

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 2044

S.P. 789

In Senate, March 2, 2006

An Act To Enhance the Protection of Maine Families from Terrorism and Natural Disasters

(EMERGENCY)

Reported by Senator STRIMLING of Cumberland for the Task Force to Study Maine's Homeland Security Needs pursuant to Resolve 2005, chapter 126.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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,** the State's emergency preparedness efforts need to
be supported to ensure that the State has the tools necessary to
protect our citizens from terrorism and natural disasters; and

8
10 **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
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

16 **Sec. 1. 3 MRSA §959, sub-§1, ¶D,** as amended by PL 2003, c.
18 600, §1, is further amended to read:

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

24 (1) Department of Public Safety, except for the
26 division designated by the Commissioner of Public
Safety to enforce the law relating to the manufacture,
28 importation, storage, transportation and sale of all
liquor and to administer those laws relating to
30 licensing and the collection of taxes on malt liquor
and wine and the Emergency Services Communication
32 Bureau, in 2001; and

34 (2) Department of Corrections in 2011; and

36 (3) The Maine Emergency Management Agency within the
Department of Defense, Veterans and Emergency
38 Management in 2008.

40 **Sec. 2. 3 MRSA §959, sub-§1, ¶J,** as amended by PL 2003, c. 600,
§1, is further amended to read:

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

48 (2) State Liquor and Lottery Commission in 2007;

2 (3) The division within the Department of Public
3 Safety designated by the Commissioner of Public Safety
4 to enforce the law relating to the manufacture,
5 importation, storage, transportation and sale of all
6 liquor and to administer those laws relating to
7 licensing and the collection of taxes on malt liquor
8 and wine in 2007; and

9 (4) Department of Defense, Veterans and Emergency
10 Management in 2011, except for the Maine Emergency
11 Management Agency within the department.

12 **Sec. 3. 5 MRSA §1520, sub-§1, ¶B,** as amended by PL 2005, c.
13 12, Pt. SS, §4, is further amended to read:

14 B. The Chief Information Officer, in conjunction with the
15 agencies using the statewide radio and network system,
16 operating as a board that may be referred to as "the
17 Statewide Radio Network Board," shall establish the
18 following:
19

- 20 (1) Standards for statewide radio and network system
21 operations;
- 22 (2) Specifications for systems and components to be
23 acquired by the State; and
- 24 (3) Standards for the exemption or waiver of state
25 agencies from the requirements of this section.

26 By January 15, 2002, standards must be developed for
27 statewide radio and network system usage by all state
28 agencies not exempted under subparagraph (3).
29

30 **Sec. 4. 5 MRSA §1532, sub-§2,** as enacted by PL 2005, c. 2, Pt.
31 A, §5 and affected by §14, is amended to read:

32 **2. Expenditures from fund.** Except as otherwise provided in
33 this section, amounts in the stabilization fund may be expended
34 only to offset a General Fund revenue shortfall, except that the
35 Governor is authorized to transfer to the Disaster Relief Fund,
36 established in Title 37-B, section 745, up to \$3,000,000, as long
37 as the transfer does not create a balance in the fund of more
38 than \$3,000,000.

39 **Sec. 5. 5 MRSA §12004-I, sub-§91** is enacted to read:

40	<u>91.</u>	<u>Homeland</u>	<u>Not</u>	<u>37-B MRSA</u>
41	<u>Emergency</u>	<u>Security</u>	<u>Authorized</u>	<u>§709</u>
42	<u>Management</u>	<u>Advisory</u>		

Council

2 **Sec. 6. 20-A MRSA §15908, sub-§5** is enacted to read:

4 **5. Emergency generators.** The state board may approve only
6 those proposed school construction projects that have been
8 designed to include backup energy generators or that are wired
10 for portable energy generators, thus enabling those schools to be
12 used as public shelters.

