

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 274

H.P. 217

House of Representatives, January 28, 2003

An Act to Correct Errors and Inconsistencies in the Laws of Maine

(EMERGENCY)

Reported by Representative NORBERT of Portland for the Revisor of Statutes pursuant to the Maine Revised Statutes, Title 1, section 94.

Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4
6 **Whereas,** Acts of this and previous Legislatures have
resulted in certain technical errors and inconsistencies in the
laws of Maine; and

8
10 **Whereas,** these errors and inconsistencies create
uncertainties and confusion in interpreting legislative intent;
and

12
14 **Whereas,** it is vitally necessary that these uncertainties
and this confusion be resolved in order to prevent any injustice
or hardship to the citizens of Maine; and

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

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

24
26 **Sec. 1. 2 MRSA §6, sub-§7,** as amended by PL 1991, c. 885, Pt.
A, §1 and affected by §§9 to 11, is repealed.

28 **Sec. 2. 4 MRSA §116, first ¶,** as amended by PL 2001, c. 617, §1
and c. 698, §1 and affected by §7, is repealed and the following
30 enacted in its place:

32 All revenue received by the Supreme Judicial or Superior
34 Court, whether directly or pursuant to an agreement entered into
with the Department of Administrative and Financial Services,
36 Bureau of Revenue Services, from fines, forfeitures, penalties,
fees and costs accrues to the State, except as otherwise provided
38 under sections 1057 and 1057-A; Title 7, section 3910-A; Title
12, sections 3055 and 4508; Title 17, section 1015; Title 23,
40 section 1653; Title 29-A, section 2602; and Title 34-A, section
1210-A, subsection 9.

42 **Sec. 3. Retroactivity.** That section of this Act that repeals
and replaces the Maine Revised Statutes, Title 4, section 116,
44 first paragraph applies retroactively to August 1, 2002.

46 **Sec. 4. 4 MRSA §153, sub-§9,** as amended by PL 1969, c. 501,
§1, is further amended to read:

48 **9. Northern Cumberland.** Northern Cumberland consists of
50 all municipalities in the County of Cumberland not included

2 within the ~~divisions~~ division of Eastern and Southern Cumberland,
and consists of the municipalities of Brownfield, Denmark, Hiram,
4 Fryeburg, Lovell, Sweden, Stow and Porter in the County of
Oxford. The District Court for Northern Cumberland shall must be
held at Bridgton.

6
8 **Sec. 5. 4 MRSA §163, sub-§1**, as amended by PL 2001, c. 617, §2
and c. 698, §2 and affected by §7, is repealed and the following
enacted in its place:

10
12 **1. District Court funds.** Except as otherwise provided by
14 law, all fines, forfeitures, surcharges, assessments and fees
16 collected in any division of the District Court or by the
18 violations bureau must be paid to the clerk of that District
20 Court, who shall deposit them in a special account in a timely
22 manner. Once each month, the clerk shall remit the sums to the
24 Treasurer of State, who shall credit them to the General Fund.
26 At the same time, the clerk shall remit the sums that have been
28 collected in accordance with sections 1057 and 1057-A; Title 5,
chapter 316-A; Title 7, section 3910-A; Title 17, section 1015;
Title 29-A, section 2411, subsection 7; and Title 34-A, section
1210-A, subsection 9. Funds received by the clerk as bail in
criminal cases must be deposited daily in a special account. The
clerk shall deposit the funds in an interest-bearing account
unless the clerk determines that it is not cost-effective to do
so. Interest accrued in the account is the property of and
accrues to the State. The forfeiture and setoff of bail is
governed as otherwise provided by law.

30 The court shall file a monthly report with the State Auditor
32 itemizing the amount of fines, surcharges and assessments imposed
and to whom each is payable.

34 **Sec. 6. Retroactivity.** That section of this Act that repeals
and replaces the Maine Revised Statutes, Title 4, section 163,
36 subsection 1 applies retroactively to August 1, 2002.

38 **Sec. 7. 4 MRSA §1057-A, sub-§2.** as amended by PL 2001, c. 617,
§3 and c. 698, §3 and affected by §7, is repealed and the
40 following enacted in its place:

42 **2. Surcharge imposed.** In addition to the 12% surcharge
44 collected pursuant to section 1057, the \$10 surcharge collected
46 pursuant to Title 7, section 3910-A, the 10% surcharge collected
48 pursuant to Title 17, section 1015 and the 1% surcharge collected
pursuant to Title 34-A, section 1210-A, subsection 9, a 2%
surcharge must be added to every fine, forfeiture or penalty
imposed by any court in this State, which for the purposes of
collection and collection procedures is considered a part of the
50 fine, forfeiture or penalty. All funds collected pursuant to

2 this subsection must be deposited monthly in the Maine Community
3 Policing Institute Surcharge Fund. All funds collected pursuant
4 to this subsection must be paid to the University of Maine System
5 for the sole purpose of funding the Maine Community Policing
6 Institute, except that the Judicial Department may incur
7 reasonable expenses to implement the administration of the 2%
8 surcharge, in an amount not to exceed \$11,000 annually, in fiscal
9 years ending June 30, 2000 and June 30, 2002.

10 **Sec. 8. Retroactivity.** That section of this Act that repeals
11 and replaces the Maine Revised Statutes, Title 4, section 1057-A,
12 subsection 2 applies retroactively to August 1, 2002.

13 **Sec. 9. 5 MRSA §191,** as amended by PL 1989, c. 410, §13, is
14 repealed and the following enacted to read:

15 **§191. Duties; salary; fees; full time**

16
17 The Attorney General or a deputy, assistant or staff
18 attorney shall appear for the State, the head of any state
19 department, the head of any state institution and agencies of the
20 State in all civil actions and proceedings in which the State is
21 a party or interested, or in which the official acts and doings
22 of the officers are called in question, in all the courts of the
23 State; and in those actions and proceedings before any other
24 tribunal when requested by the Governor or by the Legislature or
25 either House of the Legislature. All such actions and
26 proceedings must be prosecuted or defended by the Attorney
27 General or under the Attorney General's direction. Writs,
28 summonses or other processes served upon those officers must be
29 transmitted by them to the Attorney General. All legal services
30 required by those officers, boards and commissions in matters
31 relating to their official duties must be rendered by the
32 Attorney General or under the Attorney General's direction. The
33 officers or agencies of the State may not act at the expense of
34 the State as counsel, nor employ private counsel except upon
35 prior written approval of the Attorney General. In all instances
36 where the Legislature has authorized an office or an agency of
37 the State to employ private counsel, the Attorney General's
38 written approval is required as a condition precedent to such
39 employment. The Attorney General shall keep an office at the
40 seat of government and is entitled to receive an annual salary in
41 full for all services. The Attorney General shall devote full
42 time to the duties of the office and may not engage in the
43 private practice of law during the Attorney General's term of
44 office, nor may the Attorney General during such term be a
45 partner or associate of any person in the practice of law. The
46 Attorney General is entitled to receive actual expenses incurred
47 in the performance of official duties. During the term of
48 service, the Attorney General may not be an officer or director
49

2 of any corporation engaged in business for profit within the
3 State. The Attorney General is the executive head of the
4 Department of the Attorney General.

5 The Attorney General is entitled to receive the following
6 fees:

7 1. Certificate of organization. For approval of
8 certificate of organization of corporations under Title 9-B,
9 section 313, subsection 3, \$10 in advance; and

10 2. Certification of cessation of business. For certificate
11 that any corporation has ceased to transact business and is
12 excused from filing annual returns, as authorized in Title 13-C,
13 section 1621, subsection 4, \$5.

14 The Attorney General shall collect the legal and usual fees
15 payable to the Attorney General by virtue of the Attorney's
16 General office and shall pay them over to the Treasurer of State.

17 **Sec. 10. Effective date.** That section of this Act that repeals
18 and replaces the Maine Revised Statutes, Title 5, section 191
19 takes effect July 1, 2003.

20 **Sec. 11. 5 MRSA §299, first ¶,** as amended by PL 1989, c. 410,
21 §15, is further amended to read:

22 The commission shall establish and maintain a master plan
23 for the orderly development of future state buildings and grounds
24 in the Capitol Area of the City of Augusta, with the exception of
25 the State House and the grounds specified in Title 3, section
26 902, ~~subsection 2~~ 902-A. In maintaining the master plan, the
27 commission shall take the following factors into consideration:

28 **Sec. 12. 5 MRSA §12004-I, sub-§38,** as amended by PL 1997, c.
29 689, Pt. A, §1 and affected by Pt. C, §2, is repealed.

30 **Sec. 13. 7 MRSA §1808, last ¶,** as amended by PL 2001, c. 572,
31 §37, is further amended to read:

32 Failure to comply with this section or section 1807, or the
33 ~~regulations~~ rules adopted pursuant thereto, is grounds for
34 revocation of any permit granted pursuant to these sections.

