

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1850

H.P. 1287

House of Representatives, March 1, 2018

**An Act To Reorganize the Bureau of General Services in the
Department of Administrative and Financial Services**

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 203.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PICKETT of Dixfield.

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

2 **Sec. 1. 1 MRSA §501-A, sub-§§2, 3 and 6**, as enacted by PL 1997, c. 299, §1,
3 are amended to read:

4 **2. Production and distribution.** The publications of all agencies, the University of
5 Maine System and the Maine Maritime Academy may be printed, bound and distributed,
6 subject to Title 5, sections 43 to 46. The ~~State Purchasing Agent~~ Chief Procurement
7 Officer may determine the style in which publications may be printed and bound, with the
8 approval of the Governor.

9 **3. Annual or biennial reports.** Immediately upon receipt of any annual or biennial
10 report that is not included in the Maine State Government Annual Report provided for in
11 Title 5, sections 43 to 46, the ~~State Purchasing Agent~~ Chief Procurement Officer shall
12 deliver at least 55 copies of that annual or biennial report to the State Librarian for
13 exchange and library use. The ~~State Purchasing Agent~~ Chief Procurement Officer shall
14 deliver the balance of the number of each such report to the agency that prepared the
15 report.

16 **6. Forwarding of requisitions.** The ~~State Purchasing Agent, Central Printing~~ Chief
17 Procurement Officer and all other printing operations within State Government shall
18 forward to the State Librarian upon receipt one copy of all requisitions for publications to
19 be printed.

20 **Sec. 2. 2 MRSA §6, sub-§3**, as amended by PL 2013, c. 405, Pt. A, §1, is further
21 amended to read:

22 **3. Range 89.** The salaries of the following state officials and employees are within
23 salary range 89:

24 ~~Director, Bureau of General Services;~~
25 Director, Bureau of Alcoholic Beverages and Lottery Operations;
26 State Budget Officer;
27 State Controller;
28 Director, Bureau of Forestry;
29 Director, Governor's Office of Policy and Management;
30 Director, Energy Resources Office;
31 Director of Human Resources;
32 Director, Bureau of Parks and Lands;
33 Director of the Governor's Office of Communications;
34 Director, Bureau of Agriculture, Food and Rural Resources; and
35 Director, Bureau of Resource Information and Land Use Planning.

1 **Sec. 3. 2 MRSA §9, sub-§4**, as enacted by PL 2009, c. 655, Pt. C, §2, is amended
2 to read:

3 **4. Advice to state agencies.** The director shall advise state agencies regarding
4 energy-related principles for agencies to consider, along with the laws and policies
5 governing those agencies, in conjunction with the sale, lease or other allowance for use of
6 state-owned land or assets for the purpose of development of energy infrastructure. For
7 the purposes of this subsection, "state-owned" and "energy infrastructure corridor" have
8 the same meanings as in Title 35-A, section 122, subsection 1. At a minimum, the
9 director shall consider the following principles in advising state agencies under this
10 subsection:

11 A. The principles for the determination of the long-term public interest of the State
12 as specified in Title 35-A, section 122, subsection 1-D, paragraph B;

13 B. Avoiding wherever possible the use of lands subject to the provisions of the
14 Constitution of Maine, Article IX, Section 23;

15 C. Maximizing the benefit realized from the State's strategic location within New
16 England and the northeastern region; and

17 D. Complying with the provisions of the memorandum of agreement between the
18 Maine Turnpike Authority and the Department of Transportation under Title 35-A,
19 section 122, subsection 1-C, when applicable.

20 Nothing in this subsection alters any of the responsibilities or limits any of the authority
21 of the Department of Administrative and Financial Services, Bureau of ~~General Services~~
22 Real Estate Management pursuant to Title 5. Nothing in this subsection alters or limits
23 the ability of departments or agencies of the State, along with the Bureau of ~~General~~
24 ~~Services~~ Real Estate Management pursuant to Title 5, to generate or cogenerate energy at
25 state facilities for use on site and elsewhere.

26 **Sec. 4. 3 MRSA §163, sub-§1**, as amended by PL 2003, c. 673, Pt. QQQ, §2, is
27 further amended to read:

28 **1. Executive officers.** To act as executive officer of the Legislature when it is not in
29 session and unless the Legislature otherwise orders, the Executive Director shall, with the
30 cooperation of the Secretary of the Senate and the Clerk of the House of Representatives
31 have custody of all legislative property and material, arrange for necessary supplies and
32 equipment through the State Department of Administrative and Financial Services,
33 Bureau of ~~Purchases~~ Business Management, arrange for necessary services, make all
34 arrangements for incoming sessions of the Legislature, have general oversight of
35 chambers and rooms occupied by the Legislature and permit state departments to use
36 legislative property. The Executive Director may sell, in accordance with procedures
37 established by the Legislative Council, unneeded legislative equipment and materials and,
38 with the approval of the President of the Senate and the Speaker of the House of
39 Representatives, dispose of obsolete or unusable equipment and materials through the
40 Bureau of ~~General Services'~~ Business Management's surplus property program. Proceeds
41 from the sale of unneeded equipment and materials must be credited to the legislative
42 account. The Executive Director has the authority to enter into contracts authorized by
43 the Legislative Council and shall approve accounts and vouchers for payment. A

1 perpetual inventory of all legislative property must be maintained under the supervision
2 of the Legislative Council and an accounting of the inventory must be made to the
3 Legislature upon its request.

4 **Sec. 5. 3 MRSA §342, 3rd ¶**, as amended by PL 2011, c. 691, Pt. B, §1, is further
5 amended to read:

6 All facilities so provided must be properly maintained by the Department of
7 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
8 Management.

9 **Sec. 6. 3 MRSA §901-A, sub-§2, ¶C**, as amended by PL 2011, c. 691, Pt. B, §2,
10 is further amended to read:

11 C. The ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the
12 Department of Administrative and Financial Services;

13 **Sec. 7. 3 MRSA §902-A, sub-§2**, as amended by PL 2011, c. 691, Pt. B, §3, is
14 further amended to read:

15 **2. Immediate grounds.** The immediate grounds, including Capitol Park, the area
16 bounded on the east by the Kennebec River, on the north by Capitol Street, on the south
17 by Union Street and on the west by State Street, except that the private office of the
18 Governor, at the Governor's discretion, is exempt from this chapter.

19 A. To ensure that the portion of Capitol Park that is controlled by the City of
20 Augusta remains integrated with the portion of Capitol Park that is controlled by the
21 State, the commission may, in consultation with the City of Augusta, plan for the
22 preservation and development of a unified park area.

23 B. Any action taken with respect to Capitol Park must be consistent with the plan for
24 Capitol Park developed by the Olmsted Brothers firm in 1920 as revised by the
25 Pressley firm in 1990.

26 The Department of Administrative and Financial Services, Bureau of ~~General Services~~
27 Real Estate Management may make no architectural, aesthetic or decorative addition,
28 deletion or change to any external or internal part of the State House or its immediate
29 grounds under the jurisdiction of the Legislative Council unless the council has approved
30 the change in writing in conformance with the plan adopted by the council. The
31 Governor must be notified before the council votes on any change. The commission may
32 make recommendations to the council in regard to any proposed architectural, aesthetic or
33 decorative addition, deletion or change to the internal or external part of the State House.

34 **Sec. 8. 4 MRSA §115, 3rd ¶**, as amended by PL 2009, c. 1, Pt. J, §1, is further
35 amended to read:

36 If the Chief Justice or the Chief Justice's designee is unable to negotiate the leases,
37 contracts and other arrangements as provided in this section, the Chief Justice may, with
38 the advice and approval of the Department of Administrative and Financial Services,
39 Bureau of ~~General Services~~ Real Estate Management, negotiate on behalf of the State the
40 leases, contracts and other arrangements the Chief Justice considers necessary, within the

1 limits of the budget and funds available to such court, to provide suitable quarters,
2 adequately furnished and equipped for the Supreme Judicial, Superior or District Court in
3 privately owned buildings.

4 **Sec. 9. 4 MRSA §162**, as amended by PL 2011, c. 691, Pt. B, §4, is further
5 amended to read:

6 **§162. Place for holding court; suitable quarters**

7 In each division, the place for holding court must be located in a state, county or
8 municipal building designated by the Chief Judge who, with the advice and approval of
9 the Department of Administrative and Financial Services, Bureau of ~~General Services~~
10 Real Estate Management, is empowered to negotiate on behalf of the State the leases,
11 contracts and other arrangements the Chief Judge considers necessary, within the limits
12 of the budget and the funds available, to provide suitable quarters, adequately furnished
13 and equipped for the District Court in each division.

14 The facilities of the Superior Court in each county when that court is not in session
15 must be available for use by the District Court of that division in which such facilities are
16 located. Arrangements for such use must be made by the Chief Judge.

