

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

HOUSE AMENDMENT "J" to COMMITTEE AMENDMENT "A" to H.P. 655, L.D. 855, Bill, "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2002 and June 30, 2003"

Amend the amendment by inserting after Part ZZZZ the following:

**PART AAAAA**

**Sec. AAAAA-1. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
<b>LABOR, DEPARTMENT OF</b>		
<b>Division for the Blind and Visually Impaired</b>		
All Other	\$35,000	\$35,000
Provides continued funding on an on-going basis for the audio information service,		

the Maine Aids program,  
established through the Iris  
Network for people who are  
blind or visually impaired  
and other people in the State  
who are unable to access  
printed information due to a  
disability.

## PART BBBBB

**Sec. BBBBB-1. 25 MRSA §2001, sub-§6,** as enacted by PL 1989,  
c. 917, §6, is amended to read:

**6. Licensed hunters and trappers.** Firearms carried by any  
person engaged in conduct for which a state-issued hunting or  
trapping license is required and possessing the required license,  
or firearms carried by a resident person engaged in conduct  
expressly authorized by Title 12, section 7377, subsections 1 and  
2. This subsection does not authorize or permit the carrying of  
a concealed or loaded firearm in a motor vehicle; and

**Sec. BBBBB-2. 25 MRSA §2001, sub-§7** is enacted to read:

**7. Permit issued by another state.** A firearm carried by a  
person to whom a valid permit to carry a concealed firearm has  
been issued by another state if a permit to carry a concealed  
firearm issued from that state has been granted reciprocity. The  
Chief of the State Police may enter into reciprocity agreements  
with other states. Reciprocity may be granted to a permit to  
carry a concealed firearm issued from another state if:

**A. The other state that issued the permit to carry a  
concealed firearm has substantially equivalent or stricter  
requirements for the issuance of a permit to carry a  
concealed firearm; and**

**B. The other state that issued the permit to carry a  
concealed firearm observes the same rules of reciprocity in  
regards to a person issued a permit to carry a concealed  
firearm under this chapter.**

## PART CCCCC

**Sec. CCCCC-1. 25 MRSA §2403** is enacted to read:

**§2403. Thermal Imaging Camera Program**

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Public Safety or the commissioner's designee.

B. "Fund" means the Thermal Imaging Camera Fund established in this section.

2. **Program established.** The commissioner shall oversee the Thermal Imaging Camera Program to negotiate one or more bulk purchases of thermal imaging cameras on behalf of local fire-fighting units and, to the extent funds are available, to provide loans for the purchase of such cameras by local fire-fighting units. The commissioner shall determine how many thermal imaging cameras local fire-fighting units wish to purchase under the program and shall negotiate a bulk purchase price of those cameras, provided that the units are able to pay for the cameras or have qualified for a loan pursuant to subsection 4.

3. **Fund established.** The Thermal Imaging Camera Fund is established from which the loans authorized under subsection 4 may be made. The fund, which is a nonlapsing fund, receives money from appropriations made by the Legislature and from any other public or private source including repayment of loans. Money deposited in the fund and any interest earnings on that money remain in the fund to be used for loans pursuant to this section.

4. **Loans and purchases authorized.** To the extent money is available in the fund, the commissioner may make interest-free loans to local fire-fighting units, or the appropriate units of government with jurisdiction over the fire-fighting units, to assist in the purchase of the thermal imaging cameras for which the commissioner negotiates a price pursuant to subsection 2. The commissioner may recover administrative costs associated with administering the loans through a processing fee equitably imposed on local fire-fighting units, or the units of government with jurisdiction over the fire-fighting units, which receive loans under this section. The commissioner shall also arrange for the direct purchase of a thermal imaging camera by a local fire-fighting unit if no loan is sought or available. The commissioner by rule shall establish procedures for determining which local fire-fighting units qualify to receive loans in the event the fund is insufficient to provide loans to all

fire-fighting units that seek loans. Rules adopted to implement  
this section are routine technical rules as defined in Title 5,  
chapter 375, subchapter II-A.

**Sec. CCCCC-2. Appropriation.** The following funds are  
appropriated from the General Fund to carry out the purposes of  
this Part.

2001-02

**PUBLIC SAFETY, DEPARTMENT OF**

**Thermal Imaging Camera Program**

Capital Expenditures	\$5,000
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Provides funds to establish  
the Thermal Imaging Camera  
Fund from which loans may be  
made to local fire-fighting  
units for the purchase of  
thermal imaging cameras.  
Money in the fund does not  
lapse, but must be carried  
forward.

**Sec. CCCCC-3. Allocation.** The following funds are allocated  
from Other Special Revenue funds to carry out the purposes of  
this Part.

2001-02

2002-03

**PUBLIC SAFETY, DEPARTMENT OF**

**Thermal Imaging Camera Fund**

All Other	\$5,000	\$500
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Allocates funds from the  
Thermal Imaging Camera Fund  
to carry out the purposes of  
this Part.

**PART DDDDD**

**Sec. DDDDD-1. 36 MRSA §5219-C,** as repealed and replaced by  
PL 1991, c. 377, §20, is repealed and the following enacted in  
its place:

**§5219-C. Forest management and harvest plan credit**

**1. Credit.** An individual is allowed a credit against the tax otherwise due under this Part for a portion of the individual's cost of having a forest management and harvest plan developed for a parcel of forest land greater than 10 acres. The amount of the credit is the lesser of the cost of having the plan developed or:

A. For parcels of forest land that were classified for current use valuation under chapter 105, subchapter II-A before September 30, 1989, \$300; or

B. For all other parcels of forest land, \$200.

**2. Limitations.** The credit provided by this section is subject to the following limitations:

A. The credit may not be taken more frequently than once every 10 years;

B. The licensed professional forester that developed the plan may not be in the regular employ of the person claiming the credit;

C. A person that deducts the cost of the forester as an expense under the Code must reduce the expense by the amount of the credit for purposes of this Part; and

D. The credit may not reduce the tax otherwise due under this Part below zero.

**3. Documentation required.** A person claiming the credit provided by this section must:

A. Attach a statement from the forester that developed the plan supporting the claim; and

B. Swear that the person has not claimed the credit provided by this section in the previous 10 years.

**Sec. DDDDD-2. Application.** This Part applies to tax years beginning on or after January 1, 2002.

**PART EEEEE**

**Sec. EEEEE-1. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Part.

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2001-02

2002-03

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**AGRICULTURE, FOOD AND RURAL  
RESOURCES, DEPARTMENT OF**

6

**Low-flow Study**

8

All Other

\$20,000

\$20,000

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Provides funds to pay the  
United States Geological  
Survey to conduct a low-flow  
study in Aroostook County.

