

MAINE STATE LEGISLATURE

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Date: 4/10/08

L.D. 2080

(Filing No. H-990)

Minority

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080, Bill, "An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services"

Amend the bill by inserting before the enacting clause the following:

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

Whereas, the unification of state and county correctional services will require concentrated planning and continued coordination of efforts for successful implementation; and

Whereas, authorizing the transitional team to meet immediately will contribute to this effort and help lay the foundation for the work of the corrections working group and the State Board of Corrections; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 4 MRSA §1057, sub-§3, as amended by PL 2003, c. 673, Pt. TT, §2, is further amended to read:

3. Reimbursement to counties. Monthly, the Treasurer of State shall make payments from the Government Operations Surcharge Fund to each county in the same proportion as the total amount paid to that county from the total amount deposited into the Government Operations Surcharge Fund during the fiscal year ending June 30, 1991 bears to the total amount deposited into the fund during the fiscal year ending June 30,

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 1991, except that a county may not receive an amount greater than the prior year's
2 expenditures on its jail. The amount of total payments made to counties must equal 2%
3 of the total fines, forfeitures and penalties, including this surcharge, received by the
4 Treasurer of State for deposit in the Government Operations Surcharge Fund. The
5 balance remaining in the Government Operations Surcharge Fund at the end of each
6 month must accrue to the General Fund. This subsection is repealed July 1, 2009.

7 **Sec. 2. 4 MRSA §1057, sub-§3-A** is enacted to read:

8 **3-A. Reimbursement to counties.** Monthly, the Treasurer of State shall transfer
9 funds from the Government Operations Surcharge Fund to the State Board of Corrections
10 Investment Fund in an amount equal to 2% of the total fines, forfeitures and penalties,
11 including the surcharge imposed pursuant to subsection 2-A, received by the Treasurer of
12 State for deposit in the Government Operations Surcharge Fund. The balance remaining
13 in the Government Operations Surcharge Fund at the end of each month must accrue to
14 the General Fund. Funds collected and deposited each month to the Government
15 Operations Surcharge Fund must be transferred on the last day of the month in which the
16 collections are made to the State Board of Corrections Investment Fund under Title 34-A,
17 section 1805.

18 At the close of each month, the State Controller shall calculate the amount to be
19 transferred to the State Board of Corrections Investment Fund based on the collections
20 made during the month. The State Controller shall transfer by journal entry the amount
21 due to the State Board of Corrections Investment Fund. This subsection takes effect July
22 1, 2009.

23 **Sec. 3. 5 MRSA §12004-G, sub-§6-C** is enacted to read:

24 **6-C.**

25 <u>Corrections</u>	<u>State Board of</u>	<u>Expenses Only</u>	<u>34-A MRSA</u>
	<u>Corrections</u>		<u>§1801</u>

27 **Sec. 4. 14 MRSA §5545, 2nd ¶**, as amended by PL 1999, c. 583, §1; PL 2001, c.
28 354, §3 and by PL 2003, c. 689, Pt. B, §6, is further amended to read:

29 Whenever, under this section or under any other section in this chapter, a court issues
30 a writ of habeas corpus ordering before it a prisoner confined in any penal or correctional
31 institution under the control of the Department of Health and Human Services or the
32 Department of Corrections, or confined in any county jail, its order as to the
33 transportation of the prisoner to and from the court must be directed to the sheriff of the
34 county in which the court is located. It is the responsibility of the sheriff or any one or
35 more of the sheriff's authorized deputies pursuant to any such order to safely transport a
36 prisoner to and from the court and to provide safe and secure custody of the prisoner
37 during the proceedings, as directed by the court. At the time of removal of a prisoner
38 from an institution, the transporting officer shall leave with the head of the institution an
39 attested copy of the order of the court, and upon return of the prisoner shall note that
40 return on the copy. This paragraph as it relates to the responsibility for transportation is
41 applicable to transfers from the county jail to any other county jail or to a state
42 correctional facility under Title ~~30-A~~ 34-A, section ~~1405~~ 1405.

1 **Sec. 5. 30-A MRSA §101, sub-§6-B** is enacted to read:

2 **6-B. Support the State Board of Corrections.** Working with the Commissioner of
3 Corrections and sheriffs, support the State Board of Corrections, referred to in this
4 subsection as "the board," in its efforts to accomplish its purpose and duties as defined in
5 Title 34-A, sections 1801 and 1803 by:

6 A. Recommending a downsizing plan, a plan for capital construction and
7 reinvestment strategies to the board;

8 B. Recommending uniform policies and procedures for pretrial, probation revocation
9 and reentry services to the board;

10 C. Recommending a plan for the placement, housing and program development for
11 inmates with mental illness in accordance with standards adopted by the board; and

12 D. Within available resources, providing support staff for and expertise to the board.

13 **Sec. 6. 30-A MRSA §406** is enacted to read:

14 **§406. Duties of the sheriffs in support of the State Board of Corrections**

15 In addition to other duties set out in this Title, the sheriffs, working with the
16 Commissioner of Corrections and the county commissioners, have the following duties to
17 support the State Board of Corrections, referred to in this section as "the board," in its
18 efforts to accomplish its purpose as defined in Title 34-A, section 1801.

19 **1. Managing jail and prison capacity and offender placement.** Consistent with
20 the board's determination of facility use and purpose under Title 34-A, section 1803,
21 subsection 2, paragraph A, the sheriffs shall assist the Commissioner of Corrections with
22 respect to the daily management of offender bed space throughout the unified correctional
23 system pursuant to Title 34-A, section 1801, subsection 1. The sheriffs shall daily
24 provide the following information to the Commissioner of Corrections:

25 A. Facility population by gender; classification; legal status, including pretrial or
26 sentenced; special needs; and any other parameters determined by the Commissioner
27 of Corrections; and

28 B. Facility capacity and available bed space or bed space needs by the reportable
29 parameters under paragraph A.

30 **2. Unified correctional system plan.** The sheriffs may recommend a downsizing
31 plan, a plan for capital construction and reinvestment strategies to the board.

32 **3. Uniform policies and procedures.** The sheriffs may recommend uniform
33 policies and procedures for pretrial, revocation and reentry services to the board.

34 **4. Inmates with mental illness.** The sheriffs may recommend a plan for the
35 placement, housing and program development for inmates with mental illness in
36 accordance with standards adopted by the board.

37 **5. Support of the board.** Within their available resources, the sheriffs shall provide
38 support staff for and expertise to the board.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 **Sec. 7. 30-A MRSA §701, sub-§2**, as enacted by PL 1987, c. 737, Pt. A, §2 and
2 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is
3 further amended to read:

4 **2. Preparation of noncorrectional services-related estimates.** In order to assess a
5 county tax for noncorrectional services-related expenses, the county commissioners, prior
6 to November 7th in each year, shall prepare estimates of the sums necessary to pay the
7 noncorrectional services-related expenses which that have accrued or may probably
8 accrue for the coming year, including the building and repairing of ~~jails~~, courthouses and
9 appurtenances, with the noncorrectional services-related debts owed by their counties.

10 The estimates must be drawn so as to authorize the appropriations to be made to each
11 department or agency of the county government for the year. The estimates must provide
12 specific amounts for personal services, contractual services, commodities, debt service
13 and capital expenditures made or provided by the county for noncorrectional-related
14 services. The estimates must include specific amounts for each noncorrectional service
15 expenditure.

16 **Sec. 8. 30-A MRSA §701, sub-§2-A** is enacted to read:

17 **2-A. Tax assessment for correctional services.** The counties shall annually collect
18 no more than \$62,452,804 from municipalities for the provision of correctional services,
19 excluding debt service, in accordance with this subsection.

20 The assessment to municipalities within each county may not be greater than the fiscal
21 year 2007-08 county assessment for correctional-related expenditures, which is:

22 A. A sum of \$4,287,340 in Androscoggin County;

23 B. A sum of \$2,316,666 in Aroostook County;

24 C. A sum of \$11,575,602 in Cumberland County;

25 D. A sum of \$1,621,201 in Franklin County;

26 E. A sum of \$1,670,136 in Hancock County;

27 F. A sum of \$5,588,343 in Kennebec County;

28 G. A sum of \$3,188,700 in Knox County;

29 H. A sum of \$3,018,361 in Lincoln County;

30 I. A sum of \$1,228,757 in Oxford County;

31 J. A sum of \$5,919,118 in Penobscot County;

32 K. A sum of \$878,940 in Piscataquis County;

33 L. A sum of \$2,295,849 in Sagadahoc County;

34 M. A sum of \$5,363,665 in Somerset County;

35 N. A sum of \$2,832,353 in Waldo County;

36 O. A sum of \$2,000,525 in Washington County; and

37 P. A sum of \$8,667,248 in York County.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 Notwithstanding this subsection, the county assessment for correctional services-related
2 expenditures in Somerset County must be set at the fiscal year 2009-10 level when the
3 new Somerset County Jail is open and operating at a level sufficient to sustain the
4 average daily number of inmates from Somerset County.