17 If the Chief Judge is unable to negotiate the leases, contracts and other arrangements
18 as provided in this section, the Chief Judge may, with the advice and approval of the
19 Bureau of ~~General Services~~ Real Estate Management, negotiate on behalf of the State, the
20 leases, contracts and other arrangements the Chief Judge considers necessary, within the
21 limits of the budget and funds available, to provide suitable quarters, adequately
22 furnished and equipped for the District Court in privately owned buildings.

23 **Sec. 10. 4 MRSA §1604, sub-§26**, as enacted by PL 1997, c. 523, §12, is
24 amended to read:

25 **26. Delegation to Bureau of Real Estate Management.** To delegate those powers
26 that the authority may specifically exercise, or cause to be exercised, pursuant to
27 subsection 5, 6, 8, 9, 17 or 18 to the Department of Administrative and Financial
28 Services, Bureau of ~~General Services~~ Real Estate Management. The authority may
29 revoke such a delegation upon the failure of the Bureau of ~~General Services~~ Real Estate
30 Management to discharge the delegated powers. The Bureau of ~~General Services~~ Real
31 Estate Management may provide to the authority an indemnity and hold-harmless
32 agreement with respect to a delegation.

33 **Sec. 11. 5 MRSA §7-A, sub-§1, ¶D**, as amended by PL 2011, c. 691, Pt. B, §5, is
34 further amended to read:

35 D. A vehicle may be temporarily garaged off state grounds when certified by the
36 Department of Administrative and Financial Services, Bureau of ~~General Services~~
37 Real Estate Management that there is no space available on state grounds or certified
38 by the Department of Public Safety that the space available does not provide adequate
39 protection for the vehicle; or

1 **Sec. 12. 5 MRSA §18-A, sub-§4, ¶C**, as enacted by PL 2001, c. 203, §2, is
2 amended to read:

3 C. If an exemption is approved by the ~~Director of the Bureau of General Services~~
4 Chief Procurement Officer within the Department of Administrative and Financial
5 Services or the ~~director's~~ Chief Procurement Officer's designee based upon one of the
6 following and if the ~~director~~ Chief Procurement Officer gives notice of the granting
7 of this exemption to all parties bidding on the contract in question with a statement of
8 the reason for the exemption and if an opportunity is provided for any party to appeal
9 the granting of the exemption:

10 (1) When the private entity or party that proposes to contract with the State and
11 that employs the executive employee, based upon all relevant facts, is the only
12 reasonably available source to provide the service or product to the State, as
13 determined by the ~~director~~ Chief Procurement Officer; or

14 (2) When the ~~director~~ Chief Procurement Officer determines that the amount of
15 compensation to be paid to the private entity or party providing the service or
16 product to the State is de minimis.

17 **Sec. 13. 5 MRSA §43, 5th ¶**, as repealed and replaced by PL 1975, c. 436, §3, is
18 amended to read:

19 The ~~State Purchasing Agent~~ Chief Procurement Officer shall distribute a reasonable
20 number of copies of the report to each reporting agency, to legislative staff agencies and
21 to each member of the Legislature, or, in the even-numbered years, to each member-elect
22 taking office the following January. Eighty copies of the report shall ~~must~~ be delivered to
23 the State Librarian for exchange and library use. The ~~State Purchasing Agent~~ Chief
24 Procurement Officer shall prorate the cost of the report among the reporting agencies. ~~He~~
25 The Chief Procurement Officer shall provide for the sale of additional copies of the report
26 to state agencies and the public at a reasonable price sufficient to cover the cost of
27 printing and distribution. The income received under this section shall ~~must~~ be credited to
28 an Intragovernmental Service Account ~~which shall and must~~ be carried forward and
29 expended by the ~~State Purchasing Agent~~ Chief Procurement Officer for the purposes of
30 sections 43 through 46.

31 **Sec. 14. 5 MRSA §244, 2nd ¶**, as enacted by PL 2003, c. 450, §4, is amended to
32 read:

33 By September 15th of each year, the State Auditor shall schedule a meeting with each
34 joint standing committee of the Legislature having jurisdiction over those departments or
35 agencies in the audit of which the State Auditor has identified findings and the joint
36 standing committees of the Legislature having jurisdiction over appropriations and
37 financial affairs and state and local government matters. The State Auditor shall present
38 an assessment of findings and recommendations of the most recently completed audit
39 performed pursuant to this section, including, but not restricted to, questioned costs and
40 material weaknesses of state programs. The State Auditor shall notify affected state
41 agencies and applicable state central service agency officials, such as, without limitation,
42 the State Controller, State Budget Officer, ~~State Purchasing Agent~~ Chief Procurement
43 Officer and Chief Information Officer, of the meeting time and place.

1 **Sec. 15. 5 MRSA §298, 5th ¶**, as amended by PL 1993, c. 361, Pt. A, §1, is
2 further amended to read:

3 ~~The Director of Public Improvements~~ Chief Facilities Officer within the Department
4 of Administrative and Financial Services serves as the secretariat of the commission in
5 exercising its administration. The commission may, in accordance with the Maine
6 Administrative Procedure Act, chapter 375, adopt and enforce rules as it determines
7 necessary, except rules relating to the State Capitol Building under the jurisdiction of the
8 State House and Capitol Park Commission, as it determines necessary for the purposes of
9 carrying out this chapter. These rules have the force of law.

10 **Sec. 16. 5 MRSA §304**, as amended by PL 2011, c. 691, Pt. B, §6, is further
11 amended to read:

12 **§304. Approval of construction projects**

13 A construction project may not be initiated in the Capitol Area for the development
14 of state buildings and grounds following the adoption of the plan or amendments and
15 additions thereto by the Legislature without the approval of the Legislative Council, the
16 Department of Administrative and Financial Services, Bureau of ~~General Services~~ Real
17 Estate Management and the commission of the proposals and plans for the project.

18 **Sec. 17. 5 MRSA §322, sub-§1, ¶C**, as enacted by PL 1993, c. 590, §1, is
19 amended to read:

20 C. ~~The Director of the Bureau of General Services~~ Chief Facilities Officer within the
21 Department of Administrative and Financial Services;

22 **Sec. 18. 5 MRSA §323, sub-§3**, as enacted by PL 1993, c. 590, §1, is amended to
23 read:

24 **3. Alterations.** The Department of Administrative and Financial Services, Bureau of
25 ~~General Services~~ Real Estate Management may not make any architectural, aesthetic or
26 decorative addition to, deletion from or change to any external or internal part of the
27 Blaine House or its immediate grounds under the jurisdiction of the commission unless
28 the commission has approved the change in writing.

29 **Sec. 19. 5 MRSA §947-B, sub-§1, ¶E**, as enacted by PL 1991, c. 780, Pt. Y,
30 §37, is amended to read:

31 E. ~~Director, Bureau of General Services~~ Chief Facilities Officer, who directs the
32 Bureau of Real Estate Management;

33 **Sec. 20. 5 MRSA §947-B, sub-§1, ¶E-1** is enacted to read:

34 E-1. Chief Procurement Officer, who directs the Bureau of Business Management;

35 **Sec. 21. 5 MRSA §1507, sub-§3**, as amended by PL 2011, c. 691, Pt. B, §7, is
36 further amended to read:

1 **3. Purchase of real estate.** The Governor may allocate funds from such account to
2 provide funds in accordance with Title 1, section 814. Allocations may be made from this
3 fund by the Governor only upon the written request of the ~~Director of the Bureau of~~
4 ~~General Services~~ Chief Facilities Officer within the Department of Administrative and
5 Financial Services and upon consultation with the State Budget Officer.

6 **Sec. 22. 5 MRSA §1516-B, sub-§3,** as enacted by PL 2011, c. 689, §1, is
7 amended to read:

8 **3. Funding of fund.** The Department of Administrative and Financial Services,
9 Bureau of ~~General Services~~ Real Estate Management shall notify the State Controller and
10 the State Budget Officer of a relocation of a state agency from leased space to a
11 state-owned facility or a relocation of a state agency from leased space to a lower-priced
12 leased space. Any balance, net of the value of the state cost allocation program as
13 determined by the State Controller, remaining in General Fund or Other Special Revenue
14 Funds money appropriated or allocated for leased space and all facility-related expenses
15 for that agency during the biennium of the relocation as a result of savings resulting from
16 the relocation must be transferred as provided in this subsection.

17 A. The State Budget Officer shall transfer 50% of any General Fund or Other Special
18 Revenue Funds money through financial order to the fund. This transfer is considered
19 to be an adjustment to the appropriation or allocation.