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**PART FFFFF**

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**Sec. FFFFF-1. 5 MRSA §12004-G, sub-§13-D, as enacted by PL  
1997, c. 236, §1, is repealed.**

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**Sec. FFFFF-2. 37-B MRSA cc. 21 and 22 are repealed.**

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**Sec. FFFFF-3. 37-B MRSA c. 24 is enacted to read:**

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32

**CHAPTER 24**

34

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**DAM SAFETY**

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**§1111. Definitions**

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

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1. Dam. "Dam" means any artificial barrier, including  
appurtenant works, the site on which it is located and  
appurtenant rights of flowage and access, that impounds or  
diverts water, and that:

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A. Is 25 feet or more in height from the natural bed of the  
watercourse measured at the downstream toe of the barrier or  
from the lowest elevation of the outside limit of the  
barrier to the maximum water storage elevation and impounds  
at least 15 acre-feet of water; or

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B. Is 6 feet or more in height from the natural bed of the  
watercourse measured at the downstream toe of the barrier or  
from the lowest elevation of the outside limit of the  
barrier to the maximum water storage elevation and has an

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impounding capacity at maximum water storage elevation of 50  
acre-feet or more.

2. Commissioner. "Commissioner" means the Commissioner of  
Defense, Veterans and Emergency Management.

3. Emergency. "Emergency" means breaches and all  
conditions leading to or causing a breach, overtopping or any  
other condition in a dam and its appurtenant structures that may  
be construed as unsafe or threatening to life and property.

4. Emergency situation. "Emergency situation" means a  
situation determined by the commissioner, after consultation with  
other state and federal agencies if time permits, to present a  
potential but real and impending danger to life, limb or property  
because of flooding or potential and imminent flooding and  
includes a situation that the Governor declares to be an  
emergency pursuant to section 742.

5. Emergency action plan. "Emergency action plan" means a  
set of written instructions or guidelines for use by public  
officials that recommends actions that, when implemented, will  
minimize the effects of a dam failure on people and property.

6. Hazard potential. "Hazard potential" means the possible  
adverse incremental consequences that result from the release of  
water or stored contents due to failure of the dam or  
misoperation of the dam or appurtenances. The hazard potential  
classification of a dam does not reflect in any way on the  
current condition of the dam and its appurtenant structures. The  
classifications are as follows:

A. High hazard potential dam. "High hazard potential dam"  
means a dam assigned the high hazard potential  
classification where failure or misoperation will probably  
cause loss of human life;

B. Low hazard potential dam. "Low hazard potential dam"  
means a dam assigned the low hazard potential classification  
where failure or misoperation results in no probable loss of  
human life and low economic and environmental losses.  
Losses are principally limited to the owner's property; and

C. Significant hazard potential dam. "Significant hazard  
potential dam" means a dam assigned the significant hazard  
potential classification where failure or misoperation  
results in no probable loss of human life but can cause  
major economic loss, environmental damage or disruption of  
lifeline facilities or affect other concerns. Significant  
hazard potential dams are often located in predominantly



rural or agricultural areas but could be located in areas  
with population and significant infrastructure.

7. Necessary remedial measure. "Necessary remedial  
measure" means any repair or hazard-reducing measure relating to  
a structural component or operation of a dam needed to mitigate a  
specific condition at the dam that constitutes a threat to public  
safety.

8. Person. "Person" means any individual, firm,  
association, partnership, corporation, trust, municipality,  
quasi-municipal corporation, state department, federal department  
or other legal entity.

9. Public safety. "Public safety" or "safety of the  
public" means protection of life, health or property from any  
condition, event or action at a dam that might compromise the  
safety, stability or integrity of the dam or its ability to  
function safely.

10. State dam inspector. "State dam inspector" means an  
inspector appointed or hired under section 1117.

#### §1112. Administration

The department shall administer this chapter. In carrying  
out the provisions of this chapter, the department shall consult  
as appropriate with other state agencies, including the  
Department of Conservation, the Department of Environmental  
Protection, the Department of Inland Fisheries and Wildlife, the  
Department of Marine Resources, the Department of Public Safety,  
the Department of Transportation, the Maine Land Use Regulation  
Commission, the Maine Atlantic Salmon Commission and the State  
Planning Office, for their aid and assistance.

#### §1113. Duties of the department

The department shall inspect existing dams and reservoirs to  
determine their hazard potential, review the design and  
construction of new and reconstructed dams, assist dam owners in  
developing emergency action plans to minimize the effects of dam  
failure and take all necessary actions in emergency situations of  
probable dam failure in order to protect life and property.

Except for the Federal Government, a person may not exercise  
any authority over the emergency regulation or supervision of any  
dams or reservoirs in the State when that exercise would conflict  
with the powers and authority vested in the department.

#### §1114. Powers of the department

2        1. Rules. In accordance with Title 5, chapter 375,  
3        subchapter II, the department may adopt, modify or repeal rules  
4        for carrying out this chapter. Rules adopted under this section  
5        are routine technical rules pursuant to Title 5, chapter 375,  
6        subchapter II-A.