5 For the purposes of this subsection, "correctional services" includes the management
6 services, personal services, contractual services, commodity purchases, capital
7 expenditures and all other costs, or portions thereof, necessary to maintain and operate
8 correctional services.

9 **Sec. 9. 30-A MRSA §701, sub-§2-B** is enacted to read:

10 **2-B. Retirement of fiscal year 2007-08 county jail debt.** The counties shall collect
11 taxes from municipalities for the purpose of retiring the county jail debt in existence as of
12 July 1, 2008 until the debt is finally retired. The counties may not collect taxes from
13 municipalities for the purpose of retiring any correctional services debt issued after July
14 1, 2008; nor may the State pay for future correctional services debt or other correctional
15 services with revenue sources dedicated to municipalities.

16 **Sec. 10. 30-A MRSA §706-A, sub-§1**, as amended by PL 2005, c. 621, §§5 to 7,
17 is further amended to read:

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

20 A. "Average real personal income growth" has the same meaning as under Title 5,
21 section 1531, subsection 2.

22 B. "County assessment" means ~~total annual county appropriations reduced by all~~
23 ~~resources available to fund those appropriations other than the county tax.~~

24 (1) For the tax year of any county that began prior to January 1, 2009, total
25 annual county appropriations reduced by all resources available to fund those
26 appropriations other than the county tax; or

27 (2) For the tax year of any county that begins on or after January 1, 2009, total
28 annual county appropriations for noncorrectional-related services as established
29 in section 701, reduced by all resources available to fund those appropriations
30 other than the county tax.

31 C. "Forecasted inflation" has the same meaning as under Title 5, section 1531,
32 subsection 6.

33 D. "Property growth factor" means the percentage equivalent to a fraction
34 ~~established by a county~~, whose denominator is the total valuation of all
35 municipalities, plantations and unorganized territory in the county, and whose
36 numerator is the amount of increase in the assessed valuation of any real or personal
37 property in those jurisdictions that became subject to taxation for the first time, or
38 taxed as a separate parcel for the first time for the most recent property tax year for
39 which information is available, or that has had an increase in its assessed valuation
40 over the prior year's valuation as a result of improvements to or expansion of the
41 property. The State Tax Assessor shall provide to the counties forms and a

1 methodology for the calculation of the property growth factor, and the counties shall
2 use those forms and the methodology to establish the property growth factor.

3 E. "State and local tax burden" has the same meaning as under Title 5, section
4 1531, subsection 9.

5 **Sec. 11. 30-A MRSA §709** is enacted to read:

6 **§709. County correctional services budgets presented to State Board of Corrections**

7 Notwithstanding any other provision of law, beginning July 1, 2008 and for all
8 subsequent fiscal years, 4 months prior to the beginning of the fiscal year the county clerk
9 from each county shall submit that county's annual correctional services budget for the
10 state fiscal year to the State Board of Corrections established in Title 5, section 12004-G,
11 subsection 6-C. The budget submitted must be signed by the chair of the county
12 commissioners and attested to by the county commissioners' clerk. The budget must
13 include specific amounts for each correctional services related expenditure.

14 **Sec. 12. 30-A MRSA §710** is enacted to read:

15 **§710. County correctional services budget procedure**

16 **1. Budget growth limitation and proposed budget.** At least 6 months before the
17 beginning of each state fiscal year, the State Board of Corrections, established in Title 5,
18 section 12004-G, subsection 6-C and referred to in this section as "the board," shall set a
19 growth limitation for the correctional services expenditures in the new fiscal year for each
20 county budget. The county commissioners shall submit itemized correctional services
21 budgets to the board in a format and by a date to be determined annually by the board.

22 **2. Limitation on growth of county correctional services budgets.** The board shall
23 review each county correctional services budget submitted under subsection 1. If the
24 county correctional services budget submitted to the board does not exceed the growth
25 limitation established under subsection 1 and is consistent with board directives under
26 Title 34-A, section 1803, the board must accept the county commissioners' approval of
27 the county's correctional services budget.

28 If the county correctional services budget submitted exceeds the growth limitation
29 established under subsection 1 or is inconsistent with board directives under Title 34-A,
30 section 1803, the board must further review, amend and adopt a correctional services
31 budget for the county under subsections 3, 4 and 5.

32 **3. Hearing on county commissioners' budget.** If a county correctional services
33 budget submitted to the board exceeds the growth limitation established under subsection
34 1 or is inconsistent with a directive of the board under Title 34-A, section 1803, the board
35 must further review the proposed budget together with any supplementary material
36 prepared by the county commissioners, county correctional services administrators, the
37 Department of Corrections or any other person or entity from whom the board chooses to
38 receive supplementary material. The board may hold a hearing under this subsection,
39 except that it shall hold a hearing on a county correctional services budget when the
40 county requests a hearing. If the board holds a hearing under this subsection, the
41 provisions of Title 5, chapter 375, subchapter 4 apply.

1 4. Budget adjustment process. For a county correctional services budget submitted
2 to the board, the board may amend or accept the proposed budget provided that the total
3 estimated revenues, together with the amount of county tax to be levied pursuant to
4 section 701, subsections 2-A and 2-B, equal the total estimated expenditures.

5 5. Adoption of budget. After review of a county correctional services budget
6 submitted to the board under subsection 2, a hearing, if necessary pursuant to subsection
7 3, and the adjustment process under subsection 4, the board shall adopt a final
8 correctional services budget for the county and transmit that budget to the county
9 commissioners.

10 6. Assessment of taxes. The property tax assessment for county correctional
11 services expenditures as established in section 701, subsection 2-A, and the county jail
12 debt assessment established in section 701, subsection 2-B, approved by the board
13 processes, are the final authorization for the assessment of county taxes. The budget must
14 be sent to the county commissioners and the county tax must be authorized, apportioned
15 and collected in accordance with section 706.

16 **Sec. 13. 30-A MRSA §932, sub-§3** is enacted to read:

17 3. Change of fiscal year. County commissioners in a county that is changing from a
18 January to December fiscal year to a July to June fiscal year pursuant to section 708 are
19 authorized to borrow money for the purpose of a transitional budget by issuing bonds or
20 notes in anticipation of taxes. The tax anticipation note covers the 6-month period of
21 January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st.
22 County commissioners may borrow an amount that does not exceed the taxes anticipated
23 from the transitional budgets, and the period of borrowing may not exceed 5 years.
24 County commissioners may issue a tax anticipation note pursuant to this subsection only
25 once.

26 Prior to February 15th of the transitional budget year, the municipal officers of each
27 municipality in the county shall notify the county clerk in writing of the manner in which
28 the municipality intends to pay its portion of the transitional county budget for the period
29 of January 1st to June 30th. At the time of notification, the municipal officers shall
30 indicate whether the municipality intends to pay its full share of the January 1st to June
31 30th transitional budget by December 31st of that year in accordance with section 706 or
32 whether the municipality intends to pay its share of the transitional budget in equal
33 payments over 2, 3, 4 or 5 years, ending no later than 5 years. In accordance with the
34 payment schedule indicated in its notification, a municipality not paying its full portion of
35 the transitional budget in that year shall make payments for the transitional budget to the
36 county at the time the municipality makes its payment to the county for the current year.
37 Each municipality is responsible to the county for the municipality's share of the January
38 1st to June 30th transitional budget and any interest incurred by the county for borrowing
39 on behalf of the municipality in anticipation of taxes as provided in this subsection.

40 **Sec. 14. 30-A MRSA §1557-A**, as enacted by PL 1995, c. 647, §5, is repealed.

41 **Sec. 15. 30-A MRSA §1558**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C,
42 §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

43 **Sec. 16. 30-A MRSA §1656**, as amended by PL 2001, c. 458, §2, is repealed.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 **Sec. 17. 30-A MRSA §1671, sub-§1**, as enacted by PL 2007, c. 377, §7, is
2 amended to read:

3 **1. Establishment.** Each county, or each county working jointly with another county
4 or other counties or with the Department of Corrections, may establish a local criminal
5 justice planning committee, referred to in this subchapter as "the committee." ~~Only a~~
6 ~~county that establishes or participates as a member of a criminal justice planning~~
7 ~~committee may apply for funds from the Community Corrections Incentive Fund~~
8 ~~distributed pursuant to Title 34-A, section 1210-C.~~

9 **Sec. 18. 30-A MRSA §1671, sub-§3**, as enacted by PL 2007, c. 377, §7, is
10 amended to read:

11 **3. Duties.** Each committee shall collaborate with each other and coordinate efforts
12 to educate, update and increase the use of evidence-based community corrections
13 practices at the local level. The duties of each committee include:

14 A. Developing and adopting a mission statement consistent with the purposes of the
15 ~~State Sentencing and Corrections Practices Coordinating Council~~ State Board of
16 Corrections established in Title 34-A, section 1209-A;

17 B. Regularly assessing county correctional needs and determining what community
18 correctional programs best meet those needs; and

19 ~~C. Establishing policy and directing the planning, funding, development,~~
20 ~~implementation and evaluation of recommended community corrections programs~~
21 ~~determined to meet the intent of the State Sentencing and Corrections Practices~~
22 ~~Coordinating Council, established in Title 34-A, section 1209-A, and the principles~~
23 ~~of evidence-based correctional practices;~~

24 ~~D. Receiving, reviewing and submitting to the county commissioners any~~
25 ~~applications for a grant for a community corrections initiative from the Community~~
26 ~~Corrections Incentive Fund, established in Title 34-A, section 1210-C, that meets~~
27 ~~standards and community needs as determined by the committee. Upon receipt of the~~
28 ~~committee's recommendations, the county commissioners shall forward the grant~~
29 ~~application to the State Sentencing and Corrections Practices Coordinating Council,~~
30 ~~established in Title 34-A, section 1209-A; and~~

31 E. Monitoring and overseeing community corrections investments and programming,
32 tracking outcomes and making necessary recommendations for change to ensure
33 efficient and effective evidence-based community corrections programming.