14 **Sec. 7. 22 MRSA §10-A** is enacted to read:

16 **§10-A. Coordination and reporting on expenditure of funds**
18 **pertaining to homeland security and bioterrorism**
20 **prevention**

22 The Director of the Maine Center for Disease Control and
24 Prevention shall coordinate in a mutually agreed upon manner with
26 the Director of the Maine Emergency Management Agency within the
28 Department of Defense, Veterans and Emergency Management on the
30 planning and expenditure of all federal funds received by the
32 Maine Center for Disease Control and Prevention for homeland
34 security emergency preparedness purposes or for the prevention of
36 bioterrorism and provide a report annually, beginning December
38 15, 2006, to the Homeland Security Advisory Council established
40 in Title 37-B, section 709. The advisor for the Homeland
42 Security Advisory Council shall report by January 15th of each
44 year, beginning in 2007, on the expenditure of such funds to the
46 joint standing committee of the Legislature having jurisdiction
48 over health and human services matters and the joint standing
50 committee of the Legislature having jurisdiction over criminal
justice and public safety matters. The report must include, but
is not limited to, the amount of funds expended in the prior
year, the purpose of those expenditures, the effect of those
expenditures on homeland security and bioterrorism prevention and
the plans for coordination with the Maine Emergency Management
Agency for the expenditure of the funds received or anticipated
for such purposes in the 2 years following submission of the
report.

Sec. 8. 37-B MRSA §704, as amended by PL 2003, c. 510, Pt. A,
§33, is further amended to read:

§704. Director; duties

 The Maine Emergency Management Agency, as previously
established and in this chapter called the "agency," shall ~~be~~ is
under the supervision of the Director of the Maine Emergency
Management Agency, who in this chapter shall ~~be~~ is called the
"director." The director must be qualified by education,

2 training or experience in the emergency management profession and
3 is appointed by the Governor, subject to review by the joint
4 standing committee of the Legislature having jurisdiction over
5 criminal justice and public safety matters and confirmation by
6 the Legislature. The director serves at the pleasure of the
7 Governor.

8 The director may employ technical, clerical, stenographic,
9 administrative and operative assistants and other personnel,
10 subject to the Civil Service Law, and make expenditures, with
11 approval of the commissioner, that are necessary to carry out the
12 purposes of this chapter.

13 ~~The director, subject to the direction and control of the~~
14 ~~commissioner,~~ is responsible administratively to the
15 commissioner, retains direct access to the Governor in the case
16 of an emergency and is responsible for notifying the Governor and
17 the commissioner of all emergencies. The director is the
18 executive head of the agency and is responsible for carrying out
19 the program for emergency management. The director shall
20 represent the Governor on all matters pertaining to the
21 comprehensive emergency management program and the disaster and
22 emergency response of the State; shall coordinate the activities
23 of all organizations for emergency management within the State;
24 shall maintain liaison with and cooperate with emergency
25 management and public safety agencies and organizations of other
26 states, the Federal Government and foreign countries, and their
27 political subdivisions; prior to the annual meeting required in
28 section 782, subsection 4, shall provide to each of the local
29 emergency management organizations of the State an annual
30 assessment of each organization's degree of emergency management
31 capability and any other information pertinent to ensuring the
32 public's welfare and safety within the local organization's
33 jurisdiction; and has additional authority, duties and
34 responsibilities as may be prescribed by the commissioner or the
35 Governor.

36 The director shall ~~may~~ not require any political subdivision
37 to participate in any program of nuclear civil protection
38 planning.

39 The director, in consultation with the Office of Chief
40 Medical Examiner, shall prepare a plan for the recovery,
41 identification and disposition of human remains in a disaster.
42 The Office of Chief Medical Examiner is responsible for execution
43 of the plan, with full cooperation and assistance from all other
44 members of the emergency management forces.

48

2 This plan must be reviewed and updated as necessary. The
3 director shall see that the plan and the reviews receive suitable
4 dissemination on a timely basis.