8        2. Emergency situation. When an emergency situation  
9        arises, the commissioner shall warn the public of the emergency  
10       and, notwithstanding any other provision of law, shall take all  
11       actions necessary to protect life and property, which may  
12       include, but are not limited to, the following:

14       A. Taking full charge and control of any dam or reservoir;

16       B. Lowering the water level by releasing water from the  
17       reservoir;

18       C. Completely emptying the reservoir;

20       D. Breaching or removing the dam itself; and

22       E. Taking other necessary steps to safeguard life and  
23       property.

26       3. Investigations. For the purpose of enabling it to make  
27       decisions as compatible as possible with economy and protection  
28       of life and property and for the purpose of determining  
29       compliance with this chapter, the department may make necessary  
30       investigations and inspections. In making investigations and  
31       inspections required or authorized by this chapter, the  
32       department or its representatives may, as necessary in emergency  
33       situations, enter upon public or private property or in  
34       nonemergency situations secure administrative warrants from any  
35       District Court Judge or Superior Court Justice for the purpose of  
36       gaining entry onto private property.

38       4. Injunction: civil or criminal proceedings. In the event  
39       of violation of any of the provisions of this chapter or of any  
40       rule, order or decision of the department, the department may  
41       institute injunctive proceedings or other civil action as  
42       provided in this chapter.

44       **§1115. Jurisdiction**

46       The inspection of and design standards for all dams are  
47       under the sole jurisdiction of the department, except that the  
48       department does not have jurisdiction over any dam licensed or  
49       inspected by any department of the Federal Government or by the  
50       International Joint Commission.

2 §1116. Design standards

4 All new dams that reasonably will be classified as high or  
6 significant hazard potential dams must be designed, constructed  
8 or reconstructed under the supervision of a registered  
10 professional engineer. Prior to construction, the dam owner  
12 shall provide a copy of the plans and specifications to the  
14 department.

16 §1117. Inspectors of dams

18 The commissioner may appoint or hire one or more dam  
20 inspectors who are licensed as professional engineers under Title  
22 32, chapter 19 and who are experienced in the inspection and  
24 design of dams.

26 §1118. Dam hazard evaluation

28 1. Evaluation. The commissioner shall evaluate all dams to  
30 assign or reassign a hazard potential classification in  
32 accordance with the following schedule:

34 A. New or reconstructed dams, within 6 months of  
36 construction or reconstruction;

38 B. All other dams, at least once every 6 years;

40 C. Any dam, within 30 days of a request for an evaluation  
42 from the dam owner, the municipality in which the dam is  
44 located or the emergency management director of the county  
46 in which the dam is located; and

48 D. At any time a dam for which, in the judgment of the  
commissioner, such an evaluation is appropriate.

Notwithstanding the schedule of this subsection, the commissioner  
shall evaluate the hazard classification of a significant or high  
hazard potential dam within 30 days of receipt by the  
commissioner of a notice of transfer of ownership of the dam as  
required under section 1128 unless the dam has been evaluated  
under this subsection within 4 years preceding the notice of  
transfer of ownership.

Until the commissioner assigns or reassigns a hazard potential  
classification, a dam retains the hazard potential classification  
assigned in the 1981 United States Army Corps of Engineers'  
Inventory of Dams in the United States.

2. Factors considered. Before assigning a dam a hazard potential classification, the commissioner shall consider the potential risk to public safety and property that may result from the failure or operation of the dam. In addition, when reassigning a hazard potential classification, the commissioner shall review any changes in upstream and downstream conditions since the last hazard classification evaluation.

3. Hazard report. Before the commissioner assigns or reassigns a dam hazard potential classification, a state dam inspector shall visually inspect that dam and its upstream and downstream environs and provide a report to the commissioner recommending a hazard classification for that dam. The commissioner shall provide a copy of the report by certified mail to the dam owner, lessee or other person in control of the dam, to the municipality in which the dam is located and to the emergency management director of the county in which the dam is located. The dam owner, lessee or other person in control of the dam must notify the commissioner within 20 days of receipt of the report if the dam owner, lessee or other person in control of the dam disagrees with the recommended hazard classification and must file within 3 months of receipt of the commissioner's classification the basis of the appeal with the commissioner. The commissioner may extend the 3 month period for good cause shown, but not more than an additional 3 months. The commissioner shall consider the evidence presented by the dam owner, lessee or other person in control of the dam as well as the evidence of the state inspector before issuing a final determination.

#### §1119. Dam condition inspection

1. Inspections. A state dam inspector shall conduct an inspection of all high and significant hazard potential dams to determine whether the integrity, structural stability, function or operation of those dams constitutes a threat to public safety, in accordance with the following schedule:

A. All significant hazard potential dams, at least once every 4 years;

B. All high hazard potential dams, at least once every 2 years;

C. Any dam, within 30 days of a request for an inspection from the dam owner or the municipality in which the dam is located; and

D. At any time any dam that may, in the judgment of the commissioner, constitute a potential risk to public safety.

2 Notwithstanding the schedule outlined in this subsection, a state  
4 dam inspector shall conduct an inspection of a significant or  
6 high hazard potential dam within 30 days of receipt by the  
8 commissioner of a notice of transfer of ownership of the dam as  
required under section 1128 unless the dam has been inspected  
under this subsection within 4 years preceding the notice of  
transfer of ownership.

10 2. Condition report. After the on-site dam inspection, a  
12 state dam inspector shall provide a condition report to the  
14 commissioner detailing the operation and material condition of  
16 the dam and recommending all necessary remedial measures. The  
18 commissioner shall send a copy of the state dam inspector's  
20 condition report by certified mail to the dam owner, lessee or  
22 other person in control of the dam, the municipality in which the  
24 dam is located and the emergency management director of the  
26 county in which the dam is located if the condition report  
28 recommends any necessary remedial measures. The dam owner,  
lessee or other person in control of the dam must notify the  
commissioner within 20 days of receipt of the report if the owner  
disagrees with the findings and recommendations of the report.  
The dam owner, lessee or other person in control of the dam must  
provide the basis of disagreement to the commissioner within 3  
months of receipt of the inspector's report. The dam owner,  
lessee or other person in control of the dam may apply for and be  
granted an extension of this deadline for good cause, but not for  
more than an additional 3 months.