35 **Sec. 14. 11 MRSA §9-1107,** as enacted by PL 1999, c. 699, Pt.
36 A, §2 and affected by §4, is amended to read:

37 **§9-1107. Control of letter-of-credit right**

2 A secured party has control of a letter-of-credit right to
the extent of any right to payment or performance by the issuer
4 or any nominated person if the issuer or nominated person has
consented to an assignment of proceeds of the letter of credit
6 under section 5-1114, subsection (e) (3) or other applicable law
or practice.

8 **Sec. 15. 12 MRSA §6404-B**, as amended by PL 2001, c. 327, §2,
is further amended to read:

10

12 **§6404-B. Suspension based on conviction of fishing on closed days
for sea urchin fishing**

14 The commissioner shall suspend the sea urchin fishing
license of any license holder convicted in court of violating
16 ~~section--6749-W--or~~ any rule adopted under section 6749. The
suspension must be for one year from the date of conviction.

18

20 **Sec. 16. 12 MRSA §6431-F, sub-§2, ¶B**, as amended by PL 1999, c.
790, Pt. A, §12, is further amended to read:

22 B. If the license holder was issued a Class I, Class II or
Class III lobster and crab fishing license pursuant to
24 former section 6421, subsection 5, paragraph H or former
section 6421-A, subsection 1, paragraph D, the license
26 holder may not purchase more than 300 trap tags for the
initial license year. For each following year, the license
28 holder may purchase up to an increase of 100 trap tags each
year as long as the total number does not exceed the trap
30 limit established by rule for the zone in which the person
fishes a majority of that person's traps; and

32

34 **Sec. 17. 12 MRSA §6448, sub-§2, ¶¶A and C**, as amended by PL
1999, c. 693, §1, are further amended to read:

36 A. After conducting a written survey in the zone, a lobster
management policy council may propose to the commissioner an
38 exit ratio to limit new zone entrants to the zone. The
lobster management policy council may also propose to the
40 commissioner a provision to exempt from the requirements of
this section an individual who became eligible for but had
42 not been issued a Class I, Class II or Class III license
pursuant to section 6421, subsection 5, paragraph C or
44 former paragraph H prior to January 1, 2000 and to allow
that individual to declare the zone as that individual's
46 declared lobster zone. The lobster management policy
council is not required to submit the proposal to referendum
48 and the proposed exit ratio does not need to receive
approval through the survey in order to be forwarded to the
50 commissioner.

2 C. Rules adopted under this subsection must establish an
4 exit ratio between the number of individuals who declared
6 that zone as their declared lobster zone in the year prior
8 to the previous calendar year, but who did not declare that
10 zone as their declared lobster zone in the previous calendar
12 year, and the number of new zone entrants authorized under
14 subsection 7. An exit ratio established by rule under this
16 subsection is not required to be the same as the exit ratio
18 proposed by the lobster management policy council. Rules
adopted under this subsection may exempt from the
requirements of this section an individual who became
eligible for but who had not been issued a Class I, Class II
or Class III license pursuant to section 6421, subsection 5,
paragraph C or former paragraph H prior to January 1, 2000
and allow such an individual to declare the zone as that
individual's declared lobster zone.

20 **Sec. 18. 12 MRSA §6749-X, sub-§3, ¶A,** as amended by PL 2001,
c. 327, §18, is further amended to read:

22 A. The designation of open days for the harvesting of sea
24 urchins by handfishing, dragging, hand-raking and trapping
pursuant to ~~section 6749-W or under~~ rules adopted under
26 section 6749;

28 **Sec. 19. 12 MRSA §7468, sub-§4.** as amended by PL 2001, c. 655,
§5 and affected by §20 and amended by c. 690, Pt. A, §12, is
repealed and the following enacted in its place:

30 **4. Wild turkey hunting permits.** The fee for a wild turkey
32 hunting permit is \$10 for residents and \$40 for nonresidents and
aliens. When a public chance drawing is utilized to allocate
34 permits, any Maine resident, nonresident or alien who is eligible
to obtain a Maine hunting license or who will be eligible to
36 obtain a Maine hunting license by the opening day of the wild
turkey hunting season is eligible to apply for a wild turkey
38 hunting permit. The percentage of total wild turkey permits
issued to nonresident and alien hunters may not exceed the
40 average percentage of applicants for wild turkey permits over the
previous 3 years who were nonresidents and aliens and may not be
42 more than 10% of the total wild turkey permits issued statewide.
While hunting turkey, a resident, nonresident or alien hunter
44 must be in possession of a valid resident, nonresident or alien
big game hunting license, as applicable.

46 A person who holds a valid wild turkey permit may transfer the
48 permit to a junior hunter or person 65 years of age or older by
identifying the name, age and address of the transferee on the
50 permit as well as any other information reasonably requested by

2 the commissioner and then return the permit to the department
3 prior to the start of the turkey season. The commissioner shall
4 record the transfer and return the permit to the junior hunter or
5 person 65 years of age or older. A valid permit must be in the
6 possession of the transferee in order for the transferee to hunt
7 turkey. If the person transfers the permit to the junior hunter
8 or person 65 years of age or older, that person is prohibited
9 from hunting turkey.

10 **Sec. 20. 12 MRSA §7901-A, sub-§4, ¶A**, as enacted by PL 2001,
11 c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

12 A. License restriction violation as described in section
13 7371, subsection 1, relating to the following licenses:

14 (1) Commercial shooting area license under section
15 7104 7105-A;

16 (2) Trapping license under section 7133;

17 (3) Eel permit for licensed trappers under section
18 7174;

19 (4) License to sell commercially grown or imported
20 fish under section 7201;

21 (5) Special dog training area license under section
22 7331;

23 (6) License to hold field trials under section 7332;

24 (7) Hide dealer's license under section 7352;

25 (8) Special hide dealer's license under section 7352-A;

26 (9) Snowmobile dealer's registration and license under
27 section 7825; and

28 (10) ATV dealer's registration and license under
29 section 7855;

30 **Sec. 21. 12 MRSA §7901-A, sub-§6, ¶A**, as amended by PL 2001,
31 c. 610, §3 and c. 667, Pt. B, §9, is repealed and the following
32 enacted in its place:

33 A. Chapter 709, subchapter 1 violations:

34 (1) Shooting at or near wildfowl decoys as described
35 in section 7406, subsection 11;

2 An agreement described in section 6047 must be made in the
3 form of a written lease and must include at least a general
4 description of the boundaries of the land to be leased.

6 **§6049. Required notice**

8 **1. Required notice of change in terms.** A lessor must give
9 a lessee at least 30 days' notice of a change in the terms of a
10 lease.

12 **2. Required notice of termination.** Unless the lease is
13 terminated for cause, a lessor must give notice to a lessee of
14 the intent to terminate the lease at least one year prior to the
15 effective date of the termination. All terms of the lease remain
16 in effect following the notice, except that:

18 **A. Termination provisions of the lease to the extent**
19 **inconsistent with this section are void, beginning on the**
20 **date the notice is provided;**

22 **B. The lessee may terminate the lease earlier than the**
23 **effective date provided in the notice; and**

24 **C. If the lessee violates the lease during the period**
25 **between the giving of the notice and the termination date**
26 **provided in the notice, this section no longer applies and**
27 **the lessee has only the rights provided in the lease.**

28 For purposes of this subsection, "cause" means violation by a
29 lessee of a term of a lease.

32 **§6050. Right of first refusal**

34 A lessee of premises on which a structure owned by the
35 lessee exists has the right of first refusal with regard to the
36 leased premises if the lessor intends to sell or to offer to sell
37 the leased premises as a separate parcel. Each lease subject to
38 this chapter must make provision for a method of determining the
39 sale price of the leased premises upon exercise of the right
40 provided in this section. The lessor must give the lessee at
41 least 90 days to accept the offer to purchase the lot.

44 **Sec. 23. 20-A MRSA §4706, sub-§2,** as amended by PL 2001, c.
45 403, §1 and c. 454, §20, is repealed and the following enacted in
46 its place:

48 **2. Maine studies.** Maine history, including the Constitution
49 of Maine, Maine geography and environment and the natural,
50 industrial and economic resources of Maine and Maine's cultural
and ethnic heritage, must be taught. A required component of

2 Maine studies is Maine Native American studies, which must be
4 included in the review of content standards and performance
6 indicators of the learning results conducted in accordance with
8 section 6209, subsection 4. The Native American studies must
10 address the following topics:

12 A. Maine tribal governments and political systems and their
14 relationship with local, state, national and international
16 governments;

18 B. Maine Native American cultural systems and the
20 experience of Maine tribal people throughout history;

22 C. Maine Native American territories; and

24 D. Maine Native American economic systems.

26 **Sec. 24. 21-A MRSA §365, first ¶,** as enacted by PL 1985, c.
28 161, §6, is amended to read:

30 The political committee ~~which~~ that has jurisdiction over the
32 choice of a candidate for nomination or a nominee to fill a
34 vacancy under sections 371, 373, 374, 374-A, 381 and 382 is as
36 follows.

