

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2005

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Legislative Document

No. 1537

H.P. 1082

House of Representatives, April 4, 2005

### An Act To Repeal Certain Boards and Commissions

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Reported by Representative BARSTOW of Gorham for the Joint Standing Committee on State and Local Government pursuant to Joint Order 2005, H.P. 859.

Reference to the Committee on State and Local Government suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

4 **Sec. 1.** 3 MRSA §2-B, as amended by PL 1999, c. 2, §1, is repealed.

6 **Sec. 2.** 3 MRSA c. 10, sub-c. 1, as amended, is further amended  
8 by repealing the subchapter headnote and enacting the following  
in its place:

10 **SUBCHAPTER 1**

12 **MAINE-CANADIAN LEGISLATIVE ADVISORY OFFICE**

14 **Sec. 3.** 3 MRSA §223, as amended by PL 1987, c. 816, Pt. KK,  
16 §3, is further amended to read:

18 **§223. Maine-Canadian Legislative Advisory Office**

20 There is established a Maine-Canadian Legislative Advisory  
22 Office, which shall be concerned with strengthening all areas of  
regional cooperation between the Legislature of Maine and the  
24 legislative bodies of Maine's neighboring Canadian Provinces, and  
with encouraging economic, cultural and educational exchange  
26 between Maine and these provinces. The Speaker of the House is  
authorized to exercise day-to-day supervision over the  
28 Maine-Canadian Legislative Advisory Office until such time as  
otherwise provided for by the Legislative Council and the  
Maine-Canadian-Legislative-Advisory-Commission.

30 **Sec. 4.** 3 MRSA §224, as enacted by PL 1977, c. 605, §1, is  
32 amended to read:

34 **§224. Director**

36 The executive head of the Maine-Canadian Legislative  
Advisory Office shall be is the director, who shall be is  
38 appointed by the Speaker of the House and the President of the  
Senate with the approval of the Maine-Canadian Legislative  
40 Advisory Commission. The director shall must be paid a salary  
fixed by the Legislative Council from sums available under  
42 section 226. The director shall must be able to speak the French  
language fluently. He The director shall report to and be subject  
to the direction of the Legislative Council.

44 **Sec. 5.** 3 MRSA §227, as corrected by RR 1991, c. 1, §1, is  
46 repealed.

48 **Sec. 6.** 3 MRSA §228, as enacted by PL 1977, c. 605, §1, is  
50 repealed.

2           **Sec. 7. 3 MRSA c. 10, sub-c. 2, as amended, is repealed.**

4           **Sec. 8. 3 MRSA §959, sub-§1, ¶C, as amended by PL 2003, c.**  
600, §1, is further amended to read:

6           C. The joint standing committee of the Legislature having  
8 jurisdiction over business, research and economic  
development matters shall use the following list as a  
guideline for scheduling reviews:

10                   (1) Maine Development Foundation in 2005;

12                   (5) Department of Professional and Financial  
14 Regulation, in conjunction with the joint standing  
committee of the Legislature having jurisdiction over  
16 banking and insurance matters, in 2007;

18                   (19) Department of Economic and Community Development  
in 2005;

20                   (23) Maine State Housing Authority in 2007;

22                   (32) Finance Authority of Maine in 2009;

24                   ~~(33) --Petroleum Advisory Committee in 2009;~~

26                   (36) Board of Dental Examiners in 2011;

28                   (37) Board of Osteopathic Licensure in 2011;

30                   (38) Board of Licensure in Medicine in 2011;

32                   (41) State Board of Nursing in 2011;

34                   (42) State Board of Optometry in 2011;

36                   (45) State Board of Registration for Professional  
38 Engineers in 2011; and

40                   (50) Maine Science and Technology Foundation in 2007.

42           **Sec. 9. 5 MRSA §56, as amended by PL 2003, c. 681, §2, is**  
repealed.

44           **Sec. 10. 5 MRSA c. 151-C, as amended, is repealed.**

46           **Sec. 11. 5 MRSA §12004-D, sub-§5, as enacted by PL 1997, c.**  
48 642, §1, is repealed.

2           **Sec. 12. 5 MRSA §12004-G, sub-§26-A**, as enacted by PL 1993, c.  
392, §1, is repealed.

4           **Sec. 13. 5 MRSA §12004-G, sub-§26-D**, as enacted by PL 1997, c.  
506, §2, is repealed.