30 3. Review conference. After receiving the inspector's  
32 report and prior to issuing any dam safety order, the  
34 commissioner shall hold a review conference and shall invite the  
36 emergency management director of the county in which the dam is  
38 located to the review conference as well as representatives from  
40 appropriate state agencies which may include the Department of  
42 Conservation, the Department of Environmental Protection, the  
44 Department of Inland Fisheries and Wildlife, the Department of  
46 Marine Resources, the Department of Public Safety, the Department  
of Transportation, the Maine Land Use Regulation Commission, the  
Maine Atlantic Salmon Commission and the State Planning Office,  
to discuss the public safety, environmental, economic and other  
concerns relating to the dam and the necessary remedial measures  
under consideration. A state dam inspector shall attend the  
review conference. The commissioner shall maintain a written  
record of the conference and shall make a copy of this record  
available to all parties participating in the conference.

48 4. Order. The commissioner shall consider the inspector's  
50 report, the evidence presented by the dam owner, lessee or other  
person in control of the dam and the record from the review

conference before issuing a dam safety order directing that necessary remedial measures be undertaken by the dam owner, lessee or other person in control of the dam. The commissioner may issue such an order only if the commissioner determines that the integrity, structural stability, function or operation of the dam constitutes a threat to public safety. Necessary remedial measures may include, but are not limited to:

A. Breach or removal of the dam;

B. Repair or maintenance of the dam in a specified manner;

C. Operation of the dam in a specified manner;

D. Preparation of and adherence to any emergency action that is approved by the commissioner; and

E. Maintenance of appropriate records relating to water levels, dam operation and dam maintenance.

#### §1120. Enforcement

The commissioner may commence an action to enjoin the violation of any provision of this chapter. The commissioner may enforce any order by any other appropriate remedy, including, but not limited to, entering the dam premises to carry out the terms of the order.

The owners, lessees or persons in control of the dam are jointly and severally liable for any costs incurred by the department in carrying out its responsibilities under section 1114, subsection 2 or in enforcing any order. If the owners, lessees or persons in control of the dam refuse to comply or do not fully comply with the department's order, the department shall initiate a civil action against the owners, lessees or other persons in control of the dam for damages in the amount of the costs incurred by the department in enforcing its order.

#### §1121. Appeal

Any person aggrieved by an order of the commissioner may appeal to the Superior Court under Title 5, chapter 375, subchapter VII.

#### §1122. Exemptions

Dams licensed by or subject to the jurisdiction of the Federal Energy Regulatory Commission are exempt from this chapter.

**§1123. Rights of owner**

This chapter may not be construed to deprive any owner of recourse to the court in which that owner may be entitled to relief under the laws of this State.

**§1124. Immunity**

An action may not be brought against the State, the department or its agents or employees for any action taken or failure to take action pursuant to this chapter.

**§1125. Relief of obligation**

This chapter may not be construed as relieving a person of duties, responsibilities or liabilities imposed by any other law, regulation, municipal ordinance or rule of law, including, but not limited to, the need to obtain permits or other approvals required to authorize repairs or other remedial measures at a dam and the need to comply with the terms and conditions of any outstanding water level or dam release order, except in an emergency situation as defined by this chapter.

**§1126. Access and notification**

1. Department access. A state dam inspector and any department staff member must have full access to any dam site under the commissioner's jurisdiction for the purpose of conducting an inspection or enforcing an order under this chapter subject to the Maine Rules of Civil Procedure, Rule 80E.

2. Owners, lessees; necessary access. The owners, lessees or persons in control of a dam must have access over land abutting the dam site owned by others if the access, including the passage of vehicles, machinery and equipment, is reasonably necessary to comply with an order issued under this chapter. In passing over land owned by abutters, the owners, lessees or persons in control of a dam shall make every effort to minimize the intrusion, shall restore the land to its preexisting condition to the maximum extent practicable and are liable to the abutters for all property damage caused by their activities on the abutters' land. The abutters may not be held liable to any person for any personal injuries or property damage arising from the crossing of their land by the owners, lessees or persons in control of a dam.

**§1127. Emergency action plans**

Within 6 months after the determination of classification, the owner of a dam under the commissioner's jurisdiction that is

classified as high or significant hazard potential shall prepare an emergency action plan, which must be updated every 2 years. Such emergency action plans must be reviewed for adequacy by the department. Emergency plans must follow a model plan supplied by the department. All emergency action plans must be available and on file at the appropriate local and county government offices and at the department.

**§1128. Notice of transfer of ownership**

Forty-five days prior to any change of ownership of a dam, whether by sale, lease or gift, the owner or owners of a dam classified as a high or significant hazard potential dam shall provide in writing to the commissioner the name and address of the prospective new owner or owners along with any plan that the prospective owner has with regard to maintaining competent operations and correcting unsafe conditions, if any. For purposes of this section, "competent operations" means properly and safely maintaining the dam and ensuring compliance with all safety, environmental and water level rules or orders.

**§1129. Violations**

In addition to any other forfeitures or penalties provided by law, a person who violates any provisions of this chapter or any rule or order adopted, promulgated or issued under this chapter is subject to a civil penalty as assessed by the commissioner of not less than \$100 nor more than \$5,000 for each day that the violation continues. The penalty is payable to the State, to be recovered in a civil action.

**§1130. Dam Repair and Reconstruction Fund**

**1. Fund established.** The Dam Repair and Reconstruction Fund, referred to in this section as the "fund," is established within the department. The department shall administer the fund and make low-interest loans from the fund for purposes pursuant to this section. The department may seek assistance from the Finance Authority of Maine in administering the fund.

**2. Purposes.** The fund provides low-interest loans to municipalities for engineering, legal and construction costs involved in acquiring title to, establishing a long-term management plan for, repairs to, reconstruction of, breaching of or removal of a dam.