38 **Sec. 25. 22 MRSA §253, sub-§3,** as amended by PL 1997, c. 689,
40 Pt. A, §2 and affected by Pt. C, §2, is further amended to read:

42 **3. Public hearings.** Prior to adopting the state health
44 plan and in reviewing the state health plan, the department shall
46 conduct public hearings in different regions of the State on the
48 proposed state health plan. Interested persons must be given the
opportunity to submit oral and written testimony. Not less than
30 days before each hearing, the department shall publish in a
newspaper of general circulation in the region the time and place
of the hearing, the place where interested persons may review the
plan in advance of the hearing and the place to which and period
during which written comment may be directed to the department.
~~Prior to adopting the state health plan and in reviewing the~~
~~state health plan, the department shall provide copies to and~~
~~shall meet and consult with the Certificate of Need Advisory~~
~~Committee as provided in section 306-B, subsection 2, paragraph A.~~

44 **Sec. 26. 22 MRSA §330, sub-§5,** as enacted by PL 2001, c. 664,
46 §2, is amended to read:

48 **5. Assisted living.** Assisted living programs and services
regulated under former chapter 1665;

2 **Sec. 27. 22 MRSA §330, sub-§5-A** is enacted to read:

4 **5-A. Assisted housing.** Assisted housing programs and
services regulated under chapter 1664;

6 **Sec. 28. 22 MRSA §2061, sub-§2**, as amended by PL 1993, c. 390,
§24, is further amended to read:

8 **2. Review.** Each project for a health care facility has
10 been reviewed and approved to the extent required by the agency
of the State that serves as the Designated Planning Agency of the
12 State or by the Department of Human Services in accordance with
the provisions of the former Maine Certificate of Need Act of
14 1978, as amended, or the Maine Certificate of Need Act of 2002,
as amended, or, in the case of a project for a hospital, has been
16 reviewed and approved by the former Maine Health Care Finance
Commission to the extent required by former chapter 107;

18 **Sec. 29. 22 MRSA §3174-R**, as enacted by PL 1997, c. 643, Pt.
20 RR, §5, is amended to read:

22 **§3174-R. Medicaid drug rebate program**

24 The department shall enter into a drug rebate agreement with
each manufacturer of prescription drugs under the Medicaid
26 program, in accordance with Section 1927 of the federal Social
Security Act, as long as the agreements are consistent with state
28 and federal law, are approved by the federal Health Care Finance
Administration and result in a net increase in rebate revenue
30 available to the Maine Medicaid Program. Individual rebate
agreements may vary. The department shall seek to achieve an
32 aggregate rebate amount from all agreements that is at least 6
percentage points higher than the percentage of the total
34 Medicaid drug expenditures that the rebates would otherwise be
under Section 1927 of the federal Social Security Act. Any
36 increase in revenue from the Medicaid drug rebate program over
accepted estimates as of ~~the effective date of this section~~ June
38 30, 1998 that results in a higher percentage of the total
Medicaid drug rebates must be reserved to provide coverage
40 pursuant to section 3174-G, subsection ~~1-A~~ 1-C. ~~In the event~~
~~that the department is not able to achieve the rebate amount~~
42 ~~required by this section without compromising the best interest~~
~~of Medicaid recipients and the Medicaid drug rebate program, the~~
44 ~~department shall report to the joint standing committee of the~~
~~Legislature having jurisdiction over health and human services~~
46 ~~matters and the joint standing committee of the Legislature~~
~~having jurisdiction over appropriations and financial affairs in~~
48 ~~the next regular session of the 119th Legislature.~~

2 **Sec. 30. 22 MRSA §5118, sub-§4, ¶C**, as enacted by PL 1981, c.
470, Pt. A, §117, is amended to read:

4 C. In the administration of the plan, there is a failure to
6 comply substantially with any ~~such~~ provision of subsection
8 1, paragraphs A to I, the director shall notify the area
10 agency that no further payments from its allotments under
12 sections ~~306~~ 337 and 5115 will be made to the agency or, in
14 his the director's discretion, that further payments to the
16 agency will be limited to projects under or portions of the
18 area plan not affected by the failure, until he the director
20 is satisfied that there will no longer be any failure to
22 comply. Until he the director is so satisfied, ~~no~~ further
24 payments may not be made to the agency from its allotments
under section 5115, or payments may be limited to projects
under or portions of the area plan not affected by the
failure. The director shall, in accordance with ~~regulations~~
~~he shall prescribe~~ rules adopted by the director, disburse
funds so withheld directly to any public or nonprofit
private organization or agency of the area, submitting an
approved plan in accordance with section 5116. Any payment
or payments shall must be matched in the proportions
specified in section 5116.

26 **Sec. 31. 22 MRSA §8103, sub-§1**, as amended by PL 2001, c. 515,
§1 and c. 596, Pt. B, §19 and affected by §25, is repealed and
the following enacted in its place:

28 1. Procedures. All procedures and other provisions
30 included in section 7855, subsections 1 and 2 for residential
32 care facilities also apply to children's homes, except that the
34 written statement referred to in section 7855, subsection 1 need
36 not be furnished annually by the Commissioner of Public Safety to
the department for a facility licensed as a family foster home or
a specialized children's home. In these instances an inspection
must be performed every 2 years.

38 **Sec. 32. 24-A MRSA §2808-B, sub-§1, ¶D**, as amended by PL 2001,
c. 258, Pt. E, §3 and c. 400, §1 and affected by §2, is repealed
40 and the following enacted in its place:

42 D. "Eligible group" means any person, firm, corporation,
44 partnership, association or subgroup engaged actively in a
business that employed an average of 50 or fewer eligible
employees during the preceding calendar year.

46 (1) If an employer was not in existence throughout the
48 preceding calendar year, the determination must be
based on the average number of employees that the

2 employer is reasonably expected to employ on business
3 days in the current calendar year.

4 (2) In determining the number of eligible employees,
5 companies that are affiliated companies or that are
6 eligible to file a combined tax return for purposes of
7 state taxation are considered one employer.

8 (3) A group is not an eligible group if there is any
9 one other state where there are more eligible employees
10 than are employed within this State and the group had
11 coverage in that state or is eligible for guaranteed
12 issuance of coverage in that state.

13 (4) An employer qualifies as an eligible group for
14 2-person coverage if the employer provides a carrier
15 with the following information demonstrating that the
16 employer's business and employees meet the minimum
17 qualifications for group coverage in paragraph C:

18 (a) A copy of the most recent quarterly combined
19 filing for income tax withholding and unemployment
20 contributions, Form 941/CN1-ME;

21 (b) For an employee claimed to be an employee
22 eligible for group coverage whose name is not
23 listed on Form 941/CN1-ME, a copy of the
24 employer's payroll records for the most recent 3
25 months showing tax withholding or a wage report
26 from a payroll company showing wages paid to that
27 employee for the most recent quarter with tax
28 withholding;

29 (c) If an employer is exempt from filing Form
30 941/CN1-ME for group coverage, documentation of
31 that exemption and a copy of the employer's
32 payroll records for the most recent 3 months
33 showing tax withholding or a wage report from a
34 payroll company showing wages paid to that
35 employee for the most recent quarter with tax
36 withholding; or

37 (d) If the name of the business owner or employee
38 does not appear on Form 941/CN1-ME, a copy of one
39 of the following:

40 (i) Federal income tax Form Schedule C or
41 Schedule F;

- 2 (ii) Federal income tax Form 1120S, Schedule
K-1;
- 4 (iii) Federal income tax Form 1065, Schedule
K-1;
- 6 (iv) A workers' compensation insurance audit
8 or evidence of a waiver of benefits under
10 Title 39-A;
- 12 (v) A description of operations in a
14 commercial general liability insurance policy
or equivalent insurance policy providing
coverage for the business; or
- 16 (vi) A signature card from a financial
18 institution or credit union authorizing the
20 employee to sign checks on a business
22 checking or share draft account that is at
24 least 6 months old; a notarized affidavit
26 from the employer describing the duties of
28 the employee and the average number of hours
30 worked by the employee and attesting that the
32 employer is not defrauding the carrier and is
aware of the consequences of committing fraud
or making a material misrepresentation to the
carrier, including a loss of coverage and
benefits; and, if the group coverage is
purchased through a producer, a notarized
affidavit from the producer affirming the
producer's belief that the employer qualifies
as an eligible group for coverage.

34 In determining if a new business or a business that
36 adds an owner or a new employee to payroll during the
38 course of a year qualifies as an eligible group for
40 2-person coverage under this subparagraph, the employer
42 must submit an affidavit stating that all employees
44 meet the criteria in this subparagraph and that the
46 documentation and forms required under this
48 subparagraph will be provided to the carrier when
payroll records become available, when ownership
distribution forms become available or the first
renewal date of the coverage, whichever date is
earlier. A false affidavit or misrepresentation on an
affidavit submitted by an employer may result in the
loss of group coverage and repayment of claims paid.
This subparagraph may not be construed to prohibit a
carrier from recognizing an employer as an eligible

2 group if the employer has not produced the
3 documentation required in this subparagraph.

4 This subparagraph applies only to an employer applying
5 for group health insurance coverage as a 2-person group
6 on or after October 1, 2001.