6           **Sec. 14. 5 MRSA §12004-G, sub-§31-B**, as enacted by PL 1989, c.  
875, Pt. L, §§1 and 4, is amended to read:

10	31-B.	Maine	Not	5 MRSA
	Small Business	Small	Autho-	§13032
12		Business	rized	
		<u>and Entre-</u>		
14		<u>preneurship</u>		
		Commission		

16           **Sec. 15. 5 MRSA §12004-H, sub-§6**, as enacted by PL 1987, c.  
18 786, §5, is repealed.

20           **Sec. 16. 5 MRSA §12004-H, sub-§10**, as enacted by PL 1987, c.  
22 786, §5, is repealed.

24           **Sec. 17. 5 MRSA §12004-I, sub-§2-D**, as renumbered by RR 1991,  
c. 2, §11, is repealed.

26           **Sec. 18. 5 MRSA §12004-I, sub-§2-F**, as enacted by PL 2001, c.  
28 96, §2, is repealed.

30           **Sec. 19. 5 MRSA §12004-I, sub-§3-A**, as enacted by PL 1999, c.  
556, §4, is repealed.

32           **Sec. 20. 5 MRSA §12004-I, sub-§4-A**, as enacted by PL 1997, c.  
34 752, §3, is repealed.

36           **Sec. 21. 5 MRSA §12004-I, sub-§29-C**, as amended by PL 1997, c.  
184, §11, is repealed.

38           **Sec. 22. 5 MRSA §12004-I, sub-§47-E**, as enacted by PL 1999, c.  
40 786, Pt. A, §1, is repealed.

42           **Sec. 23. 5 MRSA §12004-I, sub-§50-A**, as enacted by PL 1997, c.  
792, §1, is repealed.

44           **Sec. 24. 5 MRSA §12004-I, sub-§68-A**, as enacted by PL 1995, c.  
46 532, §3, is repealed.

48           **Sec. 25. 5 MRSA §12004-I, sub-§72-B**, as enacted by PL 1993, c.  
381, §7, is repealed.

2           **Sec. 26.** 5 MRSA §12004-I, sub-§78-A, as enacted by PL 1989, c.  
811, §1, is repealed.

4           **Sec. 27.** 5 MRSA §12004-K, sub-§10, as enacted by PL 1987, c.  
786, §5, is repealed.

6           **Sec. 28.** 5 MRSA §12004-K, sub-§11, as enacted by PL 1987, c.  
8   786, §5, is repealed.

10          **Sec. 29.** 5 MRSA §12004-K, sub-§11-A, as enacted by PL 1997, c.  
411, §1, is repealed.

12          **Sec. 30.** 5 MRSA §12004-K, sub-§12, as enacted by PL 1987, c.  
14   786, §5, is repealed.

16          **Sec. 31.** 5 MRSA §12004-L, sub-§12, as enacted by PL 1999, c.  
785, §1, is repealed.

18          **Sec. 32.** 5 MRSA §18802-A, as amended by PL 2003, c. 387, §13,  
20   is repealed.

22          **Sec. 33.** 5 MRSA §18803, as enacted by PL 1989, c. 811, §3, is  
24   repealed.

26          **Sec. 34.** 5 MRSA c. 438, as amended, is repealed.

28          **Sec. 35.** 5 MRSA §19135, as enacted by PL 1999, c. 785, §3, is  
amended to read:

30   **§19135. Annual report**

32           The cabinet shall provide an annual report to the joint  
34   standing committee of the Legislature having jurisdiction over  
appropriations and financial affairs, the joint standing  
36   committee of the Legislature having jurisdiction over criminal  
justice matters, the joint standing committee of the Legislature  
38   having jurisdiction over education and cultural affairs and the  
joint standing committee of the Legislature having jurisdiction  
40   over health and human services matters, and the Chief Justice of  
the Supreme Court and the Council on Children and Families. A  
42   copy of the report must be made available to the public.

44          **Sec. 36.** 7 MRSA §972, as amended by PL 2001, c. 125, §1, is  
repealed.

46          **Sec. 37.** 7 MRSA §974-A, sub-§1, ¶D, as enacted by PL 1987, c.  
319, §4, is repealed.

48          **Sec. 38.** 7 MRSA §974-A, sub-§2, as amended by PL 2001, c. 125,  
50   §4, is further amended to read:

2           **2. State loan interest rate.** The interest rate for state  
3 loans is 5%. Loans current on April 21, 1988 must be  
4 renegotiated to an interest rate of 5%.

6 A fee for administrative costs, which must be at a rate set by  
7 rule by the commissioner upon consultation with the Potato  
8 Marketing Improvement Committee but that may not exceed 1% of the  
9 loan, must be charged on all loans made for projects, the total  
10 cost of which exceeds \$50,000. This fee must be deposited in the  
11 Potato Marketing Improvement Fund.