34 **Sec. 19. 30-A MRSA §1671, sub-§4**, as enacted by PL 2007, c. 377, §7, is
35 repealed.

36 **Sec. 20. 30-A MRSA §1671, sub-§5**, as enacted by PL 2007, c. 377, §7, is
37 repealed.

38 **Sec. 21. 34-A MRSA §1209-A, sub-§2, ¶H**, as enacted by PL 2007, c. 377, §8,
39 is amended to read:

40 H. A representative of a statewide municipal association nominated by the
41 association and appointed by the Governor; and

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "**B**" to H.P. 1466, L.D. 2080

1 **Sec. 22. 34-A MRSA §1209-A, sub-§2, ¶I**, as enacted by PL 2007, c. 377, §8, is
2 amended to read:

3 I. A representative of a statewide organization for victims of crime appointed by the
4 Governor; and

5 **Sec. 23. 34-A MRSA §1209-A, sub-§2, ¶J** is enacted to read:

6 J. The chair of the State Board of Corrections established in Title 5, section 12004-
7 G, subsection 6-C.

8 **Sec. 24. 34-A MRSA §1209-A, sub-§5**, as enacted by PL 2007, c. 377, §8, is
9 amended to read:

10 **5. Duties.** The council shall coordinate criminal justice information and collaborate
11 with persons who work in the criminal justice fields. Specifically, the council shall:

12 ~~A. Establish strategic goals and outcomes to guide the investment in and~~
13 ~~expenditures on corrections programs and facilities;~~

14 B. Monitor sentencing practices and review ongoing data collection on recidivism
15 and programming, in consultation with research organizations and universities, to
16 make informed decisions regarding sentencing practices, corrections funding and
17 programming;

18 C. Develop recommended correctional and sentencing standards based on evidence-
19 based correctional practices and promote and support the use of evidence-based
20 correctional practices for managing the risks and needs of offenders and pretrial
21 defendants;

22 D. Provide information and assistance to county and state corrections officials
23 regarding current evidence-based correctional practices and provide a forum for
24 sharing information on evidence-based correctional practices that are used throughout
25 the State;

26 ~~E. Monitor the status of the state and local correctional systems, project future~~
27 ~~facility needs and develop recommendations for new or expanded facilities and~~
28 ~~programs;~~

29 ~~F. Monitor and evaluate county use of state jail subsidies and recommend changes to~~
30 ~~the correctional system if necessary;~~

31 ~~G. Monitor and evaluate the use of community corrections funds by the counties and~~
32 ~~make recommendations for the use and allocation of these funds as necessary;~~

33 ~~H. Regarding the Community Corrections Incentive Fund established in section~~
34 ~~1210 C, provide standards and guidance to fund applicants, receive and review~~
35 ~~applications for grants from the fund, approve applications that meet the standards~~
36 ~~and administer the grants;~~

37 ~~I. Monitor and evaluate the use of awards from the Community Corrections~~
38 ~~Incentive Fund, established in section 1210 C, and recommend changes or~~
39 ~~modifications to the use of these funds as necessary;~~

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 J. Review laws and policies and monitor proposed legislation and policies that affect
2 the state and county criminal justice and correctional systems ~~and~~ ; make
3 recommendations to the legislative, executive and judicial branches regarding these
4 proposals; and report these findings to and consult with the State Board of
5 Corrections established in Title 5, section 12004-G, subsection 6-C; and

6 K. Identify current and proposed policies that unnecessarily burden the criminal
7 justice and correctional systems and develop recommendations to appropriately
8 remedy these burdens.

9 **Sec. 25. 34-A MRSA §1210-A**, as amended by PL 2007, c. 377, §§9 to 11, is
10 further amended to read:

11 **§1210-A. Community corrections**

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

14 A. "Community corrections" means the delivery of correctional services for adults
15 in the least restrictive manner that ensures the public safety by the county or for the
16 county under contract with a public or private entity. "Community corrections"
17 includes, but is not limited to, preventive or diversionary correctional programs,
18 pretrial release or conditional release programs, alternative sentencing or housing
19 programs, electronic monitoring, residential treatment and halfway house programs,
20 community correctional centers and temporary release programs from a facility for
21 the detention or confinement of persons convicted of crimes.

22 **2. Establishment of County Jail Prisoner Support and Community Corrections**
23 **Fund.** The County Jail Prisoner Support and Community Corrections Fund is established
24 for the purpose of providing state funding for a portion of the counties' costs of the
25 support of prisoners detained or sentenced to county jails and for establishing and
26 maintaining community corrections as defined in subsection 1.

27 **3. Distribution.** Beginning July 1, 1998 and annually thereafter, the department
28 shall distribute the County Jail Prisoner Support and Community Corrections Fund to
29 counties based on the percent distribution of actual funds reimbursed to counties pursuant
30 to former section 1210 in fiscal year 1996-97. The percent distribution per county is as
31 follows:

- 32 A. Androscoggin: 8.5%;
33 B. Aroostook: 6.6%;
34 C. Cumberland: 17.6%;
35 D. Franklin: 2.4%;
36 E. Hancock: 3.3%;
37 F. Kennebec: 6.9%;
38 G. Knox: 6.4%;
39 H. Lincoln: 3.7%;
40 I. Oxford: 4.7%;

16013

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

- 1 J. Penobscot: 13.7%;
- 2 K. Piscataquis: 1.3%;
- 3 L. Sagadahoc: 2.7%;
- 4 M. Somerset: 5.5%;
- 5 N. Waldo: 3.7%;
- 6 O. Washington: 1.8%; and
- 7 P. York: 11.2%.

8 The appropriation for fiscal year 2008-09 for the County Jail Prisoner Support and
9 Community Corrections Fund must be no less than the appropriation for fiscal year 2007-
10 08.

11 **4. Change in state funding of county jails.** If a county experiences at least a 10%
12 increase in the total annual jail operating budget or if a county issues a bond for the
13 construction of a new jail or renovation of an existing jail, the county may file with the
14 department a request for an increase in the amount of state funds the county receives for
15 the support of prisoners. A county must file a request for an increase in the amount of
16 state funds the county receives for the support of prisoners by February 15th for an
17 increase experienced in the prior fiscal year. The department shall review the request
18 and, if the county demonstrates to the department a need for the increase, the department
19 shall distribute the approved amount to the county from the surcharges collected under
20 subsection 9. All funds distributed under this subsection must be used only for the
21 purpose of funding counties' costs of the support of prisoners detained or sentenced to
22 county jails and for establishing and maintaining community corrections. The department
23 shall forward the request and supporting documents to the joint standing committee of the
24 Legislature having jurisdiction over corrections and criminal justice matters of a county's
25 requested increase and any distributions made to counties under this subsection.

26 **5. Community corrections program account.** Each county treasurer shall place
27 20% of the funds received from the department pursuant to this section into a separate
28 community corrections program account. A county may use funds placed in this account
29 only for adult community corrections as defined in subsection 1.

30 Before distributing to a county that county's entire distribution from the County Jail
31 Prisoner Support and Community Corrections Fund, the department shall require that
32 county to submit appropriate documentation verifying that the county expended 20% of
33 its prior distribution for the purpose of community corrections as defined in subsection 1.
34 If a county fails to submit appropriate documentation verifying that the county expended
35 20% of its prior distribution for the purpose of community corrections, the department
36 shall distribute to that county only 80% of its distribution from the County Jail Prisoner
37 Support and Community Corrections Fund. The department shall distribute the 20% not
38 distributed to that county to all other counties that submit appropriate documentation
39 verifying compliance with the 20% expenditure requirement for the purpose of
40 community corrections. The department shall distribute these funds to those qualifying
41 counties in an amount equal to each county's percent distribution pursuant to subsection
42 3.