8 **Sec. 33. 24-A MRSA §4203, sub-§1**, as amended by PL 1995, c.
9 332, Pt. O, §1, is further amended to read:

10 1. Subject to the Maine Certificate of Need Act of 1978
11 2002, a person may apply to the superintendent for and obtain a
12 certificate of authority to establish, maintain, own, merge with,
13 organize or operate a health maintenance organization in
14 compliance with this chapter. A person may not establish,
15 maintain, own, merge with, organize or operate a health
16 maintenance organization in this State either directly as a
17 division or a line of business or indirectly through a subsidiary
18 or affiliate, nor sell or offer to sell, or solicit offers to
19 purchase or receive advance or periodic consideration in
20 conjunction with, a health maintenance organization without
21 obtaining a certificate of authority under this chapter.

22 **Sec. 34. 24-A MRSA §4204, sub-§1, ¶A**, as repealed and replaced
23 by PL 1979, c. 216, §2, is amended to read:

24 A. Concurrently with filing an application for issuance of
25 certificate of authority with the superintendent, the
26 applicant shall also file an application for a certificate
27 of need pursuant to Title 22, ~~section 301-et-seq~~ chapter
28 103-A.

29 **Sec. 35. 24-A MRSA §4204, sub-§2-A, ¶A**, as enacted by PL 1981,
30 c. 501, §51, is amended to read:

31 A. The Commissioner of Human Services certifies that the
32 health maintenance organization has received a certificate
33 of need or that a certificate of need is not required
34 pursuant to Title 22, chapter ~~103~~ 103-A.

35 **Sec. 36. 24-A MRSA §6203, sub-§1, ¶A**, as enacted by PL 1987,
36 c. 482, §1, is amended to read:

37 A. The provider has submitted to the department an
38 application for a certificate of need, if required under
39 Title 22, section ~~304-A~~ 329, and the department has
40 submitted a preliminary report of a recommendation for
41 approval of a certificate of need and the provider has
42 applied for any other licenses or permits required prior to
43 operation.

2 **Sec. 37. 24-A MRSA §6203, sub-§6**, as amended by PL 1997, c.
478, §1, is further amended to read:

4 **6. Provision of services to nonresidents.** The final
6 certificate of authority must state whether any skilled nursing
8 facility that is part of a life-care community or a continuing
10 care retirement community may provide services to persons who
12 have not been bona fide residents of the community prior to
14 admission to the skilled nursing facility. If the life-care
16 community or the continuing care retirement community admits to
18 its skilled nursing facility only persons who have been bona fide
20 residents of the community prior to admission to the skilled
22 nursing facility, then the community is exempt from the
24 provisions of Title 22, former chapter 103 or chapter 103-A, but
26 is subject to the licensing provisions of Title 22, chapter 405,
28 and is entitled to only one skilled nursing facility bed for
30 every 4 residential units in the community. Any community
32 exempted under Title 22, former chapter 103 or chapter 103-A may
34 admit nonresidents of the community to its skilled nursing
facility only during the first 3 years of operation. For
purposes of this subsection, a "bona fide resident" means a
person who has been a resident of the community for a period of
not less than 180 consecutive days immediately preceding
admission to the nursing facility or has been a resident of the
community for less than 180 consecutive days but who has been
medically admitted to the nursing facility resulting from an
illness or accident that occurred subsequent to residence in the
community. Any community exempted under Title 22, former chapter
103 or chapter 103-A is not entitled to and may not seek any
reimbursement or financial assistance under the Medicaid program
from any state or federal agency and, as a consequence, that
community must continue to provide nursing facility services to
any person who has been admitted to the facility.

36 **Sec. 38. 24-A MRSA §6226, sub-§1**, as enacted by PL 1987, c.
563, §7, is amended to read:

38 **1. Initial deposits.** ~~The--\$1,000--limit--on--the--initial~~
40 ~~deposit--contained--in--section--6203,--subsection--3,--paragraph--A,~~
42 ~~shall--not--apply--after--the--stage--of--the--Certificate--of--Need~~
44 ~~application--procedure--when--the--department--has,--in--writing,--deemed~~
46 ~~the--application--complete.~~ After the disclosure statement, the
escrow agreement, the receipt and the continuing care agreement
have been reviewed on a preliminary basis by the department's
Certificate of Need staff, the department shall forward the
documents with recommendations, if any, to the superintendent.
All provisions of section 6203, including approval of the receipt
and the escrow agreement by the superintendent, remain
50 applicable. Thereafter the limit on deposits that may be

2 collected shall may not exceed an amount equal to 10% of the
entrance fee. Following issuance by the department of a
4 Certificate of Need, any unsuccessful applicant for the first
demonstration project shall refund amounts collected from
6 subscribers with interest earned thereon pursuant to this
chapter. The refunds shall must be made no later than 10 days
8 after notification by the department to the unsuccessful
applicant unless the unsuccessful applicant appeals the decision
10 of the department as provided by former Title 22, chapter 103.
If the applicant appeals and the appeal is denied, then refunds
12 shall must be made no later than 10 days after notification of
the denial.

14 **Sec. 39. 25 MRSA §1550**, as enacted by PL 1975, c. 763, §10,
is amended to read:

16

§1550. Violations

18

20 Any person who fails to comply with the provisions of
section ~~1542~~, ~~subsections 1542-A~~, subsection 1 or 3, or with the
22 provisions of section ~~1542~~ 1542-A, subsection 4, imposing a duty
to transmit criminal fingerprint records to the State Bureau of
24 Identification, or with the provisions of sections 1544, 1547 or
1549 commits a civil violation for which a forfeiture of not more
than \$100 may be adjudged.

26

28 **Sec. 40. 29-A MRSA §101, sub-§64-C**, as enacted by PL 2001, c.
667, Pt. A, §46 and c. 687, §11, is repealed and the following
enacted in its place:

30

32 **64-C. Scooter.** "Scooter" means a device upon which a
person may ride, consisting of a footboard between 2 end wheels,
34 controlled by an upright steering handle attached to the front
wheel and propelled by human power or a motor. "Scooter" does
not include an electric personal assistive mobility device.

36

38 **Sec. 41. 29-A MRSA §2084, sub-§1**, as amended by PL 2001, c.
360, §12 and c. 440, Pt. L, §1, is repealed and the following
enacted in its place:

40

42 **1. Night equipment.** A bicycle, scooter or motorized
bicycle or tricycle, when in use in the nighttime, must have:

44

A. Lighted a front light that emits a white light visible
from a distance of at least 200 feet to the front;

46

B. A red or amber light or reflector to the rear that is
48 visible at least 200 feet to the rear; and

2 C. Reflector material on the pedals, unless the bicyclist
3 is wearing reflective material on the feet or ankles.

4 A bicyclist may also use optional supplementary reflectors,
5 lights or reflective or lighted safety equipment.

6 **Sec. 42. 30-A MRSA §2526, sub-§6, ¶G,** as enacted by PL 1987,
7 c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6;
8 c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to
9 read:

10 G. The procedure of a board of assessment review is
11 governed by section 2691, subsection 3.

12 **Sec. 43. 30-A MRSA §2526, sub-§9, ¶A,** as amended by PL 1989,
13 c. 6; c. 9, §2; c. 104, Pt. A, §17 and Pt. C, §§8 and 10 and Pt.
14 D, §3, is repealed and the following enacted in its place:

15 A. Unless the oath is administered in the clerk's presence,
16 the person who administers it shall give the official or
17 deputy sworn a certificate, which must be returned to the
18 clerk for filing. The certificate must state:

- 19 (1) The name of the official or deputy sworn;
- 20 (2) The official's or deputy's office;
- 21 (3) The name of the person who administered the oath;
22 and
- 23 (4) The date when the oath was taken.

24 **Sec. 44. 30-A MRSA §4349-A, sub-§2,** as amended by PL 2001, c.
25 593, §1 and c. 613, §3, is repealed and the following enacted in
26 its place:

27 **2. State facilities.** The Department of Administrative and
28 Financial Services, Bureau of General Services shall develop site
29 selection criteria for state office buildings, state courts,
30 hospitals and other quasi-public facilities and other civic
31 buildings that serve public clients and customers, whether owned
32 or leased by the State, that give preference to the priority
33 locations identified in this subsection while ensuring safe,
34 healthy, appropriate work space for employees and clients and
35 accounting for agency requirements. On-site parking may only be
36 required if it is necessary to meet critical program needs and to
37 ensure reasonable access for agency clients and persons with
38 disabilities. Employee parking that is within reasonable walking
39 distance may be located off site. If there is a change in
40 employee parking from on-site parking to off-site parking, the
41 employee parking from on-site parking to off-site parking, the
42 employee parking from on-site parking to off-site parking, the
43 employee parking from on-site parking to off-site parking, the
44 employee parking from on-site parking to off-site parking, the
45 employee parking from on-site parking to off-site parking, the
46 employee parking from on-site parking to off-site parking, the
47 employee parking from on-site parking to off-site parking, the
48 employee parking from on-site parking to off-site parking, the
49 employee parking from on-site parking to off-site parking, the
50 employee parking from on-site parking to off-site parking, the

2 Department of Administrative and Financial Services must consult
3 with the duly authorized bargaining agent or agents of the
4 employees. Preference must be given to priority locations in the
5 following order: service center downtowns, service center growth
6 areas and downtowns and growth areas in other than service center
7 communities. If no suitable priority location exists or if the
8 priority location would impose an undue financial hardship on the
9 occupant or is not within a reasonable distance of the clients
10 and customers served, the facility must be located in accordance
11 with subsection 1. The following state facilities are exempt
12 from this subsection: a state liquor store; a lease of less than
13 500 square feet; and a lease with a tenure of less than one year,
14 including renewals.