12           **Sec. 39. 7 MRSA §1031**, as amended by PL 1987, c. 99, §1, is  
13 repealed.

16           **Sec. 40. 7 MRSA §1033**, as amended by PL 2001, c. 164, §1, is  
17 repealed.

18           **Sec. 41. 7 MRSA §1033-A**, as corrected by RR 1997, c. 2, §28,  
19 is amended to read:

22           **§1033-A. Duties of the commissioner**

24           **1. Inspection fee.** After considering the recommendations of  
25 the Maine Potato Quality Control Board, as provided in section  
26 1033, subsection 2, paragraph G, and after considering available  
27 money appropriated from the General Fund, the commissioner shall  
28 set the inspection fee for potatoes packed in Maine bags pursuant  
29 to rules adopted pursuant to the Maine Administrative Procedure  
30 Act, Title 5, chapter 375.

32           **2. Statement of basis for fee.** Upon request of the Maine  
33 Potato Quality Control Board, the commissioner shall provide to  
34 the board and other interested parties a written statement of the  
35 basis for the fee established under this section.

36           **3. Maine bag grades.** Pursuant to the rule-making  
37 provisions of the Maine Administrative Procedure Act, the  
38 commissioner shall adopt the official grade or grades for  
39 potatoes to be packed in Maine bags. The commissioner and the  
40 Maine Potato Quality Control Board shall jointly prepare proposed  
41 rules. These rules as finally adopted become effective on August  
42 1st, 1988 and may be amended only annually thereafter, with  
43 amendments becoming effective on August 1st of the year in which  
44 adopted. A Maine bag grade may not be less than United States  
45 No. 1.

48           **Sec. 42. 7 MRSA §1034**, as amended by PL 1987, c. 99, §15, is  
49 further amended to read:

50

2  
3 **§1034. Inspection**

4 As a part of an annual plan proposed and approved pursuant  
5 to section 1033, subsection 4, the Maine Potato Board may employ  
6 inspectors and may require payments for inspection at a rate and  
7 schedule to be established by rule by the commissioner. The  
8 commissioner and the Maine Potato Quality Control Board shall  
jointly develop proposed rules.

10 **Sec. 43. 7 MRSA §1035**, as repealed and replaced by PL 1987,  
11 c. 99, §16, is repealed.

12 **Sec. 44. 7 MRSA §4201, sub-§3**, as enacted by PL 1997, c. 642,  
13 §2, is repealed.

14 **Sec. 45. 7 MRSA §4203**, as amended by PL 2003, c. 283, §§2 and  
15 3, is repealed.

16 **Sec. 46. 7 MRSA §4204, sub-§8**, as amended by PL 2001, c. 64,  
17 §2, is further amended to read:

18  
19 **8. Variances.** For farms with compliance dates established  
20 in subsection 4, the commissioner may grant a variance from the  
21 date by which a nutrient management plan must be prepared and  
22 certified when the commissioner finds that technical assistance  
23 or resources are not available to complete and certify the plan  
24 by January 1, 2001. The commissioner may grant a variance from  
25 the implementation date in subsection 4, 5 or 6 when the  
26 commissioner finds that implementation of the plan would cause  
27 undue hardship. A person requesting a variance shall submit a  
28 request in writing to the commissioner at least 90 days prior to  
29 the applicable implementation date. The commissioner shall  
30 establish by rule criteria and a process for granting a variance.  
31 Factors considered must include protection of groundwater and  
32 surface water, cost of implementing the plan, availability of  
33 financial assistance to implement the plan and availability of  
34 technical assistance or resources to complete and certify the  
35 plan. Rules adopted pursuant to this subsection are routine  
36 technical rules as defined in Title 5, chapter 375, subchapter  
37 II-A 2-A. Notwithstanding the provisions of this subsection, a  
38 variance may not extend an implementation date beyond December  
39 31, 2008. A person denied a variance by the commissioner may  
40 appeal that decision to the board.