**3. Rulemaking.** The department shall adopt rules to implement this section, including criteria and procedures for the application for and award of low-interest loans from the fund and for repayment of loans to the fund. Rules adopted pursuant to



this section are routine technical rules as defined in Title 5,  
chapter 375, subchapter II-A.

4. Nonlapsing. Any balance in the fund at the end of the  
fiscal year may not lapse but must be carried forward to the next  
fiscal year.

**Sec. FFFFF-4. 38 MRSA §818, sub-§3,** as repealed and replaced  
by PL 1987, c. 769, Pt. A, §180, is amended to read:

**3. Other powers.** No provision of this article may be  
construed as limiting the powers of the Maine Emergency  
Management Agency under Title 37-B, ~~sections 1051 to 1059~~ chapter  
24.

**Sec. FFFFF-5. 38 MRSA §841, sub-§2,** as affected by PL 1989,  
c. 890, Pt. A, §40 and amended by Pt. B, §202, is further amended  
to read:

**2. Exception.** No ~~An~~ owner, lessee or person in control of  
a dam may ~~not~~ be in violation of subsection 1, ~~where~~ when the  
water level fluctuation not permitted by the order was caused by  
unforeseeable and unpredictable meteorological conditions or  
operating failures of the dam or any associated equipment or by  
valid order of federal, state or local authorities, including an  
order issued pursuant to Title 37-B, section 1114, subsection 2,  
and ~~where~~ when the person could not have avoided the fluctuation  
by promptly undertaking all reasonably available steps to  
regulate water flow through or over any dam under the person's  
control. The burden of proof is on the owner, lessee or person in  
control of the dam to demonstrate the applicability of this  
subsection.

**Sec. FFFFF-6. 38 MRSA §844,** as enacted by PL 1999, c. 782,  
§1, is repealed.

**Sec. FFFFF-7. State Controller to transfer balance.** The State  
Controller shall transfer any balance held in the former Dam  
Repair and Reconstruction Fund established in the Maine Revised  
Statutes, Title 38, section 844 to the Dam Repair and  
Reconstruction Fund established in Title 37-B, section 1130 on  
the effective date of this Part.

**Sec. FFFFF-8. Allocation.** The following funds are allocated  
from Other Special Revenue funds to carry out the purposes of  
this Part.

	2001-02	2002-03
2		
4	<b>DEFENSE, VETERANS AND EMERGENCY</b>	
	<b>MANAGEMENT, DEPARTMENT OF</b>	
6	<b>Dam Repair and Reconstruction Fund</b>	
8	All Other	\$251,200 \$251,200
10	Allocates funds to provide	
12	low-interest loans to	
	municipalities for	
14	engineering, legal and	
	construction costs involved	
16	in establishing a long-term	
	management plan for the	
18	repair, reconstruction,	
	breaching or removal of dams.	
20	<b>DEPARTMENT OF DEFENSE, VETERANS</b>	
	<b>AND EMERGENCY MANAGEMENT</b>	
22	<b>TOTAL</b>	<b>\$251,200 \$251,200</b>
24	<b>Sec. FFFFF-9. Allocation.</b> The following funds are allocated	
26	from Other Special Revenue funds to carry out the purposes of	
	this Part.	
28		<b>2001-02</b>
30	<b>DEFENSE, VETERANS AND EMERGENCY MANAGEMENT,</b>	
	<b>DEPARTMENT OF</b>	
32	<b>Dam Repair and Reconstruction Fund</b>	
34		
	All Other	(\$129,000)
36	Deallocates funds to reflect	
38	an allocation from the Dam	
	Repair and Reconstruction	
40	Fund to the Department of	
	Inland Fisheries and Wildlife.	
42	<b>DEPARTMENT OF DEFENSE, VETERANS AND</b>	
44	<b>EMERGENCY MANAGEMENT</b>	
	<b>TOTAL</b>	<b>(\$129,000)</b>
46	<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</b>	
48	<b>Administrative Services - Inland</b>	
50	<b>Fisheries and Wildlife</b>	

2 All Other \$129,000

4 Allocates funds on a one-time  
6 basis from the Dam Repair and  
8 Reconstruction Fund within  
10 the Department of Defense,  
12 Veterans and Emergency  
14 Management for the  
16 reconstruction of 2 dams that  
18 control the water level at  
20 Rocky Lake in Whiting. Any  
22 unspent funds shall lapse to  
24 the Dam Repair and  
26 Reconstruction Fund.

18 **DEPARTMENT OF INLAND FISHERIES AND  
WILDLIFE**

20 **TOTAL** \$129,000

22 **TOTAL ALLOCATIONS** \$0

24 **PART GGGGG**

26 **Sec. GGGGG-1. 36 MRSA §1760, sub-§18-A,** as amended by PL  
28 1975, c. 293, §4, is further amended to read:

30 **18-A. Other institutions.** Sales to incorporated private  
32 nonprofit residential child caring institutions which that are  
34 licensed by the Department of Human Services as child caring  
36 institutions and sales to incorporated nonprofit organizations  
providing temporary child placement and adoption services,  
licensed by the Department of Human Services as child-placing  
agencies or emergency shelters.

38 **PART HHHHH**

40 **Sec. HHHHH-1. Appropriation.** The following funds are  
42 appropriated from the General Fund to carry out the purposes of  
this Part.

44 2001-02

46 **DEFENSE, VETERANS AND EMERGENCY  
MANAGEMENT, DEPARTMENT OF**

48 **Maine Civil War Monuments  
Maintenance Program**

50

All Other \$50,000

Provides for the one-time appropriation of funds for the Commissioner of Defense, Veterans and Emergency Management to arrange with the United States Department of the Interior, National Park Service through the Superintendent of Gettysburg National Military Park for the maintenance of Maine's monuments at Gettysburg National Military Park. Funds appropriated for this purpose may not lapse until 12 months after the effective date of this Part.