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 ~~6. Report.~~ Beginning January 15, 1999 and annually thereafter, each county shall
2 submit a written report to the joint standing committee of the Legislature having
3 jurisdiction over corrections and criminal justice matters. Reports must include
4 descriptions of each county's community corrections programs and an accounting of
5 expenditures for its community corrections.

6 ~~7. Technical assistance.~~ The commissioner shall provide technical assistance to
7 counties and county advisory groups to aid them in the planning and development of
8 community corrections.

9 ~~8. Review.~~ By July 1, 2001, the joint standing committee of the Legislature having
10 jurisdiction over corrections and criminal justice matters shall review the County Jail
11 Prisoner Support and Community Corrections Fund and its purpose and functions.

12 **9. Surcharge imposed.** In addition to the 14% surcharge collected pursuant to Title
13 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or
14 penalty imposed by any court in this State, which for the purposes of collection and
15 collection procedures is considered a part of the fine, forfeiture or penalty. ~~Except as~~
16 ~~provided in subsection 10, all~~ All funds collected pursuant to this subsection are
17 nonlapsing and must be deposited monthly in the County Jail Prisoner Support and
18 Community Corrections Fund that is administered by the department. ~~Except as provided~~
19 ~~in subsection 10, all~~ All funds collected pursuant to this subsection must be distributed to
20 counties that have experienced at least a 10% increase in their total annual jail operating
21 budget or to counties that have issued bonds for the construction of a new jail or
22 renovation of an existing jail and that meet all other requirements under subsection 4.
23 Funds distributed to counties pursuant to this subsection must be used for the sole
24 purpose of funding costs of the support of prisoners detained or sentenced to county jails
25 and for establishing and maintaining community corrections.

26 ~~10. Implementation.~~ The first \$23,658 collected under subsection 9 after the
27 effective date of this subsection must be transferred to the Judicial Department to cover
28 the costs of implementing the collection of surcharges.

29 **11. Repeal.** This section is repealed July 1, 2008 2009.

30 **Sec. 26. 34-A MRSA §1210-B**, as amended by PL 2007, c. 539, Pt. SSS, §1, is
31 repealed.

32 **Sec. 27. 34-A MRSA §1210-C**, as enacted by PL 2007, c. 377, §13, is repealed.

33 **Sec. 28. 34-A MRSA §1404** is enacted to read:

34 **§1404. Duties and powers of the commissioner in support of State Board of**
35 **Corrections**

36 In addition to other duties and powers set out in this Title, the commissioner has the
37 following duties and powers to support the State Board of Corrections, referred to in this
38 section as "the board," in its efforts to accomplish its purpose as described in section
39 1801.

40 **1. Managing facility capacity and inmate placement.** Consistent with the board's
41 determination of facility use and purpose under section 1803, subsection 2, paragraph A,
42 the commissioner is responsible for the daily management of inmate bed space

1 throughout the unified correctional system and shall direct the transfer of inmates
2 between facilities in order to fulfill this responsibility. The commissioner shall develop a
3 process for information sharing between the correctional facilities and the county jails,
4 which must include at a minimum:

5 A. Daily reporting to the department by county jails of:

6 (1) Facility population by gender; classification; legal status, including pretrial
7 or sentenced; special needs; and any other parameters determined by the
8 commissioner; and

9 (2) Facility capacity and available bed space or bed space needs by the
10 reportable parameters under subparagraph (1); and

11 B. Regular consultation with sheriffs.

12 2. Unified correctional system plan. The commissioner may recommend a
13 downsizing plan and reinvestment strategies to the board.

14 3. Uniform policies and procedures. The commissioner may recommend uniform
15 practices for pretrial, revocation and reentry services to the board.

16 4. Inspections and investigation. The commissioner shall inspect county facilities
17 consistent with sections 1208 and 1208-A.

18 5. Inmates with mental illness. The commissioner shall determine the placement,
19 housing and program development for inmates with mental illness within correctional
20 facilities and county jails in accordance with standards adopted by the board.

21 6. Support of the board. The commissioner shall provide administrative staffing
22 for the board and expertise as requested by the board and shall serve as the fiscal agent
23 for the board.

24 **Sec. 29. 34-A MRSA §1405 is enacted to read:**

25 **§1405. Transfer from county jails or correctional facilities**

26 1. Transfer. The commissioner may transfer any inmate, pretrial or sentenced, from
27 one county jail to another or between a county jail and a correctional facility.

28 2. Transferee subject to rules. A sentenced person transferred under this section is
29 subject to the general rules of the facility to which the person is transferred, except that:

30 A. The term of the original sentence remains the same unless altered by the court;

31 B. The person becomes eligible for good time or deductions as provided in Title 17-
32 A, section 1253 for a person sentenced to imprisonment in a county jail or to a
33 correctional facility, whichever is applicable;

34 C. The person becomes eligible for release and discharge as provided in Title 17-A,
35 section 1254 for a person sentenced to imprisonment in a county jail or to a
36 correctional facility, whichever is applicable;

37 D. The person is entitled to have the time served in the facility under this section
38 deducted from the sentence; and

1 E. The person becomes eligible for furloughs, work or other release programs,
2 participation in public works and charitable projects and home-release monitoring as
3 authorized by Title 30-A, sections 1556, 1605, 1606 and 1659 for a person sentenced
4 to imprisonment in a county jail or work or other release programs, furloughs and
5 supervised community confinement for a person sentenced to a correctional facility
6 as authorized by sections 3033, 3035 and 3036-A, whichever is applicable, and may
7 apply pursuant to the rules governing the sending facility.

8 3. Return of inmate. The commissioner may return an inmate transferred pursuant
9 to this section back to the sending facility.

10 **Sec. 30. 34-A MRSA c. 1, sub-c. 5** is enacted to read:

11 **SUBCHAPTER 5**

12 **STATE BOARD OF CORRECTIONS**

13 **§1801. State Board of Corrections**

14 The State Board of Corrections, referred to in this subchapter as "the board," is
15 established by Title 5, section 12004-G, subsection 6-C.

16 1. Purpose of the board. The purpose of the board is to develop and implement a
17 unified correctional system that demonstrates sound fiscal management, achieves
18 efficiencies, reduces recidivism and ensures the safety and security of correctional staff,
19 inmates, visitors, volunteers and surrounding communities.

20 2. State goals. The board shall develop goals to guide the development of and
21 evaluate the effectiveness of a unified correctional system. The board shall present its
22 goals for review and approval by the joint standing committee of the Legislature having
23 jurisdiction over criminal justice and public safety matters. The goals must include
24 benchmarks for performance in the following areas:

25 A. Recidivism reduction;

26 B. Pretrial diversion; and

27 C. Rate of incarceration.

28 **§1802. Board membership**

29 1. Appointments. The board consists of 9 members who are appointed by the
30 Governor. Each appointment is subject to review by the joint standing committee of the
31 Legislature having jurisdiction over criminal justice and public safety matters and to
32 confirmation by the Senate, except those members appointed pursuant to paragraph C.
33 The following provisions govern member qualifications:

34 A. One member must be a sitting sheriff selected from a list of 3 nominations
35 submitted to the Governor by a statewide organization representing sheriffs;

36 B. One member must be a sitting county commissioner selected from a list of 3
37 nominations submitted to the Governor by a statewide organization representing
38 county commissioners;

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 C. Two members must be representatives of the executive branch and at least one of
2 the 2 must be from the department;

3 D. One member must be a municipal official selected from a list of 3 nominations
4 submitted to the Governor by a statewide organization representing elected and
5 appointed municipal officers and officials; and

6 E. The remaining 4 members must be broadly representative of the public and the
7 geographical regions of the State. One of the 4 members appointed under this
8 paragraph must be selected from a list of 3 nominations submitted to the Governor by
9 a statewide organization representing county commissioners. A member appointed
10 under this paragraph may not be an elected state or county official or municipal
11 officer and may not derive income in substantial portion from work as an employee
12 of a state, county or municipal government or in the field of corrections.

13 2. Terms. Members of the board serve at the pleasure of the Governor and must be
14 appointed for 3-year terms. A member may continue to serve until that member's
15 replacement is appointed and confirmed. A vacancy must be filled for the remainder of
16 the unexpired term. Members may be reappointed.

17 3. Chair. The board shall select a chair from among its membership. A chair may
18 serve as chair for more than one term.

19 4. Compensation. Members of the board are entitled to compensation according to
20 the provisions of Title 5, section 12004-G, subsection 6-C.

21 5. Assistance. The department shall provide administrative support for the
22 operations of the board, including but not limited to filing public notices, taking meeting
23 minutes and recording decisions.

24 6. Board meetings. The board shall meet at least 4 times per year and as often as
25 necessary at the discretion of the chair. Any 3 members of the board may call a meeting.

26 7. Quorum. Two-thirds of the members of the board constitute a quorum for
27 purposes of voting, 2/3 of the members constitute a quorum for purposes of rulemaking
28 and 3 members constitute a quorum for subcommittee hearings held by the board that do
29 not involve decision making.