15 **Sec. 45. 30-A MRSA c. 205-A** is enacted to read:

16 **CHAPTER 205-A**

17 **MUNICIPAL CAPITAL IMPROVEMENT DISTRICTS**

18 **§5211. Definitions**

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

21 **1. Assessed share.** "Assessed share" means a special
22 assessment that represents that portion of the total projected
23 cost of an improvement undertaken by a municipality in a capital
24 improvement district that is the obligation of an owner of
25 property within the capital improvement district. The assessed
26 share must be calculated by the municipal officers in the same
27 manner and according to the same standards as the capital costs
28 of sewer improvements are assessed pursuant to sections 3442 and
29 3444, except the total assessment must be calculated on the basis
30 of the projected cost of the entire improvement rather than any
31 percentage of the projected costs of the improvement, and no type
32 of property within the capital improvement district is exempt
33 from the assessment.

34 **2. Capital improvement district.** "Capital improvement
35 district" means a defined area within a municipality that is
36 initially privately owned and that has been designated by the
37 municipality as a capital improvement district according to the
38 provisions of this chapter for the interrelated purposes of
39 fairly apportioning the costs of making necessary capital
40 improvements among the owners of property in the capital
41 improvement district and establishing the public elements of the
42 capital improvement district as municipally owned.

2 3. Improvement. "Improvement" means road construction,
3 drainage system development or the installation of sewer or
4 drinking water infrastructure.

6 4. Public elements. "Public elements" of a capital
7 improvement district means legal interests in defined properties
8 located within a capital improvement district. "Public elements"
9 may include public easements or fee simple titles in specifically
10 defined property or properties.

12 **§5212. Capital improvement districts authorized**

14 A municipality may create one or more capital improvement
15 districts within the municipal boundaries.

16 **§5213. Capital improvement districts; public hearing; notice;**
17 **referendum votes**

18 In order to establish a capital improvement district, a
19 municipality shall adhere to the following procedures.

22 1. Initial determinations. In order to establish a capital
23 improvement district, the municipal officers shall establish all
24 the public elements of the proposed capital improvement district
25 for presentation to the residents of the municipality at a public
26 hearing held pursuant to subsection 3. The municipal officers
27 shall:

28 A. Determine the proposed boundaries of the capital
29 improvement district;

32 B. Identify each separate parcel of property within the
33 proposed capital improvement district and the parcel's owner
34 of record;

36 C. Describe all improvements to the proposed capital
37 improvement district that need to be made;

38 D. Calculate an estimate of the costs of the proposed
39 improvements;

42 E. Calculate the assessed shares and the contingency fee of
43 no more than 25% of that assessment to the property owners
44 in the proposed capital improvement district;

46 F. Establish the proposed duration of the payment period
47 for the assessed shares;

48

2 G. Describe specifically the public elements of the
3 capital improvement district that may be accepted by the
4 voters of the municipality; and

5 H. Schedule the public hearing pursuant to subsection 3 and
6 the referendum pursuant to subsection 4.

7 2. Public notice. The municipal officers shall provide
8 posted notice of the public hearing held pursuant to subsection 3
9 in the same place and manner as the posting of a town meeting
10 warrant and publish notice of the public hearing in a newspaper
11 of general circulation within the municipality at least 14 days
12 in advance of the public hearing. The published notice must
13 include:

14 A. A description of the proposed boundaries of the capital
15 improvement district;

16 B. The proposed improvements to the capital improvement
17 district;

18 C. The estimated costs of the proposed improvements;

19 D. The public elements of the capital improvement district;
20 and

21 E. A brief narrative description and schedule of the
22 referendum conducted pursuant to subsection 4.

23 At least 14 days in advance of the date of the initial public
24 hearing, the same information provided in the published notice
25 must also be sent by certified mail to all owners of property
26 within the proposed capital improvement district according to the
27 municipality's assessing records. Notice for any additional
28 public hearings must be posted and published in the same manner
29 as notice for the initial public hearing, but mailed notice of
30 the subsequent public hearings is not required.

31 3. Public hearing. Prior to any referendum held pursuant
32 to subsection 4 or 5, the municipal officers shall hold an
33 initial public hearing on the proposed capital improvement
34 district to solicit comments from the residents of the
35 municipality and the owners of property located in the proposed
36 district concerning the:

37 A. Proposed boundaries of the capital improvement district;

38 B. Type of improvements to the proposed capital improvement
39 district being considered;

40

2 C. Need for the proposed improvements;

4 D. Costs of the proposed improvements;

6 E. Projected assessed shares and the contingency fee of no
8 more than 25% of that assessment to the owners of property
 located in the proposed capital improvement district to pay
 for the improvements being considered;

10 F. Proposed duration of the payment period for those
 special assessments;

12 G. Proposed public elements of the capital improvement
14 district; and

16 H. Scheduled dates of referenda conducted pursuant to
18 subsection 4 or 5.

20 The municipal officers may hold additional public hearings as
 necessary.

22 4. Referendum of owners of property in proposed capital
24 improvement district. The municipal officers shall call and
 conduct a referendum among the owners of property within the
26 proposed capital improvement district to determine the property
 owners' willingness to undertake the costs of the proposed
 improvements to the capital improvement district.

28 A. The method of calling and voting on the referendum
30 question is as provided in section 2528 except as otherwise
 provided in this subsection.

32 B. The registered voters of the municipality who own
34 property within the proposed capital improvement district
 and the owner or owners of record for each parcel of
36 property located in the proposed capital improvement
 district reflected on the deed for the property recorded in
38 the registry of deeds within the county as of the preceding
 April 1st, if the owner or owners are of legal voting age
40 and citizens of the United States, are eligible to vote in
 the referendum. A person may not cast more than one vote.
42 The municipal officers shall determine who are the legal
 voters of the proposed capital improvement district and
44 shall prepare or cause to be prepared a list of voters at
 least 24 hours before the referendum is conducted.

46 C. The referendum must be scheduled to occur no sooner than
48 45 days after the date of the initial public hearing held
 pursuant to subsection 3.

50

2 D. A public hearing must be held pursuant to section 2528,
3 subsection 5, only if any of the information presented to
4 the voters at the most recent public hearing called pursuant
5 to subsection 3 is changed prior to inclusion on the ballot.

6 E. The referendum to be voted on must be worded
7 substantially as follows: "As an owner of property in the
8 proposed capital improvement district described on the
9 reverse side of this ballot or in the attachment to this
10 ballot, are you in favor of authorizing the municipality of
11 _____ to apply a special assessment against the property
12 you own in the proposed capital improvement district for a
13 period of _____ years, for the purpose of (description of
14 improvements), with the total assessment to all property
15 owners within the capital improvement district not to exceed
16 \$ _____, plus a contingency of no more than 25% of that
17 assessment, all of which are subject to the property tax
18 collection and lien procedures established by state law, and
19 with said authorization contingent on the voters of the
20 municipality of _____ accepting the public costs for the
21 capital improvement district improvements before any work is
22 done, specifically described as (description of public
23 elements)?"

24 The voters shall indicate by a cross or check mark placed
25 against the word "Yes" or "No" their opinion of the same.

26
27
28 The municipal officers may proceed with conducting the municipal
29 referendum in accordance with subsection 5 only if 2/3 of those
30 casting ballots pursuant to this subsection vote to approve
31 creating the capital improvement district.

32
33 **5. Referendum of municipal voters.** The referendum of the
34 municipal voters may not be called and conducted for the purposes
35 of this chapter unless the referendum held pursuant to subsection
36 4 resulted in a 2/3 majority vote supporting the ballot
37 question. If the referendum held pursuant to subsection 4
38 received a 2/3 majority vote, the municipal officers shall call
39 and conduct a referendum for the voters of the municipality to
40 determine if the public elements of the proposed capital
41 improvement district authorized pursuant to subsection 4 are
42 authorized by the voters of the municipality.

43
44 A. The method of calling and voting on the referendum
45 question is as provided in section 2528 except as otherwise
46 provided in this subsection.

47
48 B. The referendum of the municipal voters must be scheduled
49 to occur within 45 to 90 days after the date of the
50 referendum held pursuant to subsection 4.

2 C. The referendum to be voted on must be worded
4 substantially as follows: "Are you in favor of establishing
6 a capital improvement district described on the reverse side
8 of this ballot or in the attachment to this ballot and
10 authorizing a special assessment against the several
12 properties in the capital improvement district, with the
14 special assessment running for a period of _____ years, for
16 the purpose of (describe improvements), with the total
18 assessment to all owners of property within the capital
20 improvement district not to exceed \$ _____, plus a
 contingency of no more than 25% of that assessment, all of
 which are subject to the property tax collection and lien
 procedures established by state law, and are you also in
 favor of the municipality of _____ accepting the public
 costs for the capital improvement district improvements,
 specifically described as (describe the public elements),
 with all associated and ongoing rights, privileges and
 responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed
 against the word "Yes" or "No" their opinion of the same.