41 **Sec. 47. 7 MRSA §4205, sub-§2**, as amended by PL 1999, c. 530,  
42 §4, is further amended to read:

43 **2. Criteria for issuing permits; rulemaking.** An applicant  
44 for a permit required under this section must submit to the  
45 commissioner a nutrient management plan that meets the  
46  
47  
48  
49  
50



2 requirements established pursuant to section 4204. A nutrient  
3 management plan submitted in accordance with this subsection is  
4 confidential and is not a public record as defined in Title 1,  
5 section 402, subsection 3. Prior to issuing a permit, the  
6 commissioner or a designee of the commissioner shall inspect the  
7 operation and determine that the operation is in compliance with  
8 the nutrient management plan. The commissioner may issue a  
9 provisional permit in accordance with subsection 3. The  
10 commissioner shall adopt rules in accordance with Title 5,  
11 chapter 375 to establish a process for application review and  
12 issuing permits required under this section. The rules may  
13 establish permit application fees, inspection requirements and  
14 procedures for review by the board of permitting decisions.  
15 Rules initially adopted pursuant to this section are major  
16 substantive rules as defined in Title 5, chapter 375, subchapter  
17 II-A 2-A. After July 1, 1999, rules adopted pursuant to this  
18 section are routine technical rules as defined in Title 5,  
19 chapter 375, subchapter II-A 2-A.

20 **Sec. 48. 7 MRSA §4210, sub-§§1 and 3**, as enacted by PL 1999, c.  
21 530, §7, are amended to read:

22 **1. Notice.** The commissioner shall give written notice of a  
23 revocation immediately following a decision to revoke. A notice  
24 of revocation must state the reason the certification is being  
25 revoked and the effective date of the revocation and must inform  
26 the person of the hearing provisions under subsection 2 and the  
27 ~~appeals-process-before-the-board.~~

30 **3. Decisions; appeal.** Decisions of the commissioner must  
31 be in writing. The commissioner may reinstate the certification  
32 if the commissioner finds that the person has complied with  
33 section 4204, subsection 3. ~~A person whose certification is~~  
34 ~~revoked-by-the-commissioner-may-appeal-that-decision-to-the-board.~~

36 **Sec. 49. 10 MRSA §1678**, as amended by PL 2001, c. 352, §6, is  
37 repealed.

38 **Sec. 50. 12 MRSA §51-A**, as enacted by PL 1995, c. 532, §8, is  
39 repealed.

42 **Sec. 51. 12 MRSA §51-B**, as enacted by PL 1995, c. 532, §9, is  
43 amended to read:

44 **§51-B. Assistance from department**

46 The department shall assist the advisory council and  
47 individual soil and water conservation districts to further  
48 constructive working relationships with other natural resource  
49 agencies of State Government.  
50

2           **Sec. 52. 12 MRSA §544-A**, as enacted by PL 1999, c. 556, §13,  
is repealed.

4           **Sec. 53. 12 MRSA §544-B, sub-§2**, as enacted by PL 1999, c.  
6 556, §13, is amended to read:

8           **2. Register of critical areas.** The commissioner, with the  
advice of the board, shall maintain a register of critical areas  
10 that must contain natural areas classified as critical areas as  
follows.

12           A. In determining the classification of an area or site as  
14 a registered critical area, the commissioner shall consider:

16                 (1) The unique or exemplary natural qualities of the  
area or site;

18                 (2) The intrinsic fragility of the area or site and  
20 sensitivity to alteration or destruction;

22                 (3) The voluntary commitment to conserve or protect  
the area or site;

24                 (4) The present or future threat of alteration or  
26 destruction; and

28                 (5) The economic implications of inclusion of an area  
or site on the register.

30           The commissioner, with the advice of the board, may remove a  
32 registered critical area from the register if the  
commissioner determines that the area or site no longer  
34 qualifies as a critical area.

36           B. Each registered critical area must be documented with at  
least the following information:

38                 (1) A general description of the area or site;

40                 (2) A list of the endangered or threatened species or  
42 other unique or exemplary natural features occurring at  
the area or site, and reasons for inclusion in the  
44 register;

46                 (3) The size and location of the area or site; and

48                 (4) The name or names of the property owner or owners,  
contingent upon the consent of the owner or owners.

50

2 C. The commissioner shall notify owners of natural areas of  
the natural value of their land and the implications of  
4 voluntary conservation. Subsequently a natural area may be  
placed upon the Register of Critical Areas with at least 60  
6 days' notice before registration and the consent of the  
landowner.