5 The director shall conduct periodic assessments at least
6 once every 2 years, beginning January 15, 2007, of the use of
7 public safety radio frequencies in emergency situations to ensure
8 that first responders obtain sufficient training to understand
9 and comply with adopted protocols and procedures.

10 The director shall develop and produce emergency
11 preparedness public service announcements to be broadcast
12 regularly on local broadcasting networks to educate and inform
13 members of the public.

14 **Sec. 9. 37-B MRSA §§708 and 709 are enacted to read:**

15 **§708. Legislative jurisdiction**

16 The joint standing committee of the Legislature having
17 jurisdiction over criminal justice and public safety matters has
18 jurisdiction over matters pertaining to the agency and the
19 director.

20 **§709. Homeland Security Advisory Council**

21 The Homeland Security Advisory Council, as established in
22 Title 5, section 12004-I, subsection 91 and referred to in this
23 section as "the council," shall advise the Governor on the
24 coordination of homeland security activities of state agencies
25 and the most effective use of grant funds.

26 **1. Membership.** The council is composed of the following 6
27 members:

28 A. The director;

29 B. The Commissioner of Defense, Veterans and Emergency
30 Management;

31 C. The Commissioner of Public Safety;

32 D. The Director of the Bureau of Health within the
33 Department of Health and Human Services;

34 E. The Chief of the State Police within the Department of
35 Public Safety; and

36 F. A representative of the Governor.

2 The director is the chair of the council. The Commissioner of
3 Defense, Veterans and Emergency Management is the advisor of the
4 council.

6 **2. Duties of council. The council shall:**

8 **A. Advise the Governor with regard to the vulnerability of**
9 **the State to terrorist activity;**

10 **B. Advise the Governor with regard to the adequacy of the**
11 **plans to enhance homeland security;**

12 **C. Ensure that the homeland security activities of state**
13 **agencies are coordinated;**

16 **D. Advise the Governor with regard to the implementation of**
17 **state programs using federal funds and administration of**
18 **federal grants for homeland security, in order to ensure**
19 **coordination among agencies and the most effective use of**
20 **grant funds;**

22 **E. Advise the Governor with regard to the appropriateness**
23 **of the federal homeland security threat advisory level for**
24 **the State, based upon intelligence gathered in the State and**
25 **from federal sources;**

26 **F. Advise the Governor with regard to the appropriate**
27 **response to any terrorist threat; and**

30 **G. Periodically advise an emergency response team with**
31 **pertinent information that could assist in the team's**
32 **response to an event.**

34 **3. Procedures. The council shall meet:**

36 **A. At times and places as determined by the chair or the**
37 **Governor and with assistance from state agencies as**
38 **necessary and appropriate for the council's execution of its**
39 **responsibilities as described in subsection 2;**

40 **B. Either in person or via telecommunication, as determined**
41 **by the chair, immediately upon notification that the federal**
42 **homeland security threat advisory level will be changed, in**
43 **order to develop a recommendation to the Governor of the**
44 **appropriate threat advisory level for the State and actions**
45 **to be taken in the State; and**

48 **C. At the call of the chair or at the call of the Governor**
49 **at any time the Governor requires the advice of the council.**

50

2 The state response to any suspected terrorist event must be
3 coordinated through the State Emergency Operations Center, in
4 accordance with a state emergency operations plan as described in
5 subsection 4, paragraph A. Meetings of the council are not
6 public proceedings for purposes of Title 1, chapter 13, but may
7 be open to the public at the discretion of the chair. Documents
8 collected or produced by the council are not public records for
9 the purposes of Title 1, chapter 13.