24 D. If a majority of those voting approve of the ballot
26 question, the capital improvement district is created. Upon
28 the creation of a capital improvement district, the
30 municipality is authorized to raise revenues pursuant to
 chapter 223 and expend those revenues for the improvements
 authorized at referendum.

32 E. If the owners of property within the proposed capital
34 improvement district or the voters of the municipality fail
36 to establish the capital improvement district, the municipal
 officers may not act upon a proposal to create the same
 capital improvement district for a period of 3 years from
 the date that capital improvement district was rejected by
 voters.

38 **§5214. Implementation of improvements to capital improvement**
40 **district**

42 **1. Advisory committee.** The municipal officers are
44 responsible for implementing improvements to the capital
46 improvement district. For the purposes of overseeing the
48 authorized improvements to the capital improvement district, the
 municipal officers shall appoint an advisory committee consisting
 of no fewer than 3 and no more than 7 owners of property within
 the capital improvement district for the purposes of receiving
 comments and recommendations on the proposed improvement or

2 improvements within the capital improvement district. Advisory
3 committee members serve at the pleasure of the municipal officers.

4 2. Cost of improvement. The initial cost of an authorized
5 improvement in a capital improvement district is borne by the
6 municipality until the improvement is complete, as determined by
7 the municipal officers. Commencing with the first tax year that
8 begins after the determination by the municipal officers that the
9 improvement is complete, the municipality shall levy a special
10 assessment against each property in the capital improvement
11 district representing that property's annual share of the cost of
12 the improvement as determined by the municipal officers and
13 projected in the referenda ballots that created the capital
14 improvement district, unless the actual total cost of the
15 improvement is determined to be less than projected during the
16 referenda, in which case the special assessments are reduced
17 proportionally to reflect the actual cost.

18 3. Method of assessment. The special assessments must be
19 included in the next annual warrant to the tax collector of the
20 municipality for collection and must be collected in the same
21 manner as state, county and municipal taxes are collected.

22 4. Annual report. The municipality's annual report must
23 record the progress of implementing the improvements to the
24 capital improvement district. At a minimum, the annual report
25 must include:

26 A. The boundaries of the capital improvement district;

27 B. The public elements of the capital improvement district;

28 C. The improvements to the capital improvement district
29 made by the municipality; and

30 D. The total cost of those improvements, the schedule of
31 the assessed shares and contingency fees against the
32 property located within the district to pay for the
33 improvements and the degree to which those assessed shares
34 and contingency fees have been collected.

35 **§5215. Dissolution of capital improvement district**

36 A capital improvement district created under this chapter
37 may not be dissolved until the debt created by the improvements
38 is finally discharged and the special assessments levied for the
39 purpose of providing for those improvements have been paid or
40 otherwise satisfied. The municipal officers shall dissolve a
41 capital improvement district upon certification of the discharge
42 of debt. The certification of the discharge of debt must be

2 presented to the municipal officers by the municipal treasurer.
3 At a minimum, the certification must include an attestation by
4 the municipal treasurer that all assessed shares levied for the
5 improvements in a capital improvement district have been paid in
6 full or a property tax lien has been recorded in the registry of
7 deeds.

8 **Sec. 46. 30-A MRSA c. 206**, as enacted by PL 2001, c. 521, §1,
9 is repealed.

10 **Sec. 47. 32 MRSA §2102, sub-§2-A**, as enacted by PL 1995, c.
11 379, §4 and affected by §11, is amended to read:

12 **2-A. Advanced practice registered nursing.** "Advanced
13 practice registered nursing" means the delivery of expanded
14 professional health care by an advanced practice registered nurse
15 that is:

16 A. Consistent with advanced educational qualifications as
17 set forth in section 2201-A, subsection 2;

18 B. Within the advanced practice registered nurse's scope of
19 practice as specified by the board by rulemaking, taking
20 into consideration any national standards that exist; and

21 C. In accordance with the standards of practice for
22 advanced practice registered nurses as specified by the
23 board by rulemaking, taking into consideration any national
24 standards that may exist. Advanced practice registered
25 nursing includes consultation with or referral to medical
26 and other health care providers when required by client
27 health care needs.

28 A certified nurse practitioner or a certified nurse midwife who
29 qualifies as an advanced practice registered nurse may prescribe
30 and dispense drugs or devices, or both, in accordance with rules
31 adopted by the board. ~~In adopting such rules, the board shall~~
32 ~~invite and consider comment from the Joint Practice Council on~~
33 ~~Advanced Practice Registered Nursing.~~

34 A certified nurse practitioner who qualifies as an advanced
35 practice registered nurse must practice, for at least 24 months,
36 under the supervision of a licensed physician or must be employed
37 by a clinic or hospital that has a medical director who is a
38 licensed physician. The certified nurse practitioner must submit
39 written evidence to the board upon completion of the required
40 clinical experience.

41 The board shall adopt rules necessary to effectuate the purposes
42 of this chapter relating to advanced practice registered nursing.

2 **Sec. 48. 32 MRSA §6214-B, last ¶**, as amended by PL 1995, c.
394, §19, is repealed.

4 **Sec. 49. 34-A MRSA §1205**, as amended by PL 2001, c. 667, Pt.
6 C, §19, is repealed.

8 **Sec. 50. 36 MRSA §6652, sub-§3**, as enacted by PL 1999, c. 768,
§6, is repealed.

10 **Sec. 51. 36 MRSA §6656**, as amended by PL 2001, c. 714, Pt.
12 BB, §2 and affected by §4, is further amended to read:

14 **§6656. Payment of claims**

16 ~~Except as provided in section 6652, subsection 3, upon~~ Upon
18 receipt of a timely and properly completed claim for
reimbursement, the State Tax Assessor shall certify that the
20 claimant is eligible for reimbursement and shall pay the amount
claimed from the General Fund by November 1st or within 90 days
22 after receipt of the claim, whichever is later. ~~For these claims~~
~~for which payments are withheld pursuant to section 6652,~~
~~subsection 3, reimbursement must be paid within 90 days after the~~
24 ~~assessor receives notification under that subsection that the~~
~~report has been received.~~

26 **Sec. 52. 37-B MRSA §701, sub-§4**, as amended by PL 2001, c.
28 614, §4 and c. 662, §72, is repealed and the following enacted in
its place:

30 4. Mutual aid. Provide for the rendering of mutual aid
32 among the political subdivisions of the State and with other
states and provinces of Canada for the accomplishment of
34 emergency management functions.

36 **Sec. 53. 37-B MRSA §704, 3rd ¶**, as amended by PL 2001, c. 614,
§8 and c. 662, §76, is repealed and the following enacted in its
38 place:

40 The director, subject to the direction and control of the
commissioner, is the executive head of the agency and is
42 responsible for carrying out the program for emergency
management. The director shall coordinate the activities of all
44 organizations for emergency management within the State; shall
maintain liaison with and cooperate with emergency management
46 and public safety agencies and organizations of other states, the
Federal Government and foreign countries, and their political
48 subdivisions; prior to the annual meeting required in section
782, subsection 4, shall provide to each of the local emergency
50 management organizations of the State an annual assessment of

2 each organization's degree of emergency management capability and
3 any other information pertinent to ensuring the public's welfare
4 and safety within the local organization's jurisdiction; and has
5 additional authority, duties and responsibilities as may be
6 prescribed by the commissioner.

7 **Sec. 54. 37-B MRSA §741**, as amended by PL 2001, c. 614, §11
8 and c. 662, §78, is repealed and the following enacted in its
9 place:

10 **§741. Governor's powers**

11
12 **1. Control during emergencies.** In the event of disaster
13 beyond local control, the Governor may assume direct operational
14 control over all or any part of the emergency management and
15 public safety functions within the State.

16
17 **2. Cooperation.** In performing the duties required by this
18 chapter, the Governor shall, directly or through the
19 commissioner, cooperate with all departments and agencies of the
20 Federal Government, with the offices and agencies of other states
21 and foreign countries and their political subdivisions and with
22 private agencies in all matters pertaining to the emergency
23 management capability of the State and of the Nation.