20 B. The remaining balance must be transferred to the General Fund as unappropriated
21 surplus.

22 **Sec. 23. 5 MRSA §1520, sub-§1, ¶C,** as amended by PL 2005, c. 12, Pt. SS, §4,
23 is further amended to read:

24 C. The office shall establish, through the Department of Administrative and
25 Financial Services, Office of the State Controller, the Statewide Radio and Network
26 System Reserve Fund account. The funds deposited in the account may include, but
27 are not limited to, appropriations made to the account, funds transferred to the
28 account from within the Department of Administrative and Financial Services, funds
29 received from state departments and agencies using the services provided by the
30 office, earnings by the fund from the Treasurer of State's pool and proceeds from the
31 sale of system assets under the administrative control of the fund by the state surplus
32 property program in the Department of Administrative and Financial Services,
33 Bureau of ~~General Services~~ Business Management in accordance with paragraph B
34 and other provisions of law.

35 **Sec. 24. 5 MRSA §1742, first ¶,** as amended by PL 1991, c. 780, Pt. Y, §53, is
36 further amended to read:

37 The Department of Administrative and Financial Services, through the Bureau of
38 ~~General Services~~ Real Estate Management, has authority:

39 **Sec. 25. 5 MRSA §1742, sub-§7,** as amended by PL 2005, c. 386, Pt. L, §1, is
40 further amended to read:

1 **7. Approve plans for public improvements.** To approve all proposals, plans,
2 specifications and contracts for public improvements that the State or any of its agencies
3 hold in fee or by leasehold interest and for school administrative unit projects costing in
4 excess of \$100,000. The commissioner shall, upon the request of a school administrative
5 unit, provide consultation for any public improvement regardless of cost. The Bureau of
6 ~~General Services~~ Real Estate Management shall furnish a quarterly report to the project
7 unit school board that details the services provided to the project during the time period
8 covered by the report. The Bureau of ~~General Services~~ Real Estate Management shall
9 submit to the State Board of Education an annual report that summarizes the services
10 provided each project;

11 **Sec. 26. 5 MRSA §1742, sub-§26**, as amended by PL 2017, c. 284, Pt. P, §1 and
12 c. 288, Pt. B, §1, is further amended to read:

13 **26. Rental income.** To credit income from the rental of facilities in Limestone to
14 the Department of Administrative and Financial Services, Bureau of ~~General Services~~
15 Real Estate Management, Other Special Revenue Funds account. These funds must be
16 used for repairs, capital improvements and other costs of managing the facilities operated
17 by the Maine Military Authority in Limestone.

18 Notwithstanding any other provision of law and except when the Governor in the case of
19 an emergency pursuant to Title 37-B, section 742 or 744 needs money for disaster relief,
20 in which case the Governor may transfer no more than 10% of the balance of the rental
21 income, the department also may recommend that:

22 A. Part of the rental income collected by the Department of Administrative and
23 Financial Services, Bureau of ~~General Services~~ Real Estate Management pursuant to
24 this subsection be transferred to the General Fund as undedicated revenue;

25 B. Part of the rental income collected by the Department of Administrative and
26 Financial Services, Bureau of ~~General Services~~ Real Estate Management pursuant to
27 this subsection be transferred to the Department of Defense, Veterans and Emergency
28 Management, Maine National Guard Education Assistance Pilot Program, Other
29 Special Revenue Funds account for tuition assistance;

30 C. Part of the rental income collected by the Department of Administrative and
31 Financial Services, Bureau of ~~General Services~~ Real Estate Management pursuant to
32 this subsection be transferred to the Department of Defense, Veterans and Emergency
33 Management, Maine National Guard Education Assistance Pilot Program, Other
34 Special Revenue Funds account for the reimbursement of the purchase of
35 supplemental life insurance as provided for in the provisions of Title 37-B, section
36 390-B;

37 D. Beginning July 1, 2007, part of the rental income collected by the Department of
38 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
39 Management pursuant to this subsection be transferred to the Department of Defense,
40 Veterans and Emergency Management for maintenance and repair of National Guard
41 armories in the State; and

42 E. Part of the rental income collected by the Department of Administrative and
43 Financial Services, Bureau of ~~General Services~~ Real Estate Management pursuant to

1 this subsection be transferred to the Department of Defense, Veterans and Emergency
2 Management, Disaster Assistance Relief, Other Special Revenue Funds account for
3 disaster assistance;

4 **Sec. 27. 5 MRSA §1742, last ¶**, as amended by PL 1991, c. 780, Pt. Y, §58, is
5 further amended to read:

6 The head of any agency, board, commission, department of the State Government or
7 school administrative unit, not otherwise exempted by law, who contemplates any public
8 improvement, must first obtain the approval of the ~~Director of the Bureau of General~~
9 ~~Services~~ Chief Facilities Officer for such work. This paragraph is not intended to restrict
10 the head of any agency, board, commission or department of the State Government from
11 making emergency repairs to any state-owned building, public work or property or any
12 property under lease to the State Government or to restrict any school administrative unit
13 under like conditions that is under that person's supervision and control whenever it
14 appears that such repairs are immediately necessary to prevent injury to persons or further
15 damage to such buildings or property.

16 **Sec. 28. 5 MRSA §1742-B, first ¶**, as amended by PL 2005, c. 489, §1, is further
17 amended to read:

18 The Department of Administrative and Financial Services, Bureau of ~~General~~
19 ~~Services~~ Real Estate Management, referred to as "the bureau" in this section, shall
20 provide written notification to the municipal manager or, in the absence of a manager, the
21 first selectman of a state construction project or public improvement within the
22 boundaries of that municipality as soon as practicable after beginning the schematic
23 design process. If a municipality intends to review and issue building permits on state
24 construction projects and public improvements, the municipality must file a notice of
25 intent with the bureau no later than 45 days following receipt of notification by the
26 bureau of the state construction project or public improvement. Once the required notice
27 is filed, the projects and improvements to state-owned or leased buildings must comply
28 with municipal ordinances governing the construction and alteration of buildings,
29 ~~provided that as long as~~ the municipal building code standards are as stringent as, or more
30 stringent than, the code for state buildings. Prior to requesting bids, the bureau shall
31 obtain or it shall require the project designer to obtain municipal approval of the project
32 plans and specifications. Contractors and subcontractors shall obtain all necessary
33 municipal building permits and the project must be subject to municipal inspections.

34 **Sec. 29. 5 MRSA §1742-C**, as amended by PL 2013, c. 368, Pt. R, §3, is further
35 amended to read:

36 **§1742-C. Institutions of higher education**

37 The Department of Administrative and Financial Services, through the Bureau of
38 ~~General Services~~ Real Estate Management, shall provide the following services to
39 institutions of higher education.

1 **1. University of Maine System.** Notwithstanding section 1742, the Bureau of
2 ~~General Services Real Estate Management~~ is not required to provide services to the
3 University of Maine System.

4 **2. Maine Community College System; Maine Maritime Academy.** The Bureau
5 of ~~General Services Real Estate Management~~ shall provide any of the services set out in
6 section 1742, subsections 1 to 9, 12 to 14, 19 and 23 to the Maine Community College
7 System and the Maine Maritime Academy. Application of section 1742, subsection 23 to
8 these institutions is limited to all public improvements:

9 A. Costing \$25,000 or more; or

10 B. Costing less than \$25,000 when building codes or other legal requirements exist.

11 **3. Public improvements budget submission; Maine Community College System.**
12 In accordance with Title 20-A, section 12706, subsection 4-A, the Bureau of ~~General~~
13 ~~Services Real Estate Management~~ shall advise and assist the Maine Community College
14 System in developing a prioritized public improvements budget for the system. This
15 budget must be presented to the Governor and the Legislature as separate from the public
16 improvements budget developed by the Bureau of ~~General Services Real Estate~~
17 ~~Management~~ for the departments and agencies of State Government.

18 **Sec. 30. 5 MRSA §1742-D**, as amended by PL 1999, c. 776, §§1 and 2 and PL
19 2003, c. 600, §4, is further amended to read:

20 **§1742-D. Bureau of Real Estate Management; real property leases**

21 **1. Work closely with all departments and agencies.** The Department of
22 Administrative and Financial Services, Bureau of ~~General Services Real Estate~~
23 Management shall work closely with all departments and agencies in locating real
24 property leases to ensure that agency program requirements are met to the maximum
25 extent possible. The bureau shall:

26 A. Maintain records of state agency real property leasing needs and all available
27 space owned, leased and potentially available for lease, and make this information
28 available to all state agencies;

29 B. Monitor market prices for real property leases on a regional basis and establish
30 rates to be charged to state agencies on an annual basis; and

31 C. Hold all real property leases to ensure they are negotiated and managed to the best
32 economic advantage of the State.

33 **2. Establish standards; waiver.** The Bureau of ~~General Services Real Estate~~
34 Management shall establish the following:

35 A. Standards for occupant safety and comfort in leased space that are consistent with
36 law and all applicable building, fire, handicapped accessibility and environmental
37 codes; and

1 B. By July 1, 1991, standards for space use for all state facilities that ensure the
2 equitable and efficient distribution of available floor space, including common areas,
3 consistent with cost, program and functional objectives.