### PART IIII

**Sec. IIII-1. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Part.

2001-02 2002-03

### FINANCE AUTHORITY OF MAINE

#### Maine Dental Education Loan Program

All Other \$60,000 \$120,000

Provides additional funds from the Fund for a Healthy Maine for loans to Maine residents enrolled in a school of dental education or to repay loan agreements for practicing doctors of dental medicine who practice in underserved population areas.

### PART JJJJ

**Sec. JJJJ-1. 26 MRSA §2007** is enacted to read:

**§2007. Transportation vouchers for persons with disabilities to work**

The Department of Labor shall establish a program providing for the issuance of transportation vouchers to persons with disabilities, as defined by 42 United States Code, Section 8013,

for the purpose of improving access to employment. The vouchers  
may be used for fares for public transportation or to pay mileage  
expenses for private transportation.

The Department of Labor, Bureau of Rehabilitation Services,  
in conjunction with the Department of Transportation, shall adopt  
rules governing eligibility for the transportation vouchers  
program. Rules adopted pursuant to this section are routine  
technical rules as defined in Title 5, chapter 375, subchapter  
II-A. The Department of Labor or its contractor shall administer  
the program.

**Sec. JJJJJ-2. Appropriation.** The following funds are  
appropriated from the General Fund to carry out the purposes of  
this Part.

**2002-03**

**TRANSPORTATION, DEPARTMENT OF**

**Office of Passenger  
Transportation**

All Other \$80,000

Appropriates funds for  
transportation vouchers  
provided to persons with  
disabilities.

**PART KKKKK**

**Sec. KKKKK-1. Appropriation.** The following funds are  
appropriated from the General Fund to carry out the purposes of  
this Part.

**2001-02**

**ADMINISTRATIVE AND FINANCIAL  
SERVICES, DEPARTMENT OF**

**Miscellaneous Acts and Resolves**

All Other \$10,000

Provides one-time funds as additional  
resources for the Oxford County Fair Society.

**PART LLLLL**

**Sec. LLLLL-1. Reimbursement for durable medical equipment.** The Department of Human Services shall amend the rules for reimbursement under the Medicaid program for durable medical equipment to provide reimbursement as specified in this section. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

1. Reimbursement must be provided for crossover claims for persons eligible for the Medicaid program and the Medicare program.

2. The reimbursement cap on major purchases must be removed.

3. For purchases requiring prior authorization, prior authorization must be deemed to be granted and notice of approval must be given if a decision on prior authorization is not given by the department within 30 days of the submission of the application for prior authorization.

4. Reimbursement must be provided to pay for travel costs when necessary to make repairs and service durable medical equipment.

By January 15, 2002 the department must report to the Joint Standing Committee on Health and Human Services regarding the rulemaking process and rules changes for reimbursement for durable medical equipment.

**Sec. LLLLL-2. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
<b>HUMAN SERVICES, DEPARTMENT OF</b>		
<b>Bureau of Medical Services</b>		
Positions	(1.000)	(1.000)
Personal Services	\$15,314	\$21,235
All Other	5,000	1,500
TOTAL	\$20,314	\$22,735
Provides funds for one Health Services Consultant position		

2 and related operating costs  
to ensure that the 30-day  
4 limit for receiving prior  
authorization approval for  
purchases of equipment is met.

6  
8 **Medical Care - Payments to Providers**

10 All Other \$104,249 \$162,072

12 Provides funds to reinstate  
crossover claims payments for  
14 persons eligible for the  
Medicaid program and the  
Medicare program.

16  
18 **Medical Care - Payments to Providers**

20 All Other \$9,596 \$14,026

22 Provides funds to remove the  
reimbursement cap on major  
purchases.

24  
26 **Medical Care - Payments to Providers**

28 All Other \$9,495 \$13,878

30 Provides funds for  
reimbursement of travel costs  
when necessary to make  
32 repairs and service durable  
medical equipment.

34  
36 **DEPARTMENT OF HUMAN SERVICES**  
**TOTAL** \$143,654 \$212,711

38 **Sec. LLLLLL-3. Allocation.** The following funds are allocated  
40 from the Federal Expenditures Fund to carry out the purposes of  
this Part.

42 2001-02 2002-03

44 **HUMAN SERVICES, DEPARTMENT OF**

46 **Bureau of Medical Services**

48 Personal Services \$15,314 \$21,235  
All Other 5,000 1,500

2	TOTAL	\$20,314	\$22,735
4	Allocates federal matching		
6	funds for one Health Services		
8	Consultant position and		
10	related operating costs to		
12	ensure that the 30-day limit		
14	for receiving prior		
16	authorization approval for		
18	purchases of equipment is met.		
20	<b>Medical Care - Payments to Providers</b>		
22	All Other	\$206,617	\$322,883
24	Allocates federal matching		
26	funds to reinstate crossover		
28	claims payments for persons		
30	eligible for the Medicaid		
32	program and the Medicare		
34	program.		
36	<b>Medical Care - Payments to Providers</b>		
38	All Other	\$19,018	\$27,942
40	Allocates federal matching		
42	funds to remove the		
44	reimbursement cap on major		
46	purchases.		
48	<b>Medical Care - Payments to Providers</b>		
50	All Other	\$18,819	\$27,649
	Allocates federal matching		
	funds for reimbursement of		
	travel costs when necessary		
	to make repairs and service		
	durable medical equipment.		
	<b>DEPARTMENT OF HUMAN SERVICES</b>		
	<b>TOTAL</b>	<b>\$264,768</b>	<b>\$401,209</b>

**PART MMMMM**

**Sec. MMMMM-1. 5 MRSA §1513, sub-§5 is enacted to read:**



5. Death benefits. The Governor shall allocate funds from the Maine Rainy Day Fund as needed to pay benefits due pursuant to Title 25, chapter 195-A. Allocations may be made upon written request of the Chief of the State Police, State Fire Marshal or Director of Maine Emergency Medical Services, and after consultation with the State Budget Officer.