30 8. Records and meetings. All meetings and records of the board are subject to the
31 provisions of Title 1, chapter 13.

32 §1803. Board responsibilities and duties

33 The board is charged with the following responsibilities and duties.

34 1. Manage the cost of corrections. The board shall develop a plan to achieve
35 systemic cost savings and cost avoidance throughout the unified correctional system with
36 the goal of operating efficient correctional services. Additionally, the board shall:

37 A. Set and enforce a yearly growth limitation for the correctional services
38 expenditures in each county budget under Title 30-A, section 710;

39 B. Develop reinvestment strategies within the unified correctional system to improve
40 services and reduce recidivism; and

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

- 1 C. Establish boarding rates for the unified correctional system, except boarding rates
2 for federal inmates.
- 3 **2. Determine correctional facility use and purpose.** The board shall:
- 4 A. Determine individual correctional facility and county jail use, including the
5 location of specialty units, which may include medical, mental health, women's and
6 substance abuse units, other specialty units and housing of pretrial and sentenced
7 populations;
- 8 B. Review staffing levels at each correctional facility and county jail to ensure that
9 safe conditions exist for staff, inmates and others; and
- 10 C. Review the use of all correctional facilities and county jails. The board may
11 downsize or close facilities or reassign services. The board shall adopt rules
12 governing the process and standards for closing or downsizing a correctional facility
13 or a county jail, including criteria to be evaluated and stakeholders to be consulted.
14 Rules adopted pursuant to this paragraph are major substantive rules as defined in
15 Title 5, chapter 375, subchapter 2-A.
- 16 **3. Adopt treatment standards and policies.** The board shall:
- 17 A. Adopt standards for consistent systemwide pretrial, revocation and reentry
18 practices;
- 19 B. Adopt standards for the treatment of inmates with mental illness within
20 correctional facilities and county jails, and in consultation with the State Forensic
21 Service, adopt policies for facilitating the performance of court-ordered mental health
22 evaluations within correctional facilities and county jails when appropriate; and
- 23 C. Coordinate transportation of inmates in the unified correctional system.
- 24 **4. Certificate of need.** The board shall review and may approve any future public or
25 private construction projects. The board shall establish a certificate of need process used
26 for the review and approval of any future public or private capital correctional
27 construction projects. The board shall adopt rules governing the procedures relating to
28 the certificate of need process and financing alternatives. Rules adopted pursuant to this
29 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
- 30 **5. Administrative duties.** The board shall:
- 31 A. Identify opportunities for and approve cost-saving agreements and efficiencies,
32 including, but not limited to, purchasing or contract agreements, shared staff and staff
33 training, transportation and technology initiatives. Any opportunities identified by
34 the board must be included and discussed in the board's reports to the joint standing
35 committee of the Legislature having jurisdiction over criminal justice and public
36 safety matters as required under subsection 10;
- 37 B. Consult with the State Sentencing and Corrections Practices Coordinating Council
38 established in Title 5, section 12004-I, subsection 74-E and other groups, make
39 recommendations related to sentencing and sentencing-related practices by other state
40 and local government entities to the State Sentencing and Corrections Practices
41 Coordinating Council for its consideration and utilize research and reports, including
42 those issued by the Corrections Alternatives Advisory Committee, which was

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

- 1 established by Public Law 2005, chapter 386, Part J, section 1 and amended by Public
2 Law 2005, chapter 667;
- 3 C. Assist correctional facilities and county jails when appropriate to establish,
4 achieve and maintain professional correctional accreditation standards;
- 5 D. Administer the County Jail Prisoner Support and Community Corrections Fund
6 established in section 1806 and the State Board of Corrections Investment Fund
7 established in section 1805. The board may allocate available funds from the State
8 Board of Corrections Investment Fund to meet any emergency expenses or for
9 maintenance in emergency conditions of any correctional facility or county jail. The
10 board may make allocations for these purposes only upon written request of the
11 commissioner or a county;
- 12 E. Prepare and submit to the Governor a budget for the State Board of Corrections
13 Investment Fund established in section 1805 biennially that clearly identifies the
14 financial contribution required by the State to support the actual costs of corrections
15 in addition to the capped property tax contribution under Title 30-A, section 701,
16 subsection 2-A. The board shall also propose in its budget an appropriation to the
17 State Board of Corrections Investment Fund of an amount equal to the difference
18 between the 2007-08 fiscal year's county jail debt and the amount of that year's debt
19 payment; and
- 20 F. Promote and support the use of evidence-based practices.
- 21 **6. Receive and review recommendations.** The board shall receive and review
22 recommendations submitted by the commissioner, the counties, the corrections working
23 group established in section 1804 or other interested parties concerning development of
24 downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate
25 classification, revocation and reentry services, and other recommendations with respect to
26 the delivery of state and county corrections services. The board shall consult with and
27 seek input from prosecutors; defense attorneys; judges; advocates for victims; providers
28 and advocates who work with persons with mental illness; and other interested parties.
- 29 **7. Authority limited.** The board does not have authority to exercise jurisdiction
30 over inmate grievances, labor negotiations or contracts, including personnel rules
31 negotiated as part of any collective bargaining agreement, or any aspect of the operation
32 of detention facilities or the administration of juvenile community corrections services.
- 33 **8. Rulemaking.** The board may adopt rules necessary to implement this section.
34 Unless otherwise indicated, rules adopted pursuant to this subsection are routine technical
35 rules as defined in Title 5, chapter 375, subchapter 2-A.
- 36 **9. Appeals.** Only the department or a county aggrieved by a final decision of the
37 board is entitled to judicial review pursuant to Title 5, section 11001. Such review must
38 be limited to errors of law.
- 39 **10. Reporting.** The board shall make initial reports to the joint standing committee
40 of the Legislature having jurisdiction over criminal justice and public safety matters by
41 January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least
42 annually, beginning January 15, 2010, and as requested. Reports must include any

1 recommendations for amending laws relating to the unified correctional system or the
2 board.

3 **11. Committee review.** The joint standing committee of the Legislature having
4 jurisdiction over criminal justice and public safety matters shall conduct an initial review
5 by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of
6 the board in fulfilling its purposes, including but not limited to a review of the board's
7 identification of opportunities for and agreements regarding cost savings and efficiencies
8 in purchasing, training, transportation and technology. The committee has authority to
9 report out legislation upon completing its review each year.

10 **§1804. Corrections working group**

11 The commissioner, the president of a statewide county commissioners association
12 and the president of a statewide sheriffs association shall develop a memorandum of
13 understanding for approval by the board that establishes an informal corrections working
14 group consisting of representatives of the department, sheriffs and county commissioners.
15 The commissioner, the president of a statewide county commissioners association and the
16 president of a statewide sheriffs association shall name 2 cochairs to convene and lead the
17 working group. One chair must represent the department and one chair must represent
18 county government. The cochairs shall select the remaining members of the working
19 group based on criteria established by the parties in the memorandum of understanding.

20 The corrections working group shall meet as needed and as requested by either one or
21 both cochairs to engage in information sharing and to discuss and resolve any issues or
22 problems experienced in daily operation of the unified correctional system, including the
23 placement of inmates. The group shall advise and assist the board in the ongoing
24 improvement of the unified correctional system. In carrying out this function, the
25 working group may consult with experts and stakeholders, including but not limited to
26 prosecutors, defense attorneys, judges, victim advocates, providers and advocates for
27 persons with mental illness and other interested parties. If an issue arises that cannot be
28 responded to by the working group, the board shall meet to review the issue. The
29 working group shall report to the board.

30 **§1805. State Board of Corrections Investment Fund**

31 **1. Fund established.** The State Board of Corrections Investment Fund, referred to
32 in this section as "the fund," is an enterprise fund established within the Department of
33 Administrative and Financial Services for the purposes specified in this section.

34 **2. Expenditures from fund.** Except as otherwise provided in this section, amounts
35 in the fund may be expended only to compensate county governments and the department
36 for costs approved by the board and the Legislature.