24
25 **3. Authority.** In performing the duties required by this
26 chapter, the Governor may:

27
28 **A.** Make, amend and rescind the necessary orders and rules
29 to carry out this chapter within the limits of the authority
30 conferred upon the Governor and not inconsistent with the
31 rules, regulations and directives of the President of the
32 United States or of any federal department or agency having
33 specifically authorized emergency management functions;

34
35 **B.** Prepare a comprehensive plan and program for the
36 emergency management functions of this State. That plan and
37 program must be integrated into and coordinated with the
38 emergency management plans of federal agencies and with the
39 plans of other states and foreign countries, and their
40 political subdivisions, to the fullest possible extent;

41
42 **C.** Coordinate the preparation of plans and programs for
43 emergency management functions by the political subdivisions
44 of the State. These plans must be integrated into and
45 coordinated with the emergency management plan and program
46 of the State to the fullest possible extent;

47
48 **D.** In accordance with the plan and program for the
49 emergency management functions of the State, and consistent
50

2 with the emergency management plans, programs and directives
3 of the Federal Government, procure supplies and equipment,
4 institute training programs and public information programs
5 and take all other preparatory steps, including the partial
6 or full mobilization of emergency management organizations
7 in advance of actual disaster or catastrophe, to ensure the
8 furnishing of adequately trained and equipped forces of
9 emergency management personnel in time of need;

10 E. Conduct studies and surveys and take inventories of the
11 industries, resources and facilities of the State necessary
12 to ascertain the State's emergency management capabilities,
13 and plan for their most efficient emergency use, including
14 emergency economic controls to ensure adequate production
15 and equitable distribution of essential commodities;

16 F. Whenever a shortage of critical material supplies
17 appears imminent in the State, establish emergency reserves
18 of those products necessary to ensure the health, welfare
19 and safety of the people of the State. To establish those
20 reserves, the Governor may purchase quantities of those
21 materials for resale on a cost plus expenses basis for
22 priority end users within the State;

23 G. On behalf of the State, enter into mutual aid
24 arrangements with other states and foreign countries, and
25 their political subdivisions, and coordinate mutual aid
26 plans between political subdivisions of the State. If an
27 arrangement is entered into with a jurisdiction that has
28 enacted the Interstate Civil Defense and Disaster Compact,
29 chapter 15, the Emergency Management Assistance Compact,
30 chapter 16, or the International Emergency Management
31 Assistance Compact, chapter 16-A, any resulting agreement or
32 agreements may be considered supplemental agreements
33 pursuant to those compacts. If the other jurisdiction or
34 jurisdictions with which the Governor proposes to cooperate
35 have not enacted one of those compacts, the Governor may
36 negotiate special agreements with the jurisdiction or
37 jurisdictions. Any agreement, if sufficient authority for
38 its making does not otherwise exist, becomes effective only
39 after approval by the Legislature; and

40 H. Delegate any authority vested in the Governor under this
41 chapter and provide for the subdelegation of that authority.

42
43 **Sec. 55. 37-B MRSA §782,** as amended by PL 2001, c. 614, §14
44 and c. 662, §83, is repealed and the following enacted in its
45 place:

46 **§782. Agency directors**

2 A director must be appointed for each municipal and county
4 or regional emergency management agency. A director of an
6 emergency management agency may not be at the same time an
8 executive officer or member of the executive body of a
10 municipality or interjurisdictional or county or regional agency
12 of the State or a county commissioner. Notwithstanding this
14 section or any other law, a town manager or administrative
16 assistant may also be appointed to serve as the director of an
18 emergency management agency. A director may be removed by the
20 appointing authority for cause.

22 1. Municipal emergency management director. The municipal
24 officers shall appoint the director of the municipality's
26 emergency management agency. In each municipality that has not
28 established an agency of its own, the municipal officers shall
30 designate an emergency management director to facilitate
32 cooperation in the work of disaster mitigation, preparedness,
34 response and recovery. The emergency management director shall
36 serve as liaison to the appropriate county or regional agency.

38 2. County agency director. The county commissioners shall
40 appoint the director of that county's emergency management agency.

42 3. Interjurisdictional and regional agency directors. The
44 director of an interjurisdictional or regional emergency
46 management agency must be appointed in the manner prescribed by
48 the director in accordance with section 781, subsection 3.

50 4. Annual meeting with Director of the Maine Emergency
52 Management Agency. The director of each county or regional
54 organization for emergency management in the State and the
56 respective appointing authority shall meet each year with the
58 Director of the Maine Emergency Management Agency or the agency's
60 successor, in order to review the performance of the county or
62 regional emergency management organization in carrying out its
64 federal and state mandate and to jointly set new goals for the
66 coming year.

68 Sec. 56. 37-B MRSA §783, first ¶, as amended by PL 2001, c.
70 614, §15 and c. 662, §84, is repealed and the following enacted
72 in its place:

74 Each municipal, county and regional emergency management
76 agency shall prepare and keep a current disaster emergency plan
78 for the area subject to its jurisdiction. That plan must include
80 without limitation:

82

2 **Sec. 57. 37-B MRSA §783, last ¶**, as amended by PL 2001, c. 614,
§16 and c. 662, §85, is repealed and the following enacted in its
place:

4
6 Each municipal, county and regional emergency management
agency, as part of the development of a disaster emergency plan
8 for the area subject to its jurisdiction, shall consult with
hospitals within its jurisdiction to ensure that the disaster
10 plans developed by the municipality or agency and the hospitals
are compatible.

12 **Sec. 58. 37-B MRSA §784**, as amended by PL 2001, c. 614, §17
and c. 662, §86, is repealed and the following enacted in its
14 place:

16 **§784. Mutual aid arrangements**

18 The director of each local organization for emergency
management shall, in collaboration with other public and private
20 agencies within the State, develop or cause to be developed
mutual aid arrangements for reciprocal emergency management aid
22 and assistance in case of a disaster too great to be dealt with
unassisted. These arrangements must be consistent with the state
24 emergency management program, and in time of emergency each local
organization for emergency management shall render assistance in
26 accordance with the mutual aid arrangements. For this purpose,
political subdivisions are authorized when geographical locations
28 make mutual aid arrangements desirable to enter into mutual aid
arrangements subject to the approval of the director.

30 **Sec. 59. 37-B MRSA §823, first ¶**, as amended by PL 2001, c.
32 614, §21 and c. 662, §89, is repealed and the following enacted
in its place:

34 All members of the emergency management forces are deemed to
be employees of the State while on, or training for, emergency
36 management duty. They have all the rights given to state
employees under the former Maine Workers' Compensation Act or the
38 Maine Workers' Compensation Act of 1992. All claims must be
40 filed, prosecuted and determined in accordance with the procedure
set forth in the Maine Workers' Compensation Act of 1992.

42 **Sec. 60. 37-B MRSA §829, first ¶**, as amended by PL 2001, c.
44 614, §26 and c. 662, §95, is repealed and the following enacted
in its place:

46 It is the duty of every agency for emergency management
48 established pursuant to this chapter and of the officers to
execute and enforce orders and rules adopted by the Governor
50 under authority of this chapter. Each emergency management

2 agency shall have available for inspection at its office all
3 orders and rules made by the Governor or issued under the
4 Governor's authority.

5 **Sec. 61. 37-B MRSA §831**, as amended by PL 2001, c. 614, §26
6 and c. 662, §96, is repealed and the following enacted in its
7 place:

8 **§831. Utilization of existing services and facilities**

9 In carrying out this chapter, the Governor and the executive
10 officers or governing bodies of the political subdivisions of the
11 State shall utilize the services and facilities of existing
12 departments, offices and agencies of the State and all their
13 political subdivisions to the maximum extent practicable. The
14 officers and personnel of all departments, offices and agencies
15 shall cooperate with and extend their services and facilities to
16 the Governor and to the emergency management organizations of the
17 State upon request.

18 **Sec. 62. 37-B MRSA §832, first ¶**, as amended by PL 2001, c.
19 614, §26 and c. 662, §97, is repealed and the following enacted
20 in its place:

21 An emergency management organization established under the
22 authority of this chapter may not participate in any form of
23 political activity and may not be employed directly or indirectly
24 for political purpose.

25 **Sec. 63. 38 MRSA §420-B, sub-§4, ¶¶C and D**, as amended by PL
26 1997, c. 179, §4, are further amended to read:

27 C. The commissioner's conclusions as to the levels of toxic
28 contamination in the State's waters and fisheries; and

29 D. Any trends of increasing or decreasing levels of
30 contaminants found; and.

31 **Sec. 64. 38 MRSA §420-B, sub-§4, ¶E**, as enacted by PL 1997, c.
32 179, §4, is repealed.

33 **Sec. 65. PL 2001, c. 574, §31** is repealed.

34 **Sec. 66. PL 2001, c. 646, §§4, 6, 8, 10 and 12** are repealed.

35 **Sec. 67. Retroactivity.** That section of this Act that repeals
36 Public Law 2001, chapter 646, sections 4, 6, 8, 10 and 12 is
37 retroactive to March 25, 2002.

38 **Sec. 68. PL 2001, c. 688, §4** is repealed.

2 Section 15 corrects a cross-reference to a section of law
that was repealed by Public Law 2001, chapter 327, section 17.

4 Section 16 corrects a cross-reference to a section of law
6 that was repealed by Public Law 2001, chapter 421, Part B,
section 20.

8 Section 17 corrects cross-references to a section of law
10 that was repealed by Public Law 2001, chapter 421, Part B,
section 20.

12 Section 18 corrects a cross-reference to a section of law
14 that was repealed by Public Law 2001, chapter 327, section 17.

16 Section 19 corrects a conflict created by Public Law 2001,
chapters 655 and 690, which affected the same provision of law,
18 by incorporating the changes made by both laws.