Sec. MMMMM-2. 5 MRSA §18005, sub-§2, as amended by PL 1991, c. 885, Pt. E, §12 and affected by §47, is further amended to read:

2. Workers' compensation or similar law. The amount payable under this article must be reduced by any amount received by the surviving spouse and dependent child or dependent children under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a similar law. For purposes of this article, a death benefit paid to a law enforcement officer, firefighter or emergency medical services person under Title 25, chapter 195-A is not considered a benefit paid under a "similar law" and may not be used to reduce the amount payable under this article.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

B. The prorated lump-sum settlement amounts must reduce the accidental death benefits payable monthly under this article.

Sec. MMMMM-3. 5 MRSA §18605, sub-§2, as amended by PL 1991, c. 885, Pt. E, §16 and affected by §47, is further amended to read:

2. Workers' compensation or similar law. The amount payable under this article must be reduced by any amount received by the surviving spouse and dependent child or dependent children under former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992, or a similar law. For purposes of this article, a death benefit paid to a law enforcement officer, firefighter or emergency medical services person under Title 25, chapter 195-A is not considered a benefit paid under a "similar law" and may not be used to reduce the amount payable under this article.

A. Lump-sum settlements of benefits that would reduce the accidental death benefits under this subsection must be prorated on a monthly basis in an equitable manner prescribed by the board.

B. The prorated lump-sum settlement amounts must reduce the accidental death benefits payable monthly under this article.

Sec. MMMMM-4. 25 MRSA c. 195-A is enacted to read:

CHAPTER 195-A

DEATH BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREFIGHTERS  
AND EMERGENCY MEDICAL SERVICES PERSONS WHO DIE  
WHILE IN THE LINE OF DUTY

§1611. Definitions

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

1. Chief. "Chief" means the Chief of the State Police.

2. Director. "Director" means the Director of Maine Emergency Medical Services as defined in Title 32, section 83, subsection 10-A.

3. Emergency medical services person. "Emergency medical services person" has the same meaning as in Title 20-A, section 12552, subsection 1-C.

4. Firefighter. "Firefighter" means an active municipal firefighter or an active volunteer firefighter, as defined in Title 30-A, section 3151.

5. Law enforcement officer or officer. "Law enforcement officer" or "officer" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, fire marshal, liquor enforcement officer or marine patrol officer in this State.

§1612. Death benefit

1. Amount; recipients. In a case in which the chief determines under rules adopted pursuant to this section that a law enforcement officer has died while in the line of duty or in a case in which the State Fire Marshal determines under rules adopted pursuant to this section that a firefighter has died while in the line of duty or in a case in which the director determines under rules adopted pursuant to this section that an emergency medical services person has died while in the line of duty, the State shall pay a benefit of \$50,000 as follows:

2       A. If there is no surviving child of the firefighter, law  
4       enforcement officer or emergency medical services person, to  
      the surviving spouse of the person;

6       B. If there is a surviving child or children and a  
8       surviving spouse of the firefighter, law enforcement officer  
      or emergency medical services person, 1/2 to the surviving  
      child or children in equal shares and 1/2 to the surviving  
      spouse;

10       C. If there is no surviving spouse of the firefighter, law  
12       enforcement officer or emergency medical services person, to  
14       the child or children in equal shares; or

16       D. If there is no surviving child or spouse, to the parent  
      or parents of the firefighter, law enforcement officer or  
18       emergency medical services person in equal shares.

20       2. Interim benefit payment. Interim benefits may be paid  
      as follows.

22       A. When the State Fire Marshal determines upon showing of  
24       need and prior to final action that the death of a  
      firefighter is a death for which a benefit will probably be  
26       paid, the State Fire Marshal may make an interim benefit  
      payment not exceeding \$3,000 to the individual or  
28       individuals entitled to receive a benefit under subsection 1  
      in the manner set out in subsection 1.

30       B. When the chief determines upon showing of need and prior  
32       to final action that the death of an officer is a death for  
      which a benefit will probably be paid, the chief may make an  
34       interim benefit payment not exceeding \$3,000 to the  
      individual or individuals entitled to receive a benefit  
36       under subsection 1 in the manner set out in subsection 1.

38       C. When the director determines upon showing of need and  
      prior to final action that the death of an emergency medical  
40       services person is a death for which a benefit will probably  
      be paid, the director may make an interim benefit payment  
42       not exceeding \$3,000 to the individual or individuals  
      entitled to receive a benefit under subsection 1 in the  
44       manner set out in subsection 1.

46       3. Deduction of interim payment. The State Fire Marshal,  
      the chief or the director, as the case may be, shall deduct the  
48       amount of an interim payment made pursuant to subsection 2 from  
      the amount of any final benefit paid to the individual or  
50       individuals entitled to receive a benefit under subsection 1.

2       4. Repayment of interim payment; waiver. If a final  
3       benefit is not paid, the recipient or recipients of any interim  
4       payment under subsection 2 are liable for repayment of the amount  
5       received. The State Fire Marshal in the case of a firefighter,  
6       the chief in the case of a law enforcement officer or the  
7       director in the case of an emergency medical services person may  
8       waive all or part of the repayment if that official determines  
9       that undue hardship would result from that repayment.

10       5. Execution or attachment prohibited. A benefit paid  
11       under this section is not subject to execution or attachment.

12       6. Other benefits. The \$50,000 benefit payable under this  
13       section may not be considered a benefit paid under "similar law"  
14       for purposes of Title 5, sections 18005 and 18605 and may not be  
15       used to reduce any accidental death benefit amount payable under  
16       those provisions or under any other provision of law.

17       7. Payment from the Maine Rainy Day Fund. Benefits are  
18       payable from the Maine Rainy Day Fund as provided in Title 5,  
19       section 1513.