4 The ~~Director of the Bureau of General Services~~ Chief Facilities Officer may provide a
5 waiver of the standards and criteria established under this section if the ~~director~~ Chief
6 Facilities Officer concludes that the unique conditions of location, program or employee
7 function require such a waiver or in order to meet the purpose of Title 30-A, section
8 4349-A, subsection 2, relating to priority locations for state office buildings, courts and
9 other state civic buildings.

10 **3. Real Property Lease Internal Service Fund Account established.** The Bureau
11 of ~~General Services~~ Real Estate Management shall establish, through the Office of the
12 State Controller, the Real Property Lease Internal Service Fund Account. The funds
13 deposited in the account must include, but not be limited to, appropriations made to the
14 account, funds transferred to the account from within the Department of Administrative
15 and Financial Services and funds received from state departments and agencies using
16 leasing services provided by the bureau.

17 **4. Charges for leasing services.** The Bureau of ~~General Services~~ Real Estate
18 Management may levy charges according to a rate schedule recommended by the
19 ~~Director of the Bureau of General Services~~ Chief Facilities Officer and approved by the
20 Commissioner of Administrative and Financial Services against all departments and
21 agencies using leasing services pursuant to this section.

22 **5. Submission of budget.** The Bureau of ~~General Services~~ Real Estate Management
23 shall submit a budget of estimated revenues and costs incurred by the account in
24 connection with the leasing services established in this section.

25 **6. Staff.** The ~~Director of the Bureau of General Services~~ Chief Facilities Officer
26 shall appoint, subject to the Civil Service Law, staff necessary to carry out the purposes
27 of this section.

28 **7. Payment by department or agency.** Each department or agency using the
29 services of this program must budget adequate funds to pay the leasing services provided
30 by the Bureau of ~~General Services~~ Real Estate Management.

31 **8. Report.** The ~~Director of the Bureau of General Services~~ Chief Facilities Officer
32 shall report to the joint standing committees of the Legislature having jurisdiction over
33 state and local government matters and appropriations and financial affairs matters by
34 January 31st of each year with respect to the status of current leases, projected real
35 property leasing requirements and anticipated costs for each fiscal year.

36 **9. Exception.** The land leases of the various departments and agencies of State
37 Government are exempted from the provisions of this section.

38 **10. Downtown Leasehold Improvement Fund.** The Downtown Leasehold
39 Improvement Fund, referred to in this subsection as the "fund," is established within the
40 Bureau of ~~General Services~~ Real Estate Management to assist state agencies in securing
41 suitable space in downtowns whenever possible by providing for capital improvements to

1 real property leased by the State in downtowns necessary to meet public health, safety
2 and accessibility requirements of federal, state and local statutes and codes.

3 The fund is a nonlapsing fund consisting of sums that are appropriated by the Legislature
4 or transferred to the fund from time to time by the Treasurer of State, the proceeds of
5 notes or bonds issued by the State for the purpose of deposit in the fund, grants and
6 awards made to the State or an instrumentality of the State by the Federal Government for
7 the purpose for which the fund has been established and other funds from any public or
8 private source received for use for the purpose for which the fund has been established.

9 The bureau shall invest in leasehold improvements from this fund only when it
10 determines that the length and other terms of the lease will provide for reasonable use of
11 and return on the investments for the State.

12 The bureau may establish accounts and subaccounts as it determines desirable to
13 effectuate the purpose of the fund.

14 **Sec. 31. 5 MRSA §1742-E**, as enacted by PL 1997, c. 499, §2, is amended to
15 read:

16 **§1742-E. Bureau of Real Estate Management; asbestos, lead and indoor air quality**
17 **assessment and mitigation services**

18 **1. Asbestos, lead and indoor air quality assessment and mitigation services.** The
19 Department of Administrative and Financial Services, through the Bureau of ~~General~~
20 ~~Services~~ Real Estate Management, Division of Safety and Environmental Services, shall
21 provide asbestos, lead and indoor air quality assessment and mitigation oversight services
22 for public schools and state facilities. The Division of Safety and Environmental Services
23 is the lead agency of the State for asbestos, lead and indoor air quality matters.

24 **Sec. 32. 5 MRSA §1743, first ¶**, as repealed and replaced by PL 2001, c. 271, §1,
25 is amended to read:

26 The Department of Administrative and Financial Services through the Bureau of
27 ~~General Services~~ Real Estate Management shall award a contract in accordance with this
28 section for any public improvement that the State or any of its agencies hold in fee
29 involving a total cost in excess of \$100,000, except contracts for professional,
30 architectural and engineering services. The bureau may reject any public improvement
31 bid, qualification package or proposal when it determines that to do so is in the best
32 interests of the State. The contract must be awarded by competitive bid as provided in
33 subsection 2 or by the bid method provided in subsections 3 to 7 for alternative methods
34 of project delivery.

35 **Sec. 33. 5 MRSA §1743, sub-§1, ¶A**, as enacted by PL 2001, c. 271, §1, is
36 amended to read:

37 A. "Bureau" means the Bureau of ~~General Services~~ Real Estate Management.

38 **Sec. 34. 5 MRSA §1743, sub-§1, ¶F**, as enacted by PL 2001, c. 271, §1, is
39 repealed.

1 **Sec. 35. 5 MRSA §1743, sub-§2**, as amended by PL 2007, c. 9, §1 and c. 466, Pt.
2 C, §2, is further amended to read:

3 **2. Competitive bids.** A public improvement contract may be awarded under a
4 system of competitive bidding in accordance with this Part and such other conditions as
5 the Governor may prescribe. The competitive bidding process may be waived in
6 individual cases involving emergency circumstances with the written approval of the
7 ~~director~~ Chief Facilities Officer.

8 **Sec. 36. 5 MRSA §1743, sub-§§3 to 7**, as enacted by PL 2001, c. 271, §1, are
9 amended to read:

10 **3. Alternative methods of project delivery.** As an alternative to the competitive
11 bid method provided in subsection 2, a public improvement contract may be undertaken
12 using the construction-manager-advisor, construction-manager-at-risk or design-build
13 method of construction.

14 A. To the extent the provisions of this section do not address specific alternative
15 delivery procurement, award or administration issues, the provisions may be
16 supplemented at the discretion of the ~~director~~ Chief Facilities Officer with the
17 concepts contained in the ~~Bureau's~~ bureau's architect-engineer selection procedures
18 that are designed to achieve quality-based selection and with policies and procedures
19 adopted by rule of the bureau with the advice of the review panel.

20 B. After award of a contract or contracts for a project under an alternative method of
21 delivery, the bureau shall notify all unsuccessful proposers in writing within a
22 reasonable amount of time of the final selection and award, and make available to
23 them all scoring information used in the selection process. Upon award of the
24 contract or contracts and after resolution of any procurement disputes, the bureau
25 shall return documents submitted by unsuccessful proposers upon request.

26 C. Using the time frames and procedures established in section 1749, this paragraph
27 governs appeals from decisions on alternative methods of project delivery.

28 (1) Resolution of disputes must be by appeal to the ~~director~~ Chief Facilities
29 Officer, whose decision is the final administrative appeal.

30 (2) Nothing in this paragraph prevents an aggrieved party from seeking judicial
31 review, which may include a request for stay of award pursuant to applicable
32 laws, judicial decisions, rules and any other applicable procedures.

33 D. The ~~director~~ Chief Facilities Officer may adopt rules necessary to implement the
34 provisions for alternative project delivery methods set out in this section in
35 accordance with the Maine Administrative Procedure Act. Prior to the procurement
36 or award of any contract under an alternative delivery method, the ~~director~~ Chief
37 Facilities Officer shall adopt by rule policies and procedures to implement that
38 method. Rules adopted under this subsection are routine technical rules pursuant to
39 chapter 375, subchapter ~~H-A~~ 2-A.

40 **4. Alternative Delivery System Review Panel.** The ~~director~~ Chief Facilities
41 Officer shall establish the Alternative Delivery System Review Panel to advise the

1 ~~director~~ Chief Facilities Officer in developing alternative project delivery policies,
2 procedures and rules and in selecting public improvement projects for construction under
3 an alternative delivery method.

4 A. The review panel is composed of 6 members as follows:

5 (1) Two representatives of the bureau designated by the Commissioner of
6 Administrative and Financial Services;

7 (2) Two representatives of the construction trade, one of whom is a building
8 contractor designated by the president of a state-based organization that
9 represents building contractors and one of whom is designated by the president of
10 a state-based organization that represents specialty contractors;

11 (3) One representative designated by the president of a state-based organization
12 that represents architects; and

13 (4) One representative designated by the president of a state-based organization
14 that represents consulting engineers.

15 The private sector members serve terms of 3 years each and each appointing authority
16 shall designate an alternate who shall serve in the event of a conflict of interest.