37 **3. Sources of fund.** The State Controller shall credit to the fund:

38 A. Any net county assessment revenue pursuant to Title 30-A, section 701,
39 subsection 2-A in excess of county jail appropriations in counties where jails or
40 correctional services have been closed or downsized;

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

- 1 B. Any net county assessment revenue in excess of county jail expenditures in
2 counties where changes in jail operations pursuant to board directives under section
3 1803 have reduced jail expenses;
- 4 C. Funds appropriated by the Legislature including funds appropriated pursuant to
5 section 1803, subsection 5, paragraph E;
- 6 D. Money from any other source, whether public or private, designated into or
7 credited to the fund; and
- 8 E. Interest earned or other investment income on balances in the fund.
- 9 **4. Unencumbered balances.** Any unencumbered balance remaining at the end of
10 any fiscal year does not lapse but is carried forward to be expended for the purposes
11 specified in this section and may not be made available for any other purpose.
- 12 **5. Report by commissioner.** The commissioner shall report at least annually on or
13 before the 2nd Friday in December to the joint standing committee of the Legislature
14 having jurisdiction over appropriations and financial affairs and the joint standing
15 committee of the Legislature having jurisdiction over criminal justice and public safety
16 matters. The report must summarize the activity in any funds or accounts directly related
17 to this section.
- 18 **6. Restricted accounts.** The State Controller is authorized to establish separate
19 accounts within the fund in order to segregate money received by the fund from any
20 source, whether public or private, that requires as a condition of the contribution to the
21 fund that the use of the money contributed be restricted to the purposes specified. Money
22 credited to a restricted account established under this subsection may be applied only to
23 the purposes to which the account is restricted.
- 24 **§1806. Community corrections funds distributed by board**
- 25 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
26 following terms have the following meanings.
- 27 A. "Community corrections" means correctional services for adults delivered in the
28 least restrictive manner that ensures the public safety by the county or for the county
29 under contract with a public or private entity. "Community corrections" includes, but
30 is not limited to, preventive or diversionary correctional programs, pretrial release or
31 conditional release programs, alternative sentencing or housing programs, electronic
32 monitoring, residential treatment and halfway house programs, community
33 correctional centers and temporary release programs from a facility for the detention
34 or confinement of persons convicted of crimes.
- 35 **2. Establishment of County Jail Prisoner Support and Community Corrections**
36 **Fund.** The County Jail Prisoner Support and Community Corrections Fund is established
37 for the purpose of providing state funding for a portion of the counties' costs of the
38 support of prisoners detained in or sentenced to county jails and for establishing and
39 maintaining community corrections.
- 40 **3. Distribution.** Beginning July 1, 2009 and annually thereafter, the board shall
41 distribute the County Jail Prisoner Support and Community Corrections Fund to counties
42 based on the percent distribution of actual funds reimbursed to counties pursuant to

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 former section 1210 in fiscal year 1996-97. The percent distribution per county is as
2 follows:

3 A. Androscoggin: 8.5%;

4 B. Aroostook: 6.6%;

5 C. Cumberland: 17.6%;

6 D. Franklin: 2.4%;

7 E. Hancock: 3.3%;

8 F. Kennebec: 6.9%;

9 G. Knox: 6.4%;

10 H. Lincoln: 3.7%;

11 I. Oxford: 4.7%;

12 J. Penobscot: 13.7%;

13 K. Piscataquis: 1.3%;

14 L. Sagadahoc: 2.7%;

15 M. Somerset: 5.5%;

16 N. Waldo: 3.7%;

17 O. Washington: 1.8%; and

18 P. York: 11.2%.

19 **4. Authority to deviate from percent distribution.** Notwithstanding subsection 3,
20 the board may alter the percent distribution to a county based on a substantial change in
21 the nature or extent of correctional services provided by that county.

22 **5. Change in state funding of county jails.** If a county experiences at least a 10%
23 increase in the total annual jail operating budget or if a county issues a bond for the
24 construction of a new jail or renovation of an existing jail, the county may file with the
25 board a request for an increase in the amount of state funds the county receives for the
26 support of prisoners. A county must file a request for an increase in the amount of state
27 funds the county receives for the support of prisoners by February 15th for an increase
28 experienced in the prior fiscal year. The board shall review the request and, if the county
29 demonstrates to the board a need for the increase, the board shall distribute the approved
30 amount to the county from the surcharges collected under subsection 7. All funds
31 distributed under this subsection must be used only for the purpose of funding counties'
32 costs of the support of prisoners detained in or sentenced to county jails and for
33 establishing and maintaining community corrections. The board shall forward the request
34 and supporting documents to the joint standing committee of the Legislature having
35 jurisdiction over corrections and criminal justice matters of a county's requested increase
36 and any distributions made to counties under this subsection.

37 **6. Community corrections program account.** Each county treasurer shall place
38 20% of the funds received from the board pursuant to this section into a separate
39 community corrections program account. A county may use funds placed in this account

1 only for community corrections. Before distributing to a county that county's entire
2 distribution from the County Jail Prisoner Support and Community Corrections Fund, the
3 board shall require that county to submit appropriate documentation verifying that the
4 county expended 20% of its prior distribution for the purpose of community corrections.
5 If a county fails to submit appropriate documentation verifying that the county expended
6 20% of its prior distribution for the purpose of community corrections, the board shall
7 distribute to that county only 80% of its distribution from the County Jail Prisoner
8 Support and Community Corrections Fund. The board shall distribute the 20% not
9 distributed to that county to all other counties that submit appropriate documentation
10 verifying compliance with the 20% expenditure requirement for the purpose of
11 community corrections. The board shall distribute these funds to those qualifying
12 counties in an amount equal to each county's percent distribution pursuant to subsection
13 3.

14 **7. Surcharge imposed.** In addition to the 14% surcharge collected pursuant to Title
15 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or
16 penalty imposed by any court in this State, which for the purposes of collection and
17 collection procedures is considered a part of the fine, forfeiture or penalty. All funds
18 collected pursuant to this subsection are nonlapsing and must be deposited monthly in the
19 County Jail Prisoner Support and Community Corrections Fund that is administered by
20 the board. All funds collected pursuant to this subsection must be distributed to counties
21 that have experienced at least a 10% increase in their total annual jail operating budget or
22 to counties that have issued bonds for the construction of a new jail or renovation of an
23 existing jail and that meet all other requirements under subsection 5. Funds distributed to
24 counties pursuant to this subsection must be used for the sole purpose of funding costs of
25 the support of prisoners detained or sentenced to county jails and for establishing and
26 maintaining community corrections.

27 **8. Effective date.** This section takes effect July 1, 2009.

28 **Sec. 31. 34-A MRSA §3063,** as amended by PL 1999, c. 583, §14, is repealed.

29 **Sec. 32. 34-A MRSA §3063-A,** as amended by PL 1997, c. 464, §13, is repealed.

30 **Sec. 33. Boarding rates for state prisoners in county jails.** The boarding rate
31 charged to the Department of Corrections for housing state prisoners in the following
32 county jails for fiscal year 2008-09 may not be greater on a daily basis than:

- 33 A. Twenty dollars in Cumberland County jail;
- 34 B. Twenty-one dollars and 16 cents in York County jail; and
- 35 C. Twenty-one dollars and 16 cents in Somerset County jail.

36 The Commissioner of Corrections may negotiate agreements with other counties to
37 board state prisoners at other county jails at marginal rates as agreed upon with those
38 counties.

39 This section is repealed July 1, 2009.

40 **Sec. 34. Staggered terms and chair.** Notwithstanding the Maine Revised
41 Statutes, Title 34-A, section 1802, subsections 2 and 3, the Governor shall name one
42 public member appointed under Title 34-A, section 1802, subsection 1, paragraph E to

1 serve as the first chair of the State Board of Corrections, and that public member must be
2 appointed to a 3-year term. Two other appointees must be initially appointed to 3-year
3 terms, 3 members must be appointed to 2-year terms and the remaining 3 members must
4 be appointed to one-year terms.

5 **Sec. 35. Property ownership.** Nothing in this Act may be construed to confer to
6 the State ownership, either now or in the future, of any real or personal property owned
7 by a county. Any correctional facility or county jail downsized or closed pursuant to the
8 Maine Revised Statutes, Title 34-A, section 1803, subsection 2, paragraph C remains the
9 property of the State or county, respectively.

10 **Sec. 36. Transitional team.** Until the State Board of Corrections is appointed
11 pursuant to the Maine Revised Statutes, Title 34-A, section 1802 and approves a
12 memorandum of understanding pursuant Title 34-A, section 1804, including naming the
13 corrections working group, the Commissioner of Corrections shall invite the President of
14 the Maine Sheriffs Association and the President of the Maine County Commissioners to
15 meet to develop a temporary transitional team to develop the memorandum of
16 understanding and begin working on necessary issues in preparation of the corrections
17 working group.

18 **Sec. 37. Transition reserve account.** An operating reserve account within the
19 State Board of Corrections Investment Fund, as established by the Maine Revised
20 Statutes, Title 34-A, section 1805, for county jail budget growth during the counties'
21 2009-10 fiscal year is established. The Commissioner of Corrections shall submit a plan
22 to the Governor and the Commissioner of Administrative and Financial Services for the
23 inclusion of a \$1,500,000 appropriation to the operating reserve account of the State
24 Board of Corrections Investment Fund in a supplemental or biennial budget bill
25 authorizing appropriations and allocations for the 2009-10 fiscal year.

26 **Sec. 38. Fund for a Healthy Maine account.** If the Legislature appropriates in
27 any biennial or supplemental budget an amount for the County Jail Prisoner Support and
28 Community Corrections Fund established in the Maine Revised Statutes, Title 34-A,
29 section 1806 that is less than the amount appropriated for the County Jail Prisoner
30 Support and Community Corrections Fund under Title 34-A, section 1210-A in fiscal
31 year 2007-08, then the Legislature shall allocate funds to the State Board of Corrections
32 Investment Fund established in Title 34-A, section 1805 sufficient to make up the
33 difference from the Fund for a Healthy Maine, notwithstanding the provisions of Title 22,
34 section 1511, subsection 6.

