2 (5) Private gifts, bequests and donations made to the
State for any of the purposes for which the fund has
been established;

4
6 (6) The proceeds of notes or bonds issued by the State
for the purpose of deposit in the fund;

8 (7) The proceeds of notes or bonds issued by the bank
for the purpose of deposit in the fund; and

10
12 (8) Other funds from any public or private source
received for use for any of the purposes for which the
fund has been established.

14
16 **Sec. 120. 30-A MRSA §6006-D, sub-§2, ¶A,** as corrected by RR
1993, c. 2, §31, is amended to read:

18 A. To make grants and loans to municipalities under this
section ~~and section 5953-D~~;

20
22 **Sec. 121. 30-A MRSA §6006-D, sub-§2, ¶¶B and C,** as corrected
by RR 1993, c. 2, §31, are repealed.

24 **Sec. 122. 32 MRSA §2261,** as amended by PL 1989, c. 443, §§86
and 87, is repealed.

26
28 **Sec. 123. 32 MRSA §2265,** as amended by PL 1997, c. 245, §19,
is repealed.

30 **Sec. 124. 34-A MRSA §1211,** as amended by PL 1989, c. 654, §§5
to 9 and 13, is repealed.

32
34 **Sec. 125. 34-B MRSA §1209-A,** as amended by PL 1989, c. 503,
Pt. B, §161, is repealed.

36 **Sec. 126. 34-B MRSA §1803, first ¶,** as amended by PL 1995, c.
560, Pt. K, §29, is further amended to read:

38
40 ~~With the assistance and advice of the councils established~~
~~in sections 1804 and 1805, the~~ The commissioner shall coordinate
42 the development and implementation of consistent family support
policies and services. The commissioner shall assign at least
44 one person from each region to carry out the duties of this
subchapter. The duties include but are not limited to the
following.

46
48 **Sec. 127. 34-B MRSA §§1804 and 1805,** as enacted by PL 1991,
c. 316, §2, are repealed.

2 **Sec. 128. 34-B MRSA §3624**, as amended by PL 1995, c. 560, Pt.
K, §36, is repealed.

4 **Sec. 129. 34-B MRSA §6241**, as amended by PL 1995, c. 560, Pt.
K, §§73 and 74, is repealed.

6 **Sec. 130. 38 MRSA §§1380 and 1381**, as enacted by PL 1987, c.
8 799, §2, are repealed.

10 **Sec. 131. 38 MRSA §1382**, as amended by PL 1995, c. 465, Pt.
A, §25 and affected by Pt. C, §2, is repealed.

12 **Sec. 132. 38 MRSA §§1383 to 1390**, as enacted by PL 1987, c.
14 799, §2, are repealed.

16

FISCAL NOTE

18

20 State departments and agencies affected by this bill may
realize some minor savings from the repeal of some of these
22 boards and commissions but may also incur some minor additional
costs as a result of a shift of responsibilities. Any net fiscal
24 impact is expected to be insignificant.

26

SUMMARY

28

30 This bill from the Joint Standing Committee on State and
Local Government repeals a number of inactive boards and
commissions. These are:

32

1. Advisory Board to Privatize the Maine Health Program;

34

2. Advisory Council on Energy Efficiency Building
Performance Standards;

36

3. Board of Trustees, Sludge and Residuals Utilization
38 Research Foundation;

40

4. Children's Residential Treatment Committee;

42

5. Commission on Biotechnology and Genetic Engineering;

44

6. Commission on Nursing Supply and Educational
46 Accessibility;

46

7. Commodity Marketing Committee;

48

8. Early Retirement Incentives Review Panel;

50

- 2 9. Interdepartmental Coordinating Council for Early
Intervention;
- 4 10. Interdepartmental Council;
- 6 11. Jail Industry Authority Board of Directors;
- 8 12. Maine Advisory Committee on Children with Special Needs;
- 10 13. Maine Family Support Council;
- 12 14. Maine Highway Safety Commission;
- 14 15. Maine Marketing Advisory Board;
- 16 16. Maine Potato Marketing Committee;
- 18 17. Maine Quality Management Council;
- 20 18. Marine Research Board;
- 22 19. Medical Specialty Advisory Committee on Anesthesiology;
- 24 20. Medical Specialty Advisory Committee on Emergency
26 Medicine;
- 28 21. Medical Specialty Advisory Committee on Obstetrics and
Gynecology;
- 30 22. Medical Specialty Advisory Committee on Radiology;
- 32 23. Mental Health Rights Advisory Board;
- 34 24. Municipal Capital Investment Advisory Commission;
- 36 25. New England Interstate Planning Commission, effective
38 August 1, 2003;
- 40 26. Policy Review Board;
- 42 27. Region III Crisis Intervention Program Advisory Board;
- 44 28. Regional Family Support Councils; and
- 46 29. Residential Treatment Center Advisory Group.

48 The bill also strikes several statutory cross-references to
the repealed boards and commissions. It also makes changes to
50 the reporting date for boards or commissions to file annual
reports with the Secretary of State and it repeals an outdated

2 sunset provision of the Maine Revised Statutes, Title 5, chapter
379. The bill also makes minor changes to the auditing
4 requirements for the Lobster Promotion Council and the appointing
requirements for the Board of Trustees, Mining Excise Tax Trust
Fund.