17 B. In making a recommendation on selection of projects to the bureau, the review
18 panel shall consider the following criteria:

19 (1) Technical complexity of the project;

20 (2) Substantial time or schedule savings that are necessary to the success of the
21 project;

22 (3) Project cost control;

23 (4) The bureau's capacity to plan and manage the selected alternative project
24 delivery method of construction, either in house or through outside contract;

25 (5) Consistency and fairness in the procurement process;

26 (6) Assurance of competition; and

27 (7) Advancement of the public interest.

28 **5. Design-build method.** The design-build method must be consistent with
29 guidelines approved by a national architect, general contractor or design-build
30 organization or a combined or modified version of the guidelines approved by those
31 entities, with the final design-build procedures and documents to be determined at the
32 discretion of the bureau. The bureau may prequalify design-build teams using criteria
33 that must include at a minimum those set forth in section 1747 and may also include
34 additional criteria considered appropriate by the ~~director~~ Chief Facilities Officer.

35 A. Selection of the design-build teams is governed by this paragraph.

36 (1) Prior to publication of a request for qualifications, the bureau shall develop
37 concept and schematic designs incorporating a detailed set of program
38 requirements for the project using the services of a qualified architect, engineer
39 or other professional who is selected using the bureau's architect-engineer

1 selection rules. Individuals who are involved in developing the project's program
2 requirements may not participate in the design-build teams.

3 (2) For each project, the bureau shall publish a request for qualifications in at
4 least 2 newspapers distributed in the State, one of which must be the Kennebec
5 Journal. The bureau shall issue a request-for-qualifications package to all firms
6 requesting one in accordance with the notice. The bureau shall evaluate and rate
7 all firms submitting a responsive statement of qualifications and select the most
8 qualified firms to receive a request for proposals. Selection criteria at this stage
9 include at a minimum the ability of the competitor to satisfactorily carry out the
10 project design and construction requirements, past performance, relevant
11 experience and financial capacity to perform. The bureau may select a short list
12 of 3 to 5 firms. The bureau may pay a reasonable stipend to all responsive
13 proposers who were not selected. The amount of the stipend must be published
14 together with the evaluation criteria in the request for proposals.

15 (3) The request for proposals must set forth the scope of work, design
16 parameters, construction requirements, time constraints and all other
17 requirements that the bureau determines have a substantial impact on the cost or
18 quality of the project and the project development process. The request for
19 proposals must include the criteria for acceptable proposals and state clearly what
20 weight will be assigned to each criterion. A description of the scoring process
21 and quality criteria to be used to judge the proposals must also be contained in
22 the request for proposals. As part of the selection process, proposers must make
23 oral presentations to the selection panel established under subparagraph (4).

24 (4) The ~~director~~ Chief Facilities Officer shall appoint members of a selection
25 panel for each project. The selection panel in both the request-for-qualifications
26 and request-for-proposals phases must include design and construction
27 professionals from within the bureau, design and construction professionals from
28 outside the bureau and individuals who will use the facility.

29 (5) Each proposal must be submitted to the bureau in 2 separate components: a
30 sealed technical proposal and a sealed price proposal. These 2 components must
31 be submitted simultaneously. The selection panel shall first open and evaluate
32 and score each responsive technical proposal based on the quality criteria
33 contained in the request for proposals. Nonresponsive proposals must be
34 rejected. During this evaluation process, the price proposals must remain sealed
35 and all technical proposals are confidential. After completion of the evaluation
36 of the technical proposals, the selection panel shall publicly open and read each
37 price proposal. The bureau shall award the contract to the proposer with the
38 lowest price per quality score point, as long as that proposal meets all request-for-
39 proposals requirements. The bureau shall be permitted to modify the scoring of
40 price and quality in accordance with rules adopted by the bureau.

41 **6. Construction-manager-at-risk method.** The construction-manager-at-risk
42 method must be consistent with the concepts set forth in a standard form of agreement
43 between an owner and a construction manager when the construction manager is also the
44 constructor as established by national architect or general contractor organizations. The

1 final procedures and documents for this method of delivery are determined at the
2 discretion of the ~~director~~ Chief Facilities Officer.

3 A. The bureau shall publish in at least 2 newspapers distributed in the State, one of
4 which must be the Kennebec Journal, a request for qualifications that must contain
5 the evaluation criteria upon which proposals are evaluated. Evaluation criteria
6 include project size and scope, and relevant experience and financial and staff
7 capability of proposers. The bureau shall evaluate the proposals and determine which
8 proposers, if any, are qualified to perform the project. The bureau may select a short
9 list of 3 to 5 firms.

10 B. Proposers determined to be qualified must be invited to submit a fee proposal.
11 The bureau shall, in advance of soliciting a fee proposal, publish the evaluation
12 criteria upon which the proposers are evaluated. Evaluation criteria at a minimum
13 must include the following:

- 14 (1) Fee;
- 15 (2) Technical capacity;
- 16 (3) Management plan and project schedule if available;
- 17 (4) Experience;
- 18 (5) Past performance;
- 19 (6) Technical approach; and
- 20 (7) Composition and qualifications of the proposers' workforce.

21 As part of the selection process, proposers must make oral presentations to the
22 selection panel established under paragraph C.

23 C. The ~~director~~ Chief Facilities Officer shall appoint members of a selection panel
24 for each project. The selection panel must include representatives of the owner,
25 designer, if selected, and individuals who will use the facility. From among the
26 proposals submitted, the bureau shall select the most advantageous proposal that
27 meets the published evaluation criteria.

28 D. Subcontractors must be selected in accordance with the following provisions.
29 The bureau shall create a subcontractor prequalification panel, composed of a
30 representative from the designer, the construction manager and the bureau. The
31 construction manager shall develop detailed bid packages based on the industry
32 standard practice. The bureau shall advertise in at least 2 newspapers distributed in
33 the State, one of which must be the Kennebec Journal, for requests for qualifications
34 for each trade. The subcontractor prequalification panel shall, from the qualifications
35 submitted, determine a short list of trade contractors who must be permitted to submit
36 bids in accordance with the bid package requirements, pursuant to a publicly
37 advertised process and deadline. Bids must be opened publicly and be awarded to the
38 lowest responsive eligible bidder.

39 **7. Construction-manager-advisor method.** The construction-manager-advisor
40 method must be consistent with the standard scope of services employed by the bureau in
41 public improvement projects.

1 A. The bureau shall publish in at least 2 newspapers distributed in the State, one of
2 which must be the Kennebec Journal, a request for proposals that identifies the
3 evaluation criteria upon which proposers are evaluated. Evaluation criteria must
4 include:

- 5 (1) Fee;
- 6 (2) Technical capacity;
- 7 (3) Management plan;
- 8 (4) Experience;
- 9 (5) Past performance; and
- 10 (6) Composition of the project team, with individual resumes.

11 As part of the selection process, proposers must make oral presentations to the
12 selection panel established under paragraph B.

13 B. The ~~director~~ Chief Facilities Officer shall appoint members of a selection panel
14 for each project. The selection panel must include representatives of the owner,
15 designer, if selected, and individuals who will use the facility. From among the
16 proposals submitted, the bureau shall select the most advantageous proposal
17 according to the published evaluation criteria.

18 C. The position of general contractor must be awarded to the lowest responsive and
19 eligible bidder. Additional trade contracts, if any, must be awarded to the lowest
20 responsive and eligible bidder or bidders.

21 **Sec. 37. 5 MRSA §1743-A, first ¶**, as amended by PL 2011, c. 691, Pt. B, §11, is
22 further amended to read:

23 Any contract for the construction, major alteration or repair of school buildings
24 involving a total cost in excess of \$250,000, except contracts for professional,
25 architectural and engineering services and contracts for energy conservation services in
26 accordance with Title 20-A, section 15915, must be awarded by competitive bids. The
27 school district directors, school committee, building committee or whatever agency has
28 responsibility for the construction, major alteration or repair shall, after consultation with
29 the ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the
30 Department of Administrative and Financial Services, seek sealed proposals. Sealed
31 proposals must be addressed to the responsible agency and must remain sealed until
32 publicly opened in the presence of the responsible agency or a committee of the
33 responsible agency at such time as the responsible agency may direct. Competitive bids
34 may be waived in individual cases involving unusual circumstances with the written
35 approval of the ~~Director of the Bureau of General Services~~ Chief Facilities Officer and
36 the Commissioner of Education.

37 **Sec. 38. 5 MRSA §1743-C, sub-§§1 to 4**, as enacted by PL 1995, c. 524, §1, are
38 amended to read:

39 **1. Information to potential bidders.** The Department of Administrative and
40 Financial Services, Bureau of ~~General Services~~ Real Estate Management or the procuring

1 agency shall ensure that the bidding documents provided to potential bidders state that
2 information concerning the availability of state subcontractors and suppliers, including
3 women-owned businesses, is available from the Bureau of ~~General Services~~ Real Estate
4 Management or the Department of Economic and Community Development. The
5 statement must indicate that the use of subcontractors and suppliers and women-owned
6 businesses in the State in the procurement of its goods and services is encouraged where
7 possible.