8 **Sec. 54. 12 MRSA §544-B, sub-§3, ¶B,** as enacted by PL 1999, c.  
556, §13, is amended to read:

10 B. The commissioner may establish procedures to  
12 substantiate the identification of endangered and threatened  
native plant species. In determining and revising the list,  
14 the commissioner shall use the rare plant database of the  
Natural Areas Program, the advice of the Natural Areas  
16 Advisory Board and the knowledge of botanists in the State.  
In addition, the commissioner shall consult with federal  
18 agencies, interested state agencies, other states or  
provinces having a common interest and other interested  
20 persons and organizations. The commissioner shall determine  
criteria for each category. When establishing the list, the  
22 commissioner shall consider aspects of plant biology that  
contribute to a species' rarity such as:

24 (1) Endemism. The plant species or subspecies may be  
26 geographically restricted to the State or areas  
immediately adjacent to the State;

28 (2) Scarcity. A plant species or subspecies may be  
30 numerically scarce throughout its distribution in North  
America and occur in only a few locations in the State;

32 (3) Special habitat. A plant species or subspecies  
34 may require habitat that is scarce in the State;

36 (4) Limit of range. A plant species or subspecies in  
the State may be at the edge of its distribution or  
38 disjunct from its main distribution; and

40 (5) Population decline or vulnerability. A plant  
species or subspecies may be threatened or seriously  
42 declining due to habitat modification or destruction or  
from overcollection for commercial, recreational or  
44 educational purposes.

46 **Sec. 55. 20-A MRSA §12733, first ¶,** as enacted by PL 1993, c.  
392, §2 and amended by PL 2003, c. 20, Pt. 00, §2 and affected by  
48 §4, is further amended to read:

2 The program shall provide a sequence of combined school and  
workplace education and training that has a specific industrial  
4 or occupational focus. Students participate in the program for  
up to 3 years and, while doing so, must be enrolled in a State  
6 community college or other publicly supported secondary or  
postsecondary school. The program shall offer a curriculum based  
8 on industry skill standards recommended by the Skill Standards  
Beard established in section 12734. Participants who demonstrate  
10 that they have met these skill standards are entitled to a  
certificate of skill mastery that describes the competencies  
achieved by the students.

12 **Sec. 56. 20-A MRSA §12734**, as amended by PL 1995, c. 515, §3,  
14 is repealed.

16 **Sec. 57. 22 MRSA §2692**, as enacted by PL 1999, c. 786, Pt. A,  
18 §3, is repealed.

20 **Sec. 58. 22 MRSA §2693, sub-§1, ¶A**, as amended by PL 2003, c.  
494, §10, is further amended to read:

22 A. By July 1, 2005, the department shall adopt rules  
24 establishing the procedures for adoption and periodic review  
of maximum retail prices, the procedures for establishing  
26 maximum retail prices for new prescription drugs and for  
reviewing maximum retail prices of selected drugs and the  
28 procedures for phasing out or terminating maximum retail  
prices. ~~Prior to adopting rules pursuant to this paragraph,~~  
30 ~~the commissioner shall consult with and consider the~~  
~~recommendations of the commission regarding the rules.~~

32 **Sec. 59. 22 MRSA §2693, sub-§1, ¶C**, as enacted by PL 1999, c.  
786, Pt. A, §3, is amended to read:

34 C. In establishing maximum retail prices under this  
36 paragraph, the commissioner shall ~~consider the advice of the~~  
~~commission and shall follow procedures set forth by rules~~  
38 adopted by the department.

40 **Sec. 60. 24-A MRSA §4321, sub-§2**, as enacted by PL 1997, c.  
792, §3, is amended to read:

42 **2. Director.** The Director of the Consumer Health Care  
44 Division, referred to in this section as the "director," is the  
head of the Consumer Health Care Division. The director is  
46 appointed by the superintendent in consultation with the Consumer  
Health Care Division Advisory Council and is subject to the  
48 approval of the Commissioner of Professional and Financial  
Regulation. The director is subject to the Civil Service Law.

50

2           **Sec. 61.** 24-A MRSA §4322, as enacted by PL 1997, c. 792, §3  
and amended by PL 2003, c. 689, Pt. B, §7, is repealed.

4           **Sec. 62.** 30-A MRSA §5241, sub-§5, as enacted by PL 2001, c.  
669, §1, is repealed.

6           **Sec. 63.** 32 MRSA §14302, sub-§7, as amended by PL 1997, c.  
8 681, §3, is repealed.

10           **Sec. 64.** 34-A MRSA §3002-A, as amended by PL 1999, c. 770,  
§§3 to 5, is repealed.

12           **Sec. 65.** 36 MRSA c. 920, as amended, is repealed.

14           **Sec. 66.** P&SL 1937, c. 18 is repealed.

16  
18   **SUMMARY**

20           This bill repeals boards and commissions that failed to  
22 file an annual report of activities with the Secretary of State  
for 2003 or 2004. Additionally, this bill repeals boards and  
24 commissions that filed annual reports with the Secretary of State  
indicating inactivity in the preceding 24 months. The bill also  
26 corrects statutory references to implement the name change of the  
Maine Small Business Commission to the Maine Small Business and  
Entrepreneurship Commission.