10 4. Resources and support. The agency shall provide staff
11 and administrative support to the council from existing
12 resources. The agency is the coordinating agency within State
13 Government for homeland security operational preparedness,
14 response, recovery and mitigation. As the coordinating agency,
15 the agency shall:

16 A. Develop and maintain a state emergency operations plan,
17 which must incorporate by reference any internal operational
18 plans developed by other state agencies for emergency
19 response;

20 B. Coordinate the State Emergency Operations Center with
21 the council;

22 C. Coordinate with other state agencies in the development
23 of their emergency response plans;

24 D. Administer the review and approval of all grant
25 applications developed by local and state agencies for
26 homeland security funds; and

27 E. Administer homeland security grant funds.

28 **Sec. 10. 37-B MRSA §745, as enacted by PL 2005, c. 439, §1,**
29 **is amended to read:**

30 **§745. Disaster Relief Fund**

31 **1. Fund established.** There is established the Disaster
32 Relief Fund, referred to in this section as "the fund," to be
33 administered by the agency.

34 **2. Sources of fund.** The following must be paid into the
35 fund:

36 **A.** All money appropriated for inclusion in the fund;

37 **B.** All interest from investment of the fund; and

2 C. Any other money deposited in the fund to implement the provisions of this subchapter; and

4 D. Any money transferred into the fund from the Maine Budget Stabilization Fund, established in Title 5, section
6 1532.

8 **3. Use of fund.** The fund must be the ~~first~~ last resource used when section 742 or 744 is invoked. The fund may also be used for the purpose of matching federal funds in the event of a federally declared disaster.

12 **4. Fund balance.** The fund's balance may not exceed \$3,000,000. No more than \$3,000,000 may be deposited into or expended from the fund within a state fiscal year. Any amount, including interest, that accrues in excess of \$3,000,000 must be transferred by the State Controller to the Maine Budget Stabilization Fund, established in Title 5, section 1532.

20 **5. Annual report.** The director shall submit a written report by January 15, 2007 and annually thereafter to the Governor and the Legislature on the fund's balance and expenditures.

24 **Sec. 11. Radio frequency coordination for emergency planning.** The Statewide Radio Network Board, referenced in the Maine Revised Statutes, Title 5, section 1520, subsection 1, paragraph B, shall develop protocols and procedures for radio frequency coordination throughout the State during major emergencies and shall include participation by and obtain memoranda of understanding from various stakeholders, including: the Maine Emergency Management Agency; the Maine Fire Chiefs Association; the Maine Chiefs of Police Association; the Maine Fire Protection Services Commission; the Maine Sheriffs' Association; the Maine State Police; the Department of Public Safety; federal first responders; Maine Emergency Medical Services; the Maine Hospital Association; and local public works and utilities. The Statewide Radio Network Board shall allocate no fewer than 6 public safety band radio frequencies to be used as multijurisdictional, county and state disaster channels. The Director of the Maine Emergency Management Agency shall develop a communications plan for multijurisdictional, regional and statewide disasters to ensure interoperability that includes participation with both public and private expected response partners and local, county, state and federal stakeholders. The Statewide Radio Network Board and the Maine Emergency Management Agency shall report by September 18, 2006 to the Task Force to Study Maine's Homeland Security Needs on their progress in obtaining memoranda of understanding from

2 the various stakeholders and the need for training first responders in the area of radio frequency use and operation.

4 **Sec. 12. Community outreach for emergency planning.** The
6 Director of the Maine Emergency Management Agency shall coordinate with the Commissioner of Education to perform an
8 assessment of the number of Maine public schools that have adopted an all-hazards approach to emergency preparedness. The
10 Director of the Maine Emergency Management Agency and the Commissioner of Education shall coordinate their efforts for
12 community outreach for all-hazards emergency planning. The Director of the Maine Emergency Management Agency shall report by
14 September 18, 2006 to the Task Force to Study Maine's Homeland Security Needs on the extent to which public schools have adopted
16 an all-hazards approach to emergency preparedness and shall provide recommendations on how these plans should be improved.