8 **2. Notice to businesses.** The Bureau of ~~General Services~~ Real Estate Management
9 shall adopt policies to promote the participation by enterprises doing business in this
10 State and residents of this State in procurement contracts where possible. Policies must
11 include, but are not limited to, providing for the notification of enterprises doing business
12 in this State of opportunities to participate as subcontractors and suppliers on
13 procurement contracts in an amount estimated to be equal to or greater than \$100,000.

14 **3. Notice to economic development organizations.** The Bureau of ~~General~~
15 ~~Services~~ Real Estate Management or the procuring state agency shall provide notice of all
16 anticipated competitive contracting opportunities to an automated supplier matching
17 service identified as appropriate by the Department of Economic and Community
18 Development.

19 **4. Annual education session.** The Bureau of ~~General Services~~ Real Estate
20 Management shall sponsor an annual education session on procedures to procure
21 contracts with the State. The Bureau of ~~General Services~~ Real Estate Management shall
22 notify business enterprises in this State who have demonstrated an interest in
23 opportunities to participate as contractors, subcontractors or suppliers on procurement
24 contracts of the time and place of this annual education session.

25 **Sec. 39. 5 MRSA §1745**, as amended by PL 2011, c. 691, Pt. B, §12, is further
26 amended to read:

27 **§1745. Advertisement for sealed proposals; bonds**

28 The trustees, commissioners or other persons in charge of any public improvement in
29 an amount in excess of \$100,000, which is subject to chapters 141 to 155, shall, after
30 consultation with the ~~Director of the Bureau of General Services~~ Chief Facilities Officer
31 within the Department of Administrative and Financial Services, advertise for sealed
32 proposals not less than 2 weeks in such papers as the Governor may direct. The last
33 advertisement must be at least one week before the time named in the advertisement for
34 the closing of such bids. Sealed proposals for any public improvements must be
35 addressed to the trustees, commissioners or such other persons having the construction in
36 charge and remain sealed until opened at the time and place stated in the advertisement or
37 as the Governor may direct.

38 If a public improvement has been properly advertised in accordance with this chapter,
39 and no proposals have been received from a qualified person who has been bonded in
40 accordance with the requirements of Title 14, section 871, the ~~Director of the Bureau of~~
41 ~~General Services~~ Chief Facilities Officer is authorized to accept proposals from persons
42 that are not bonded in accordance with the requirements of Title 14, section 871. The

1 ~~Director of the Bureau of General Services~~ Chief Facilities Officer is authorized to set
2 reasonable standards to ensure the interest of the State in the consideration of persons
3 mentioned in this paragraph.

4 **Sec. 40. 5 MRSA §1746, last ¶**, as amended by PL 2011, c. 691, Pt. B, §13, is
5 further amended to read:

6 The ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the
7 Department of Administrative and Financial Services may approve contracts with a
8 provision for daily financial incentive for projects completed before the scheduled date
9 when it can be demonstrated that the early completion will result in a financial savings to
10 the owner or to the State. The financial incentive may not be greater than the projected
11 daily rate of savings to the owner or the State.

12 **Sec. 41. 5 MRSA §1747**, as amended by PL 2003, c. 589, §1, is further amended
13 to read:

14 **§1747. Questionnaire as prebid qualification**

15 The public official may require, from a firm proposing to bid on public work duly
16 advertised, a standard qualification statement and a letter from a licensed bonding
17 company confirming that the firm has the financial capacity to perform the work before
18 furnishing that person with plans and specifications for the proposed public work
19 advertised.

20 The ~~Director of General Services~~ Chief Facilities Officer, after consultation with the
21 appropriate department head or superintendent of schools, may refuse to release plans and
22 specifications to a contractor for the purpose of bidding on a project:

23 **1. Untimely completion.** If, in the opinion of the ~~director~~ Chief Facilities Officer,
24 there is evidence the contractor has not completed in a timely manner a prior construction
25 project or projects and the resulting noncompletion clearly reflects disregard for the
26 completion date and has created a hardship for the owner;

27 **2. Incomplete work.** If, in the opinion of the ~~director~~ Chief Facilities Officer, there
28 is evidence the contractor has a history of inability to complete similar work;

29 **3. Insufficient resources.** If, in the opinion of the ~~director~~ Chief Facilities Officer,
30 there is evidence the contractor does not have sufficient resources to successfully
31 complete the work. The ~~director~~ Chief Facilities Officer may require additional
32 information about the contractor's resources, including identification of major claims or
33 litigation pending and whether the contractor has sought protection under the bankruptcy
34 laws in the past 5 years. That information is confidential and not subject to disclosure
35 under Title 1, chapter 13, subchapter 1. In evaluating the resources of a contractor, the
36 ~~director~~ Chief Facilities Officer may consider the contractor's prior experience, including
37 any significant disparity between the size and type of prior projects and the project or
38 projects under consideration;

1 **4. Misconduct.** If the contractor has been convicted of collusion or fraud or any
2 other civil or criminal violation relating to construction projects;

3 **5. Safety record.** If, in the opinion of the ~~director~~ Chief Facilities Officer, there is
4 evidence of a history of inadequate safety performance and lack of formal safety
5 procedures;

6 **6. Material misrepresentation.** If, in the opinion of the ~~director~~ Chief Facilities
7 Officer, there is evidence of a material misrepresentation on the contractor's prebid
8 qualification statement; or

9 **7. Termination, suspension, defaults.** If, in the opinion of the ~~director~~ Chief
10 Facilities Officer, there is evidence that the contractor through its own fault has been
11 terminated, has been suspended for cause, has been debarred from bidding, has agreed to
12 refrain from bidding as part of a settlement or has defaulted on a contract or had a
13 contract completed by another party.

14 If a contractor is disqualified for any of the reasons stated in subsection 1, 2, 4, 5, 6 or
15 7, the ~~director~~ Chief Facilities Officer may disallow the contractor from bidding on any
16 similar public improvements for a period not to exceed one year.

17 **Sec. 42. 5 MRSA §1749, first ¶**, as amended by PL 1991, c. 780, Pt. Y, §60, is
18 further amended to read:

19 Any contractor dissatisfied with the ~~Director of the Bureau of General Services'~~ Chief
20 Facilities Officer's decision under section 1747 may appeal the decision to the
21 Commissioner of Administrative and Financial Services within 5 calendar days of the
22 receipt of notice from the ~~director~~ Chief Facilities Officer that the contractor has been
23 excluded from receiving plans and specifications or the ~~director~~ Chief Facilities Officer
24 has refused to accept the contractor's bid. The appeal process must be conducted at the
25 discretion of the commissioner, but must be completed and a final decision rendered
26 within 5 calendar days after the contractor's written notice of appeal unless extended by
27 the commissioner. The decision of the commissioner is final and binding. Any
28 contractor who requests a hearing under this section must be allowed to receive plans and
29 specifications for a particular duly advertised public improvement and bid on that
30 improvement. The bid of any contractor submitted under this section may be disallowed
31 upon final decision of the commissioner.

32 **Sec. 43. 5 MRSA §1749, 2nd ¶**, as amended by PL 1993, c. 49, §1, is further
33 amended to read:

34 If, in the construction of any public work, including buildings, highways, bridges,
35 dams and drainage structures that the State does by contract, there arises a dispute
36 between the State and the contractor that can not be settled, this dispute must be
37 submitted, at the discretion of the ~~Director of the Bureau of General Services~~ Chief
38 Facilities Officer, to alternative dispute resolution or to binding arbitration. Either the
39 State or the contractor may, if unsatisfied by the alternative dispute resolution process,
40 submit the dispute to binding arbitration.

1 **Sec. 44. 5 MRSA §1751**, as amended by PL 1993, c. 606, §1, is further amended
2 to read:

3 **§1751. Employment of a clerk-of-the-works**

4 A clerk-of-the-works must be employed to assist in the inspection of the construction
5 of a public improvement when directed by the ~~director~~ Chief Facilities Officer within the
6 Department of Administrative and Financial Services. The clerk shall report directly to
7 the professional architect-engineer of record for the project. In addition, the clerk shall
8 provide a report of all correspondence sent or received by the clerk to the owner. The
9 budget for the public improvement must include funding for the clerk. The clerk must be
10 hired through an open advertising and interview process by the owner and the architect-
11 engineer. The clerk candidate recommended by the architect-engineer is subject to
12 approval by both the owner and the ~~director~~ Chief Facilities Officer before being hired.
13 The architect-engineer may terminate or impose disciplinary action on the clerk after
14 consultation with the owner. The clerk must possess qualifications of education and
15 experience in construction technology and administration compatible with the needs of
16 the public improvement. The ~~director~~ Chief Facilities Officer may adopt rules relative to
17 this section.