35 **Sec. 39. Appropriations and allocations.** The following appropriations and
36 allocations are made.

37 **CORRECTIONS, DEPARTMENT OF**

38 **County Jail Prisoner Support and Community Corrections Fund 0888**

39 Initiative: Restores funds for the County Jail Prisoner Support and Community
40 Corrections Fund program.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1	FUND FOR A HEALTHY MAINE	2007-08	2008-09
2	All Other	\$0	\$1,046,562
3			
4	FUND FOR A HEALTHY MAINE TOTAL	\$0	\$1,046,562

5 **State Board of Corrections Investment Fund N048**

6 Initiative: Provides funds to board approximately 100 inmates in various county jails.

7	GENERAL FUND	2007-08	2008-09
8	All Other	\$0	\$772,340
9			
10	GENERAL FUND TOTAL	\$0	\$772,340

11 **State Board of Corrections Investment Fund N048**

12 Initiative: Provides funds for expenses of the State Board of Corrections.

13	GENERAL FUND	2007-08	2008-09
14	All Other	\$0	\$20,000
15			
16	GENERAL FUND TOTAL	\$0	\$20,000

17 **CORRECTIONS, DEPARTMENT OF**
18 **DEPARTMENT TOTALS**

19		2007-08	2008-09
20	GENERAL FUND	\$0	\$792,340
21	FUND FOR A HEALTHY MAINE	\$0	\$1,046,562
22			
23	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$1,838,902

24 **Emergency clause.** In view of the emergency cited in the preamble, this
25 legislation takes effect when approved.

26 **SUMMARY**

27 This amendment, which is the minority report, is the same as the majority report,
28 except that it includes a provision that ensures that if the Legislature appropriates in any
29 biennial or supplemental budget an amount for the County Jail Prisoner Support and

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 Community Corrections Fund established in the Maine Revised Statutes, Title 34-A,
2 section 1806 that is less than the amount appropriated for the County Jail Prisoner
3 Support and Community Corrections Fund under Title 34-A, section 1210-A in fiscal
4 year 2007-08, then the Legislature shall allocate funds to the State Board of Corrections
5 Investment Fund established in Title 34-A, section 1805 sufficient to make up the
6 difference from the Fund for a Healthy Maine, notwithstanding the provisions of Title 22,
7 section 1511, subsection 6.

8 The amendment adds emergency preamble and creates the State Board of Corrections
9 whose purpose is to develop and implement a unified correctional system. The State
10 Board of Corrections is directed to work with the counties, the Department of
11 Corrections, the Legislature and other stakeholders and interested parties in the criminal
12 justice system to coordinate and oversee a cost-efficient correctional system within the
13 State that promotes and supports the use of evidence-based practices. Specifically the
14 State Board of Corrections duties include the following.

15 The board is directed to develop benchmarks for performance in recidivism
16 reduction, pretrial diversion and the rate of incarceration. The board is also charged with
17 managing the cost of corrections by developing a plan to achieve systemic cost savings
18 and cost avoidance throughout the unified correctional system with the goal of operating
19 efficient correctional services, evaluating and determining correctional facility use and
20 purpose, adopting treatment standards and policies and reviewing and approving any
21 future public or private construction projects after establishing a certificate of need
22 process governed by the Legislature's major substantive rule process.

23 The board shall also identify opportunities for and approve cost-saving agreements
24 and efficiencies. Any opportunities identified by the board must be included and
25 discussed in the board's reports to the joint standing committee of the Legislature having
26 jurisdiction over criminal justice and public safety matters. In its work, the board shall
27 consult with the existing entities, including the State Sentencing and Corrections
28 Practices Coordinating Council, and use recent research and reports, including those
29 issued by the Corrections Alternative Advisory Committee.

30 The board shall assist correctional facilities and county jails where appropriate to
31 establish, achieve and maintain professional correctional accreditation standards;
32 administer the County Jail Prisoner Support and Community Corrections Fund
33 established in the Maine Revised Statutes, Title 34-A, section 1806 and the State Board
34 of Corrections Investment Fund established in Title 34-A, section 1805. The board may
35 allocate available funds from the State Board of Corrections Investment Fund to meet any
36 emergency expenses or for maintenance in emergency conditions of any correctional
37 facility or jail. The board may make allocations for these purposes only upon written
38 request of the Commissioner of Corrections or a county.

39 The board shall prepare and submit to the Governor a budget for the State Board of
40 Corrections Investment Fund biennially that clearly identifies the financial contribution
41 required by the State to support the actual costs of corrections in addition to the capped
42 property tax contribution. The board shall also propose in its budget an appropriation to
43 the State Board of Corrections Investment Fund of an amount equal to the difference
44 between the 2007-08 fiscal year's county jail debt and the amount of that year's debt
45 payment.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 The board receives and reviews recommendations submitted by the Commissioner of
2 Corrections, counties, the corrections working group or other interested parties
3 concerning development of downsizing plans and reinvestment strategies, uniform
4 practices for pretrial, inmate classification, revocation and reentry services and other
5 recommendations with respect to the delivery of state and county corrections services.
6 The board shall consult with and seek input from prosecutors; defense attorneys; judges;
7 advocates for victims; providers and advocates who work with persons with mental
8 illness; and other interested parties.

9 The board does not have authority to exercise jurisdiction over inmate grievances,
10 labor negotiations or contracts, including personnel rules negotiated as part of any
11 collective bargaining agreement, or any aspect of the operation of juvenile facilities or the
12 administration of juvenile community corrections services.

13 If a county or the Department of Corrections is aggrieved by a final decision of the
14 board, the county or the department is entitled to judicial review pursuant to Title 5,
15 section 11001, and any review must be limited to errors of law.

16 The board shall make initial reports to the joint standing committee of the Legislature
17 having jurisdiction over criminal justice and public safety matters by January 15, 2009
18 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning
19 January 15, 2010, and as requested. Reports must include any recommendations for
20 amending laws relating to the unified correctional system or the board. The joint
21 standing committee shall conduct an initial review by April 1, 2009 and annually by
22 January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes,
23 including but not limited to a review of the board's identification of opportunities for and
24 agreements regarding cost savings and efficiencies in purchasing, training, transportation
25 and technology. The committee has authority to report out legislation upon completing
26 its review each year.

27 In addition to establishing the State Board of Corrections, the amendment directs the
28 sheriffs, the county commissioners and the Commissioner of Corrections to work together
29 and in support of the State Board of Corrections by communicating to manage jail and
30 prison capacity and offender placement and by recommending uniform policies and
31 procedures. The Commissioner of Corrections is responsible for the daily management
32 of inmate bed space throughout the unified correctional system and shall develop a
33 process for information sharing between the state correctional facilities and the county
34 jails.

35 The amendment separates noncorrectional services from correctional services for
36 purposes of preparation of the county budgets. The amendment sets a cap on tax
37 assessments for correctional services for each county, so that the assessment to
38 municipalities within each county may not be greater than the fiscal year 2007-08 county
39 assessment for correctional-related expenditures. The amendment also directs the
40 counties to collect taxes from municipalities for the purpose of retiring the county jail
41 debt in existence as of July 1, 2008 until the debt is finally retired. The counties may not
42 collect taxes from the municipalities for the purpose of retiring any correctional services
43 debt issued after July 1, 2008, nor may the State pay for future correctional services debt
44 or other correctional services with revenue sources dedicated to the municipalities.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 At least 6 months before the beginning of each fiscal year, the State Board of
2 Corrections shall set a growth limitation for the correctional services expenditures in the
3 new fiscal year for each county budget. The county commissioners shall submit itemized
4 correctional services budgets to the board in a format and by a date to be determined
5 annually by the board. The board shall review each county correctional services budget
6 and if the county correctional services budget submitted to the board does not exceed the
7 growth limitation established by the board and is consistent with board directives under
8 Title 34-A, section 1803, the board shall accept the county commissioners' approval of
9 the county's correctional services budget. If the county correctional services budget
10 submitted exceeds the growth limitation established by the board or is inconsistent with
11 board directives, the board shall further review, amend and adopt a correctional services
12 budget for the county.

13 If a county correctional services budget submitted to the board exceeds the growth
14 limitation established or is inconsistent with a directive of the board, the board shall
15 further review the proposed budget together with any supplementary material prepared by
16 the county commissioners, county correctional services administrators, the Department of
17 Corrections or any other person or entity from whom the board chooses to receive
18 supplementary material. The board may hold a hearing and shall hold a hearing if the
19 county requests a hearing. For a county correctional services budget submitted to the
20 board, the board may amend or accept the proposed budget provided that the total
21 estimated revenues, together with the amount of county tax to be levied pursuant to Title
22 30-A, section 701, subsections 2-A and 2-B, equal the total estimated expenditures. After
23 review of a county correctional services budget submitted to the board, a hearing, if
24 necessary, and the adjustment process, the board shall adopt a final correctional services
25 budget for the county and transmit that budget to the county commissioners.