18 **Sec. 13. Emergency notification systems, evacuation plans and shelters.** The Director of the Maine Emergency Management Agency
20 shall survey Maine communities to gather information on the following: the types of emergency notification systems that are
22 in place throughout the State; evacuation plans for nursing homes currently adopted throughout the State; and shelter capabilities
24 throughout the State, with a focus on determining how shelters are designed to accommodate populations with special needs,
26 particularly persons with disabilities. The director shall report by September 18, 2006 to the Task Force to Study Maine's
28 Homeland Security Needs on the results of this survey and shall provide recommendations for improvement in these areas.
30

32 **Sec. 14. Emergency plans in public schools.** The Commissioner of Education shall determine methods for incorporating emergency
34 plans within the elementary and secondary public school curriculum. The commissioner shall report by January 15, 2007 on
36 the commissioner's findings and recommended changes to the curriculum to 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 criminal justice and public safety matters.

42 **Sec. 15. Report on hospital surge capacity.** The Director of the Maine Center for Disease Control and Prevention, in conjunction
44 with the Maine Hospital Association, shall update its recent survey of emergency health system capacity in Maine. The
46 Director of the Maine Center for Disease Control and Prevention, in coordination with the Director of the Maine Emergency
48 Management Agency and the Maine Hospital Association, shall develop recommendations to address Maine's acute medical and
public health surge capacity

2 and shall provide a report on these recommendations by September
18, 2006 to the Task Force to Study Maine's Homeland Security
Needs.

4
6 **Sec. 16. Report on local health officers.** The Director of the
Maine Center for Disease Control and Prevention, in conjunction
with stakeholders and interested parties, shall study the
8 qualifications and duties of local health officers in Maine and
develop recommendations for enhancing the role of local health
10 officers in emergency preparedness plans. The Director of the
Maine Center for Disease Control and Prevention shall report by
12 September 18, 2006 to the Task Force to Study Maine's Homeland
Security Needs on the results of this study and proposed
14 recommendations.

16 **Sec. 17. Regional resource centers.** The Director of the Maine
Center for Disease Control and Prevention shall work with
18 stakeholders to ensure that the regional resource centers are
provided sufficient funding resources to meet the goals of
20 hospital and health system providers. The Director of the Maine
Center for Disease Control and Prevention shall report to the
22 Task Force to Study Maine's Homeland Security Needs on the
results of the federal Health Resources and Services
24 Administration grant and contract with the regional resource
centers and on proposed recommendations by September 18, 2006 and
26 to the joint standing committee of the Legislature having
jurisdiction over health and human services matters and the joint
28 standing committee of the Legislature having jurisdiction over
criminal justice and public safety matters by January 15, 2007.

30 **Sec. 18. Application.** The Maine Revised Statutes, Title 20-A,
32 section 15908, subsection 5 applies to those school construction
projects during the 2006-2007 biennium that were funded through
34 state bonds or the Maine Municipal Bond Bank, and that have also
received both voter approval at a public referendum pursuant to
36 Title 20-A, section 15904 and design approval from the State
Board of Education after the effective date of this Act.

38 **Emergency clause.** In view of the emergency cited in the
40 preamble, this Act takes effect when approved.

42
44 **SUMMARY**

46 This bill represents the interim recommendations of the Task
Force to Study Maine's Homeland Security Needs. This bill
authorizes the Governor to bring the balance of the Disaster
48 Relief Fund up to \$3,000,000. It requires that any interest that
accrues in the fund in excess of \$3,000,000 be transferred by the
50 State Controller to the Maine Budget Stabilization Fund. The

2 bill also provides that the Disaster Relief Fund may be used for
the purpose of matching federal funds in the event of a federally
declared disaster.

4
6 This bill requires the Director of the Maine Center for
Disease Control and Prevention within the Department of Health
and Human Services to coordinate with the Department of Defense,
8 Veterans and Emergency Management, Maine Emergency Management
Agency on the planning and expenditure of federal funds received
10 by the center for homeland security or bioterrorism prevention.
The bill also requires the advisor of the Homeland Security
12 Advisory Council to report annually to the joint standing
committee of the Legislature having jurisdiction over health and
14 human services matters and the joint standing committee of the
Legislature having jurisdiction over criminal justice and public
16 safety matters on the use of those funds.