18 **Sec. 45. 5 MRSA §1752**, as amended by PL 2011, c. 691, Pt. B, §14, is further
19 amended to read:

20 **§1752. Centrally leased space and food vending**

21 The Department of Administrative and Financial Services, Bureau of ~~General~~
22 ~~Services~~ Real Estate Management may establish a dedicated revenue account for the
23 management of space leased by the bureau for state offices and facilities. Charges levied
24 to state agencies for centrally leased space must be deposited to the dedicated revenue
25 account. A dedicated revenue account may be established for operations related to food
26 vending services.

27 **Sec. 46. 5 MRSA §1753, sub-§§1 and 2**, as enacted by PL 1993, c. 606, §2, are
28 amended to read:

29 **1. Representative's relationship to owner.** The owner's representative may be an
30 employee of the Department of Administrative and Financial Services, Bureau of ~~General~~
31 ~~Services~~ Real Estate Management, an employee of the owner or an independent
32 contractor. The owner's representative's responsibility is to act as an advisor to the
33 owner. It is the responsibility of the owner's representative to facilitate open
34 communications among all parties, to help to avoid adversarial interactions and to
35 promote a sense of trust and teamwork in order to accomplish the smooth execution of
36 the project and to see that the project is completed at the lowest possible cost and highest
37 degree of quality and workmanship that are consistent with the plans and specifications
38 for the project.

39 **2. Owner's representative qualifications.** The owner's representative must be hired
40 by the owner through an open advertising and interview process and is subject to final

1 approval by the ~~Director of the Bureau of General Services~~ Chief Facilities Officer within
2 the Department of Administrative and Financial Services.

3 **Sec. 47. 5 MRSA §1753, sub-§3, ¶B,** as enacted by PL 1993, c. 606, §2, is
4 amended to read:

5 B. Provide guidance to the owner in the selection of an architect or an engineer in
6 accordance with the architect and engineering services procurement process as
7 administered by the Department of Administrative and Financial Services, Bureau of
8 General Services Real Estate Management;

9 **Sec. 48. 5 MRSA §1753, sub-§5,** as amended by PL 1997, c. 186, §1, is further
10 amended to read:

11 **5. Report required.** A school unit employing an owner's representative under this
12 section shall provide a report to the Department of Administrative and Financial Services,
13 Bureau of ~~General Services~~ Real Estate Management describing the effectiveness of an
14 owner's representative to a project. The Bureau of ~~General Services~~ Real Estate
15 Management shall provide the joint standing committee of the Legislature having
16 jurisdiction over state and local government matters with an annual report on the
17 employment of an owner's representative, including the written comments from each
18 school unit that has chosen to employ an owner's representative under this section.

19 **Sec. 49. 5 MRSA §1762-A, first ¶,** as amended by PL 2011, c. 691, Pt. B, §15, is
20 further amended to read:

21 After January 1, 1992, unless otherwise required by law, or for reasons of health or
22 safety, the Department of Administrative and Financial Services, Bureau of ~~General~~
23 Services Real Estate Management and the following departments and agencies may not
24 purchase or install any faucet, shower head, toilet or urinal that is not a low-flow faucet, a
25 low-flow shower head, a water-saving toilet or a water-saving urinal:

26 **Sec. 50. 5 MRSA §1762-A, sub-§1,** as enacted by PL 1991, c. 246, §1, is
27 amended to read:

28 **1. Bureau of Business Management.** The Bureau of ~~Purchases~~ Business
29 Management under chapter 155;

30 **Sec. 51. 5 MRSA §1762-A, last ¶,** as amended by PL 2011, c. 691, Pt. B, §15, is
31 further amended to read:

32 ~~By January 1, 1992, the~~ The Bureau of ~~General Services~~ Real Estate Management
33 shall adopt rules defining a "low-flow faucet," a "low-flow shower head," a "water-saving
34 toilet" and a "water-saving urinal" that minimize water use to the maximum extent
35 economically and technologically feasible.

36 **Sec. 52. 5 MRSA §1763, last ¶,** as amended by PL 1997, c. 541, §1, is further
37 amended to read:

1 In the event of an emergency such as a building destroyed by fire, this requirement
2 may be waived by the Department of Administrative and Financial Services, Bureau of
3 General Services Real Estate Management.

4 **Sec. 53. 5 MRSA §1764, sub-§1**, as amended by PL 1997, c. 541, §2, is further
5 amended to read:

6 **1. Bureau of Real Estate Management to adopt rules and procedures.** The
7 Department of Administrative and Financial Services, Bureau of General Services Real
8 Estate Management shall adopt rules, including energy conservation guidelines that
9 conform as a minimum to the energy efficiency building performance standards adopted
10 by the Department of Economic and Community Development for conducting an energy-
11 related life-cycle costs analysis of alternative architectural or engineering designs, or
12 both, and shall evaluate the efficiency of energy utilization for designs in the construction
13 and lease of public improvements and public school facilities. Any rules adopted take
14 effect 90 days after the enactment of this subchapter.

15 **Sec. 54. 5 MRSA §1764, sub-§2, ¶B**, as amended by PL 1997, c. 541, §2, is
16 further amended to read:

17 B. The reasonable energy-related costs of probable maintenance, including labor and
18 materials and operation of the building, replacement costs over the expected life of
19 the facility and any other ownership cost issues identified by the Bureau of ~~General~~
20 Services Real Estate Management; and

21 **Sec. 55. 5 MRSA §1764, sub-§2, ¶C**, as enacted by PL 1997, c. 541, §2, is
22 amended to read:

23 C. A comparison of energy-related and economic-related design alternatives. The
24 Bureau of ~~General Services Real Estate Management~~ may direct the designer to
25 select, include and develop life-cycle costs for any viable alternatives that should be
26 considered.

27 **Sec. 56. 5 MRSA §1764, sub-§3**, as amended by PL 2007, c. 671, §§1 to 3, is
28 further amended to read:

29 **3. Determination of life-cycle costs.** To determine the life-cycle costs, the Bureau
30 of ~~General Services Real Estate Management~~ shall adopt rules that include but are not
31 limited to:

- 32 A. The orientation and integration of the facility with respect to its physical site;
- 33 B. The amount and type of glass employed in the facility and the directions of
34 exposure;
- 35 C. The effect of insulation incorporated into the facility design and the effect on
36 solar utilization to the properties of external surfaces;
- 37 D. The variable occupancy and operating conditions of the facility and subportions
38 of the facility;

- 1 E. Energy consumption analysis of the major equipment of the facility's heating,
2 ventilating and cooling system, lighting system, hot water system and all other major
3 energy-consuming equipment and systems as appropriate. This analysis must include:
- 4 (1) The comparison of alternative systems;
 - 5 (2) A projection of the annual energy consumption of major energy-consuming
6 equipment and systems for a range of operations of the facility over the life of the
7 facility; and
 - 8 (3) The evaluation of the energy consumption of component equipment in each
9 system, considering operation of the components at other than full or rated
10 outputs; and
- 11 F. The cost-effectiveness of integrating wind or solar electricity generating
12 equipment into the design and construction of the facility.

13 **Sec. 57. 5 MRSA §1764-A, sub-§2**, as amended by PL 2011, c. 420, Pt. A, §3, is
14 further amended to read:

15 **2. Rules.** The Department of Administrative and Financial Services, Bureau of
16 General Services Real Estate Management, in consultation with the Public Utilities
17 Commission, shall by rule require that all planning and design for the construction of new
18 or substantially renovated state-owned or state-leased buildings and buildings built with
19 state funds, including buildings funded through state bonds or the Maine Municipal Bond
20 Bank:

- 21 A. Involve consideration of architectural designs and energy systems that show the
22 greatest net benefit over the life of the building by minimizing long-term energy and
23 operating costs;
- 24 B. Include an energy-use target that exceeds by at least 20% the energy efficiency
25 standards in effect for commercial and institutional buildings pursuant to former Title
26 10, section 1415-D; and
- 27 C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a
28 minimum of 30 years and that explicitly includes the public health and environmental
29 benefits associated with energy-efficient building design and construction, to the
30 extent they can be reasonably quantified.

31 Rules adopted pursuant to this section apply to all new or substantially renovated state-
32 owned or state-leased buildings and buildings built with state funds, including buildings
33 funded through state bonds or the Maine Municipal Bond Bank, regardless of whether the
34 planning and design for construction is subject to approval by the department.

35 Rules adopted pursuant to this section may provide for exemptions, waivers or other
36 appropriate consideration for buildings with little or no energy usage, such as unheated
37 sheds or warehouses.

38 ~~The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004.~~
39 Rules adopted pursuant to this section are routine technical rules as defined in ~~Title 5,~~
40 ~~chapter 375, subchapter 2-A.~~

1 **Sec. 58. 5 MRSA §1766, first and 4th ¶¶**, as amended by PL 2011, c. 691, Pt.
2 B, §16, are further amended to read:

3 For the purposes of the installation, development or operation of any energy
4 production improvement at or in connection with a state facility, and notwithstanding any
5 other provision of law, any department or agency of the State, subject to approval of the
6 Department of Administrative and Financial Services, Bureau of ~~General Services~~ Real
7 Estate Management, may enter into an agreement with a private party under which the
8 private party may, for consideration, lease or otherwise acquire property interest,
9 exclusive of ownership in fee, in land, buildings or other existing heating facilities and
10 right of access thereto; as long as any improvement to the land, buildings or other existing
11 heating facility installed, erected, owned, developed or operated by the private party
12 utilizes biomass, solid waste or some combination of biomass and solid waste for at least
13 50% of its total energy input. The duration of the agreement may not exceed 20 years.