20 Section 20 corrects a cross-reference.

22 Section 21 corrects a conflict created by Public Law 2001,
chapters 610 and 667, which affected the same provision of law,
24 by incorporating the changes made by both laws.

26 Section 22 corrects a conflict created by Public Law 2001,
chapters 612 and 653, which enacted substantively similar
28 provisions using the same chapter number. This section repeals
the chapter and replaces it, incorporating the provisions of both
30 public laws.

32 Section 23 corrects a conflict created by Public Law 2001,
chapters 403 and 454, which affected the same provision of law,
34 by incorporating the changes of both public laws.

36 Section 24 corrects a cross-reference and a grammatical
error.

38 Section 25 strikes language that makes reference to the
40 Certificate of Need Advisory Committee, which was repealed by
Public Law 2001, chapter 664, section 1.

42 Sections 26 and 27 correct a cross-reference and enact a new
44 subsection of law to reflect changes made by Public Law 2001,
chapter 596.

46 Section 28 corrects 2 cross-references. The first is to the
48 Maine Certificate of Need Act of 1978, which was repealed and
replaced by the Maine Certificate of Need Act of 2002 by Public
50 Law 2001, chapter 664. The 2nd cross-reference is to the Maine

2 Health Care Finance Commission, which was repealed by Public Law
1995, chapter 653.

4 Section 29 supplies the appropriate calendar date for a
reference to the effective date of a provision of law, corrects a
6 cross-reference, makes a grammatical change and removes a
reporting requirement that is no longer necessary.

8
10 Section 30 corrects a reference to the Maine Revised
Statutes, Title 22, chapter 103, which was repealed by Public Law
2001, chapter 664, section 1. This section also makes
12 grammatical changes and changes gender-specific language.

14 Section 31 corrects a conflict created by Public Law 2001,
chapters 515 and 596, which affected the same provision of law,
16 by incorporating the changes of both laws.

18 Section 32 corrects an error created when 2 laws, Public Law
2001, chapter 258, Part E, section 3 and Public Law 2001, chapter
20 400, section 1, affected the same section of law in substantively
different ways. This section corrects the error by combining the
22 2 changes made by both public laws, enacting the subparagraph (3)
enacted by Public Law 2001, chapter 400 as a new subparagraph (4).

24
26 Section 33 corrects a reference to the Maine Certificate of
Need Act of 1978 which was replaced by the Maine Certificate of
Need Act of 2002 by Public Law 2001, chapter 664.

28
30 Sections 34 and 35 correct cross-references to the Maine
Certificate of Need Act of 1978, which was repealed and replaced
32 by the Maine Certificate of Need Act of 2002 by Public Law 2001,
chapter 664.

34 Section 36 corrects a cross-reference to a section of law
that was repealed by Public Law 2001, chapter 664.

36
38 Section 37 corrects a cross-reference to the Certificate of
Need Act of 1978, which was repealed and replaced by the
Certificate of Need Act of 2002 by Public Law 2001, chapter 664.

40
42 Section 38 corrects a cross-reference to the Maine Revised
Statutes, Title 22, chapter 103, which was repealed by Public Law
2001, chapter 664, section 1. This section also removes language
44 referring to the \$1,000 limit on initial deposits, since that
limit was repealed by Public Law 1989, chapter 343.

46
48 Section 39 corrects a cross-reference.

50 Section 40 corrects a conflict created by Public Law 2001,
chapters 667 and 687, which affected the same provision of law,

2 by repealing the provision of law and replacing it with the
chapter 687 version with a grammatical correction.

4 Section 41 corrects a conflict created by Public Law 2001,
6 chapters 360 and 440, which affected the same provision of law,
by incorporating the changes made by both laws.

8 Section 42 adds the word "review" after the term "board of
10 assessment" to make paragraph G consistent with the rest of the
section and to reflect the intent of the section.

12 Section 43 resolves a conflict created by Public Law 1989,
14 chapter 104, Part A, section 17 and chapter 104, Part D, section
3, which made slightly different changes to gender-specific
16 language in the same provision of law. This section resolves the
conflict by repealing the provision of law and replacing it with
the chapter 104, Part D, section 3 version.

18 Section 44 corrects a conflict created by Public Law 2001,
20 chapters 593 and 613, which affected the same provisions of law,
by incorporating the changes of both laws.

22 Sections 45 and 46 correct an error that was created when
24 Public Law 2001, chapters 521 and 669 both enacted a new Title
30-A, chapter 206 with similar section numbers. These sections
26 correct that error by repealing chapter 206 as enacted by Public
Law 2001, chapter 521, section 1 and reenacting it as chapter
28 205-A with new section numbers.

30 Section 47 strikes language making reference to the Joint
Practice Council on Advanced Practice Registered Nursing, which
32 was repealed by Public Law 1999, chapter 668, section 120.

34 Section 48 repeals the last paragraph of the Maine Revised
Statutes, Title 32, section 6214-B. Public Law 1991, chapter
36 456, section 12 repealed Title 32, section 6207, subsection 3.
However, Title 32, section 6214-B, which requires a person
38 providing the primary service of professional alcohol and drug
counseling to comply with the requirements of section 6207,
40 subsection 3, was not repealed but is nonsensical without section
6207, subsection 3.

42 Section 49 repeals the headnote to the Maine Revised
44 Statutes, Title 34-A, section 1205, which is all that remains of
that section following the repeal of subsections 1, 2 and 3.

46 Section 50 repeals a provision of law that makes reference
48 to a repealed provision of law. The provision of law that is
being repealed by this section pertains to employer reporting
50 requirements. The section of law that established those

2 requirements was repealed on August 1, 2002, thus making the
Maine Revised Statutes, Title 36, section 6652, subsection 3
4 obsolete. Section 51 removes references to the penalty for
failing to meet employer reporting requirements.

6 Section 52 corrects a conflict that was created by Public
Law 2001, chapter 614, section 4 and chapter 662, section 72,
8 which both amended the same provision of law, by repealing and
replacing them with the Public Law 2001, chapter 662, section 72
10 version.

12 Section 53 corrects a conflict created by Public Law 2001,
chapters 614 and 662, which affected the same provision of law,
14 by incorporating the changes made by both laws.

16 Section 54 corrects a conflict that was created by Public
Law 2001, chapter 614, section 11 and chapter 662, section 78,
18 which both amended the same provision of law. This section
corrects the conflict by incorporating the changes made by both
20 laws.

22 Section 55 corrects a conflict created by Public Law 2001,
chapter 614, section 14 and chapter 662, section 83, which both
24 amended the same provision of law. This section corrects the
conflict by repealing the provision of law and replacing it with
26 the Public Law 2001, chapter 662, section 83 version.

28 Sections 56 and 57 correct conflicts created by Public Law
2001, chapter 614, sections 15 and 16 and chapter 662, sections
30 84 and 85, which both amended the same provisions of law. These
sections correct the conflicts by incorporating the changes made
32 by both laws.

34 Section 58 corrects a conflict created by Public Law 2001,
chapter 614, section 17 and chapter 662, section 86, which both
36 amended the same provision of law. This section corrects the
conflict by repealing the provision of law and replacing it with
38 the Public Law 2001, chapter 662, section 86 version.

40 Section 59 corrects a conflict created by Public Law 2001,
chapter 614, section 21 and chapter 662, section 89, which both
42 amended the same provision of law. This section corrects the
conflict by repealing the provision of law and reenacting it to
44 clarify that an employee may have preexisting rights arising
under the former Workers' Compensation Act.

46 Section 60 corrects a conflict created by Public Law 2001,
chapter 614, section 26 and chapter 662, section 95, which both
48 amended the same provision of law. This section corrects the

2 conflict by repealing the provision of law and replacing it with
the Public Law 2001, chapter 614, section 26 version.

4 Section 61 corrects a conflict created by Public Law 2001,
chapter 614, section 26 and chapter 662, section 96, which both
6 amended the same provision of law. This section corrects the
conflict by repealing the provision of law and replacing it with
8 the Public Law 2001, chapter 614, section 26 version.

10 Section 62 corrects a conflict that was created by Public
Law 2001, chapter 614, section 26 and chapter 662, section 97,
12 which both amended the same provision of law. This section
corrects the conflict by repealing the provision of law and
14 replacing it with the Public Law 2001, chapter 614, section 26
version.

16 Sections 63 and 64 correct a cross-reference and fix
18 punctuation.

20 Section 65 repeals section 31 of Public Law 2001, chapter
574 because the provision referenced in the retroactivity clause
22 is not affected by the public law.

24 Section 66 repeals sections of Public Law 2001, chapter 646
that made changes to sections of the Maine Revised Statutes,
26 Title 5 that were effective only upon a contingency that was
never met. The contingent changes were repealed by Public Law
28 2001, chapter 559, Part RR, section 13. Section 67 makes the
correction retroactive to March 25, 2002, the effective date of
30 Public Law 2001, chapter 439, Part RR, section 13.

32 Section 68 repeals Public Law 2001, chapter 688, section 4,
which attempted to repeal a section of the statutes that was
34 repealed effective April 1, 1989 by operation of the Maine
Revised Statutes, Title 36, former section 2916-A.