26 The property tax assessment for county correctional services expenditures as defined
27 in Title 30-A, section 701, subsection 2-A, and the county jail debt assessment
28 established in Title 30-A, section 701, subsection 2-B, approved by the board processes,
29 are the final authorization for the assessment of county taxes. The budget must be sent to
30 the county commissioners and the county tax authorized, apportioned and collected.

31 The amendment also provides counties an opportunity for one-time borrowing, if a
32 county chooses to amend its fiscal year. County commissioners in a county that is
33 changing from a January to December fiscal year to a July to June fiscal year are
34 authorized to borrow money for the purpose of a transitional budget by issuing bonds or
35 notes in anticipation of taxes. The tax anticipation note covers the 6-month period of
36 January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st.
37 County commissioners may borrow an amount that does not exceed the taxes anticipated
38 from the transitional budgets and the period of borrowing may not exceed 5 years.

39 The amendment requires that the County Jail Prisoner Support and Community
40 Corrections Fund pursuant to Title 34-A, section 1210-A be distributed to the counties
41 using the existing process for fiscal year 2008-09. The appropriation may be no less than
42 the appropriation for fiscal year 2007-08. Beginning July 1, 2009, the board shall
43 administer the County Jail Prisoner Support and Community Corrections Fund, using the
44 current distribution schedule and procedures described in Title 34-A, section 1210-A.

COMMITTEE AMENDMENT "B" to H.P. 1466, L.D. 2080

1 The amendment also creates the State Board of Corrections Investment Fund, which
2 is an enterprise fund that may be expended only to compensate county governments and
3 the Department of Corrections for costs approved by the board and the Legislature. The
4 State Controller shall credit to the fund any net county assessment revenue pursuant to
5 Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties
6 where jails or correctional services have been closed or downsized; any net county
7 assessment revenue in excess of county jail expenditures in counties where changes in jail
8 operations pursuant to board directives have reduced jail expenses; funds appropriated by
9 the Legislature; money from any other source, whether public or private, designated into
10 or credited to the fund; and interest earned or other investment income on balances in the
11 fund. Any unencumbered balance remaining at the end of any fiscal year does not lapse
12 but is carried forward to be expended for the purposes specified in this section and may
13 not be made available for any other purpose.

14 The amendment establishes a corrections working group consisting of representatives
15 of the department, sheriffs and county commissioners. The commissioner shall name 2
16 cochairs to convene and lead the working group. One chair must represent the
17 department and one chair must represent county government. The cochairs shall select
18 the remaining members of the working group based on criteria established by the parties
19 in a memorandum of understanding. The working group shall meet as needed and as
20 requested by either one or both cochairs to engage in information sharing and to discuss
21 and resolve any issues or problems experienced in daily operation of the unified
22 correctional system, including the placement of inmates. The group shall advise and
23 assist the board in the ongoing improvement of the unified correctional system. In
24 carrying out this function, the working group may consult with experts and stakeholders,
25 including but not limited to prosecutors, defense attorneys, judges, victim advocates,
26 providers and advocates for persons with mental illness and other interested parties. If an
27 issue arises that cannot be responded to by the working group, the board shall meet to
28 review the issue. The working group shall report to the board.

29 The amendment establishes temporary boarding rates for state prisoners in county
30 jails. The boarding rate charged to the Department of Corrections for housing state
31 prisoners in the following county jails for the fiscal year 2008-09 may not be greater on a
32 daily basis than \$20 in Cumberland County jail; \$21.16 in York County jail; and \$21.16
33 in Somerset County jail. The Commissioner of Corrections may also negotiate
34 agreements with other counties to board state prisoners at other county jails at marginal
35 rates as agreed upon with those counties. The temporary boarding rates are repealed July
36 1, 2009.

37 The amendment specifies that nothing in the legislation may be construed to confer to
38 the State ownership, either now or in the future, of any real or personal property owned
39 by a county. Any correctional facility or county jail downsized or closed pursuant to
40 Title 34-A, section 1803, subsection 2, paragraph C remains the property of the State or
41 county, respectively.

42 The amendment also establishes an operating reserve account within the State Board
43 of Corrections Investment Fund for county jail budget growth during the counties' 2009-
44 10 fiscal year. The Commissioner of Corrections shall submit a plan to the Governor and
45 Commissioner of Administrative and Financial Services for the inclusion of a \$1,500,000
46 appropriation to the operating reserve account of the State Board of Corrections

COMMITTEE AMENDMENT "b" to H.P. 1466, L.D. 2080

1 Investment Fund in a supplemental or biennial budget bill authorizing appropriations and
2 allocations for the 2009-10 fiscal year.

3 The amendment also corrects cross-references.

4 The amendment also adds an appropriations and allocations section.

5 **FISCAL NOTE REQUIRED**
6 **(See attached)**



123rd MAINE LEGISLATURE

LD 2080

LR 2952(03)

An Act To Better Coordinate and Reduce the Cost of the Delivery of State and County Correctional Services

Fiscal Note for Bill as Amended by Committee Amendment "B"
Committee: Criminal Justice and Public Safety
Fiscal Note Required: Yes

Fiscal Note

State Mandate - Funded

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$792,340	\$1,500,000	\$0
Fund for a Healthy Maine	\$0	\$1,046,562	\$1,046,562	\$1,046,562
Appropriations/Allocations				
General Fund	\$0	\$792,340	\$1,500,000	\$0
Fund for a Healthy Maine	\$0	\$1,046,562	\$1,046,562	\$1,046,562

State Mandates

Required Activity	Unit Affected	Costs
Modifies the operations of the county jails. The established cap on county tax assessments for correctional expenditures will shift additional costs to the State and is intended to fund 90% of the additional local costs.	County	Unknown

Fiscal Detail and Notes

This bill creates a unified correctional system and establishes a State Board of Corrections to manage both the county jails and state correctional facilities in cooperation with the county sheriffs and county commissioners and the Department of Corrections.

This bill adds new requirements on counties and may significantly modify the operation of the county jails. Some of these additional requirements and modifications may require additional county expenditures. Because this bill establishes a cap on county tax assessments for correctional services with the State funding the remainder of the additional costs of this coordinated correctional system, the State is providing funding sufficient to fund more than 90% of the additional county costs associated with this mandate.

This bill establishes a new enterprise fund within the Department of Corrections called the State Board of Corrections Investment Fund to compensate county governments and the department for approved costs and to credit the fund with specified efficiency savings. The State Board of Corrections will establish growth limitations for correctional services expenditures. Any net county jail assessments in excess of net county jail appropriations resulting from efficiencies or downsized facilities will accrue to the fund.

The cap on county assessments, based on a 5% assumed growth rate of county jail costs, represents a shift of costs from the counties to the State. The estimated additional state costs are approximately \$3.1 million in fiscal year 2008-09, \$6.4 million in fiscal year 2009-10 and \$9.8 million in fiscal year 2010-11. These additional costs are partially offset by a negotiated reduction of rates for boarding state prisoners at county jails. Under the direction of the State Board of Corrections, efficiencies will generate net additional savings beginning in fiscal year 2009-10. Based on estimates developed by the Department of Corrections and the State Planning Office, these savings are projected to be roughly \$12.2 million in fiscal year 2009-10 and \$13.3 million in fiscal year 2010-11.

The actual amount of the revenue accruing to the State Board of Corrections Investment Fund and the expenditures from the fund can not be established at this time.

Beginning in fiscal year 2009-10, revenue from a fine surcharge accruing as dedicated revenue to the Government Operations Surcharge Fund, currently budgeted at \$262,016 per year, will accrue to the new enterprise fund.

This bill requires the Commissioner of Corrections to submit a plan for the inclusion of a \$1,500,000 General Fund appropriation to the operating reserve account of the State Board of Corrections Investment Fund for fiscal year 2009-10.

The actual amount of the revenue accruing to the State Board of Corrections Investment Fund and the expenditures from the fund can not be established at this time and will vary depending on the plan adopted by the board for the unified state and county correctional system.

This bill also includes General Fund appropriations for the following:

1. \$772,340 in fiscal year 2008-09 to the State Board of Corrections Investment Fund account within the Department of Corrections to provide funds to board approximately 100 inmates in various county jails.
2. \$20,000 in fiscal year 2008-09 to the State Board of Corrections Investment Fund account within the Department of Corrections to provide funds for expenses for the State Board of Corrections.

This bill also includes an allocation from the Fund for a Healthy Maine of \$1,046,562 in fiscal year 2008-09 to the County Jail Prisoner Support and Community Corrections Fund account within the Department of Corrections to restore the amount appropriated for this program up to the level provided in fiscal year 2007-08.