18 This bill places all matters pertaining to the Maine
Emergency Management Agency and its director under the
20 jurisdiction of the joint standing committee of the Legislature
having jurisdiction over criminal justice and public safety
22 matters and assigns that committee the responsibility of
reviewing that agency under the provisions of the State
24 Government Evaluation Act. The bill requires that the Director
of the Maine Emergency Management Agency be qualified by
26 education, training or experience in the emergency management
profession, appointed by the Governor, subject to review by the
28 joint standing committee of the Legislature having jurisdiction
over criminal justice and public safety matters and confirmation
30 by the Legislature. It also provides that the director shall
represent the Governor on all matters pertaining to the
32 comprehensive emergency management program and the disaster and
emergency response of the State. It requires the director to
34 conduct periodic assessments of the use of state radio
frequencies in emergencies and directs the director to develop
36 and produce emergency preparedness public service announcements
to be broadcast regularly on local broadcasting networks. This
38 bill requires the director to survey Maine communities to gather
information on the types of emergency notification systems that
40 are in place throughout the State, evacuation plans for nursing
homes currently adopted throughout the State and shelter
42 capabilities throughout the State, with a focus on determining
how shelters are designed to accommodate populations with special
44 needs, particularly persons with disabilities.

46 This bill directs the Statewide Radio Network Board, which
consists of the Chief Information Officer and agencies using the
48 statewide radio and network system, to develop protocols and
procedures for frequency coordination throughout the State during
50 emergencies and to obtain memoranda of understanding from certain

2 stakeholders. The bill requires the Statewide Radio Network
3 Board to report to the Task Force to Study Maine's Homeland
4 Security Needs on its progress by September 18, 2006. It
5 clarifies that the Chief Information Officer and other agencies
6 using the statewide radio and network system may operate as a
7 board to establish standards for statewide radio and network
8 system operations.

9
10 The bill directs the Director of the Maine Emergency
11 Management Agency to coordinate with the Commissioner of
12 Education to perform an assessment of the number of Maine public
13 schools that have adopted an all-hazards approach to emergency
14 preparedness and requires the director and the commissioner to
15 coordinate their efforts for community outreach for all-hazards
16 emergency planning. The bill requires the director to report by
17 September 18, 2006 to the Task Force to Study Maine's Homeland
18 Security Needs with its findings and recommendations. This bill
19 also requires that all new schools be designed to include backup
20 energy generators or be wired for portable energy generators,
21 thus enabling their use as public shelters.

22 This bill also requires the Commissioner of Education to
23 determine methods for incorporating emergency plans within the
24 elementary and secondary public school curriculum. It requires
25 the commissioner to report by January 15, 2007 with findings and
26 proposed recommended changes to the curriculum to the joint
27 standing committee of the Legislature having jurisdiction over
28 education and cultural affairs and the joint standing committee
29 of the Legislature having jurisdiction over criminal justice and
30 public safety matters.

31 Finally, this bill directs the Maine Center for Disease
32 Control and Prevention, in conjunction with the Maine Hospital
33 Association, to update its survey of emergency health system
34 capacity in the State and to report to the Task Force to Study
35 Maine's Homeland Security Needs on the results of this study and
36 recommendations to address surge capacity by September 18, 2006.
37 It also requires the Director of the Maine Center for Disease
38 Control and Prevention to work with stakeholders to ensure that
39 the regional resource centers are provided sufficient funding and
40 requires the director to study the qualifications of local health
41 officers and develop recommendations for enhancing their role in
42 emergency preparedness plans. It requires the director to report
43 to the Task Force to Study Maine's Homeland Security Needs on the
44 results of this study and proposed recommendations by September
45 18, 2006 and to the joint standing committee of the Legislature
46 having jurisdiction over health and human services matters and
47 the joint standing committee of the Legislature having
48 jurisdiction over criminal justice matters by January 15, 2007.