20       8. Rulemaking. The State Fire Marshal, the chief and the  
21       Emergency Medical Services' Board shall adopt rules to carry out  
22       the purposes of this section. Rules adopted pursuant to this  
23       section are routine technical rules as defined in Title 5,  
24       chapter 375, subchapter II-A.

25  
26  
27  
28  
29  
30                                   **PART NNNNN**

31       **Sec. NNNNN-1. Transfer.** Upon application from the Board of  
32       Trustees of the University of Maine System to the Public  
33       Utilities Commission, the commission shall order Verizon to  
34       transfer \$500,000 from the unexpended balance of the Maine School  
35       and Library Network project as of June 30, 2001 and \$500,000 as  
36       of June 30, 2002 to the University of Maine System no later than  
37       August 1, 2001 and August 1, 2002, respectively, to provide for  
38       the infrastructure needs to create a digital library that is  
39       accessible statewide.

40       **Sec. NNNNN-2. Appropriation.** The following funds are  
41       appropriated from the General Fund to carry out the purposes of  
42       this Part.

	2001-02	2002-03
43		
44		
45		
46		
47		
48		
49		
50		

UNIVERSITY OF MAINE SYSTEM,  
BOARD OF TRUSTEES OF THE

**Educational and General Activities -  
University of Maine System**

4	All Other	\$113,000	\$98,470
---	-----------	-----------	----------

6 Provides funds to create a  
7 digital library to meet the  
8 educational, research,  
9 business and economic needs  
10 of Maine. The funds will  
11 provide for information  
12 resources in digital form,  
13 such as books, scholarly  
14 journals, publicly accessible  
15 sites on the Internet,  
16 databases, electronic  
17 archives and other  
18 information sources.

**PART OOOOO**

22 **Sec. OOOOO-1. Consumer income; home-based care.** The  
23 Department of Human Services may not include the income of a  
24 consumer's spouse in calculating the consumer's income in the  
25 home-based care program under the Department of Human Services,  
26 Bureau of Elder and Adult Services.

27 **Sec. OOOOO-2. Appropriation.** The following funds are  
28 appropriated from the General Fund to carry out the purposes of  
29 this Part.

32		<b>2001-02</b>	<b>2002-03</b>
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33 **HUMAN SERVICES, DEPARTMENT OF**

34 **Long Term Care - Human Services**

38	All Other	\$168,000	\$168,000
----	-----------	-----------	-----------

39 Provides funds for home-based  
40 care as a result of a  
41 reduction in the copayment  
42 required for services due to  
43 the exclusion of spousal  
44 income in the calculation of  
45 the copayment.'

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## FISCAL NOTE

This amendment will increase the General Fund cost of the bill by \$566,772 in fiscal year 2001-02 and \$688,915 in fiscal year 2002-03. Based on projected General Fund balances, a balanced budget is maintained for fiscal years 2001-02 and 2002-03.

## SUMMARY

Part AAAAA provides a General Fund appropriation to the Department of Labor for the continuation of the Maine Airs program through the Iris Network, formerly known as the Maine Center for the Blind and Visually Impaired.

Part BBBB authorizes the Chief of the State Police to enter into reciprocity agreements with other states concerning permits to carry concealed firearms and appropriates funds necessary to administer those agreements.

Part CCCCC directs to State Fire Marshal to negotiate a bulk purchase price for thermal imaging cameras to be purchased by local fire-fighting units and law enforcement agencies. This Part also establishes a fund by which loans can be made for the purchase of thermal imaging cameras and provides an appropriation and an allocation for these purposes.

Part DDDDD increases the allowable forest management and harvest plan income tax credit for parcels of land greater than 10 acres from \$200 to \$300, beginning January 1, 2002.

Part EEEEE appropriates funds to conduct a low-flow study in Aroostook County.

Part FFFFF consolidates existing dam safety laws within the Department of Defense, Veterans and Emergency Management and moves the Dam Repair and Reconstruction Fund from the Department of Environmental Protection to the Department of Defense, Veterans and Emergency Management.

Part GGGGG exempts from the sales tax sales to incorporated nonprofit organizations that provide temporary child placement and adoption services and are licensed by the Department of Human Services as child-placing agencies or emergency shelters.

2 Part HHHHH provides funds for the maintenance of Maine's  
monuments at Gettysburg National Military Park.

4  
6 Part IIIII provides additional funds from the Fund for a  
Healthy Maine for loans to Maine residents enrolled in a school  
of dental education or to repay loan agreements for practicing  
8 doctors of dental medicine who practice in underserved population  
areas.

10  
12 Part JJJJJ authorizes the issuance of transportation  
vouchers to persons with disabilities and appropriates funds for  
this purpose.

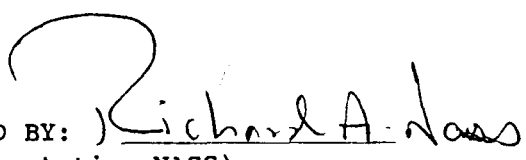
14  
16 Part KKKKK appropriates one-time funds for the Oxford County  
Fair Society.

18 Part LLLLL requires the Department of Human Services to  
amend the rules of reimbursement for durable medical equipment in  
20 4 areas, including crossover claims for persons eligible under  
the Medicaid program and the Medicare program; removing the  
22 reimbursement cap on major purchases; granting approval for  
purchases requiring prior authorization if not granted within 30  
24 days of submitting an application; and reimbursement for travel  
costs when necessary to make repairs and service durable medical  
26 equipment.

28 Part MMMMM authorizes payments from the Maine Rainy Day Fund  
for death benefits for law enforcement officers, firefighters and  
30 emergency medical services personnel who die in the line of duty.

32 Part NNNNN provides funds to create a digital library to  
meet the educational, research, business and economic needs of  
34 Maine.

36 Part OOOOO excludes from the calculation of a consumer's  
income the income of a consumer's spouse under the home-based  
38 care program within the Bureau of Elder and Adult Services within  
the Department of Human Services.

40  
42  
44 SPONSORED BY:   
(Representative NASS)

46 TOWN: Acton  
48