14 Any department or agency of the State, subject to approval by the Bureau of ~~General~~
15 Services Real Estate Management, at the termination of the agreement with the private
16 party pursuant to this section, may acquire, operate and maintain the improvement, may
17 renew the agreement with the private party or may make an agreement with another
18 private party to operate and maintain the improvement.

19 **Sec. 59. 5 MRSA §1767, first and 2nd ¶¶**, as amended by PL 2007, c. 539, Pt.
20 O, §1, are further amended to read:

21 Any department or agency of the State, subject to approval of the Department of
22 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
23 Management, may enter into an agreement with a private party such as an energy service
24 or 3rd-party financing company for the design, installation, operation, maintenance and
25 financing of energy conservation improvements at state facilities.

26 Any department or agency of the State, subject to approval by the Bureau of ~~General~~
27 Services Real Estate Management, at the termination of the agreement with the private
28 party pursuant to this section, may acquire, operate and maintain the improvement, may
29 renew the agreement with the private party or may make an agreement with another
30 private party to operate and maintain the improvement.

31 **Sec. 60. 5 MRSA §1767, last ¶**, as enacted by PL 2007, c. 539, Pt. O, §1, is
32 amended to read:

33 The Bureau of ~~General Services~~ Real Estate Management on behalf of any
34 department or agency of the State is authorized to enter into agreements with private
35 parties to study, plan, design, install, operate, maintain, finance and secure other services
36 as may be necessary for the delivery of energy conservation projects at state facilities and
37 projects to generate or cogenerate energy at state facilities for use on site and elsewhere.
38 Nothing in this section may be construed to compel the Bureau of ~~General Services~~ Real
39 Estate Management to enter into such agreements. An agreement made subject to this
40 section must be submitted to the Legislature for approval through the usual budget
41 procedure if the agreement would require a new expenditure beyond existing
42 appropriations or allocations.

1 **Sec. 61. 5 MRSA §1768**, as amended by PL 2011, c. 691, Pt. B, §17, is further
2 amended to read:

3 **§1768. Shared savings program; state agencies**

4 The ~~Department of Administrative and Financial Services, Bureau of General~~
5 ~~Services Real Estate Management~~ shall develop an energy efficiency incentive program
6 in which an eligible department or agency of the State may retain a portion of any
7 first-year energy cost savings demonstrably attributable to energy efficiency
8 improvements undertaken by that department or agency. A condition of the program is
9 that the portion of energy cost savings not retained by the department or agency must be
10 credited to the General Fund. ~~The bureau shall submit the proposed program to the joint~~
11 ~~standing committee of the Legislature having jurisdiction over state and local government~~
12 ~~matters by January 1, 1992.~~

13 **Sec. 62. 5 MRSA §1769, sub-§2, ¶C**, as amended by PL 2011, c. 691, Pt. B,
14 §18, is further amended to read:

15 C. The ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the
16 Department of Administrative and Financial Services ensures that consideration is
17 given to minimizing glare and light trespass.

18 **Sec. 63. 5 MRSA §1769, sub-§3, ¶B**, as amended by PL 2011, c. 691, Pt. B, §19,
19 is further amended to read:

20 B. The ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the
21 Department of Administrative and Financial Services determines that there is a
22 compelling safety interest that can not be addressed by any other method.

23 **Sec. 64. 5 MRSA §1782, sub-§3**, as amended by PL 2001, c. 525, §1, is repealed.

24 **Sec. 65. 5 MRSA §1783**, as amended by PL 2001, c. 525, §2, is further amended
25 to read:

26 **§1783. Lease of state-owned facilities**

27 The ~~director~~ Chief Facilities Officer shall negotiate and have final approval of any
28 lease or rental contract for all or a portion of any available state-owned building or
29 facility. No available state-owned facility or building may be leased except as provided in
30 this section, Title 12, Title 23, Title 30, chapter 233, and Resolve 1986, chapter 68.

31 **1. Unused state facilities.** In the event that an agency of jurisdiction finds that it has
32 no need for an available facility, for a period of at least one year, the ~~director~~ Chief
33 Facilities Officer may lease the available facility.

34 **2. State agencies to be given priority.** In providing for the lease of an available
35 facility, the ~~director~~ Chief Facilities Officer shall first offer the available facility to state
36 agencies in the following order:

37 A. State agencies or sub-units of state agencies which are not located in state-owned
38 facilities; and

1 B. State agencies located in state-owned facilities.

2 **3. Lease of state-owned facilities to other organizations.** In the event that no state
3 agency leases the available facility as provided in subsections 1 and 2, the ~~director~~ Chief
4 Facilities Officer, with the approval of the commissioner or director of the agency of
5 jurisdiction, may, by competitive bid, offer to lease the facility to any other organization.

6 A. Whenever the ~~director~~ Chief Facilities Officer offers to lease the available facility
7 pursuant to this subsection, the ~~director~~ Chief Facilities Officer shall offer the lease to
8 only those types of organizations that the agency of jurisdiction finds to be
9 compatible with or conducive to the operation and services of the agency of
10 jurisdiction.

11 B. Notwithstanding this subsection, the ~~director~~ Chief Facilities Officer may lease an
12 available facility or portion of an available facility to a type of organization described
13 in paragraph A without competitive bidding if:

14 (1) A total of 2,500 square feet or less in the available facility is unused and
15 therefore available for lease; or

16 (2) The space leased is limited to 50% or less of the available facility up to a
17 total of 20,000 square feet.

18 **4. Standards.** In offering a lease under the provisions of subsection 3, the ~~director~~
19 Chief Facilities Officer shall include standards and conditions in the lease as determined
20 by the commissioner or director of the agency of jurisdiction ~~which~~ that, at a minimum,
21 include the following:

22 A. The types of uses compatible with and conducive to the activities of the agency of
23 jurisdiction; and

24 B. The types of activities in which the lessee may engage which, at a minimum, shall
25 include the following:

26 (1) Any services or programs that the lessee is required to provide or offer;

27 (2) Termination of lease provisions, to include 60-day notice by either the State
28 or the lessee;

29 (3) Capital improvements to be made or equipment to be provided by the lessee;

30 (4) The length of the lease not to exceed 2 years, except when the ~~director~~ Chief
31 Facilities Officer, with the approval of the commissioner or director of the
32 agency of jurisdiction, finds that a longer term lease will accrue benefit to the
33 State;

34 (5) Following notice as provided in this subsection, termination of the lease by
35 the State to accommodate the needs of a state agency; and

36 (6) Any other provisions deemed necessary by the agency of jurisdiction or the
37 ~~director~~ Chief Facilities Officer.

38 **Sec. 66. 5 MRSA §§1784 and 1785**, as enacted by PL 1985, c. 758, §1, are
39 amended to read:

1 **§1784. Rent and fees**

2 In providing a lease under this chapter, the ~~director~~ Chief Facilities Officer shall
3 require payment of fees or charges that, at a minimum, cover the costs of utilities,
4 including heat, custodial services and any other costs generated by the lessee. In addition,
5 a monthly rental fee ~~shall~~ must be charged to the user ~~which that~~ need not necessarily be
6 the current rate charged in the private sector for similar facilities.

7 **1. Provision of services to the State.** If the lessee provides services or assistance to
8 the State at no charge or at significantly reduced charges or the lessee provides in-kind
9 contributions, the monthly rental fee may be reduced or waived by mutual agreement of
10 the ~~director~~ Chief Facilities Officer and the commissioner or director of the agency of
11 jurisdiction.

12 **§1785. Adoption of rules**

13 **1. Rules of implementation.** The ~~director~~ Chief Facilities Officer shall adopt rules
14 to implement this chapter. At a minimum, these rules ~~shall~~ must include:

- 15 A. Provisions for offering available state facilities to state agencies;
- 16 B. Provisions for offering, by competitive bidding, available facilities to other
17 organizations;
- 18 C. Standards for determining user created costs to state agencies for use of state-
19 owned facilities to be reimbursed to the State; and
- 20 D. Standards for determining rental fees based on the location of the facilities,
21 accessibility, local market rates, services or in-kind contributions provided by the
22 user or lessee and any other standards deemed necessary by the ~~director~~ Chief
23 Facilities Officer.

24 **Sec. 67. 5 MRSA §1811, first ¶**, as amended by PL 1991, c. 780, Pt. Y, §61, is
25 further amended to read:

26 The Department of Administrative and Financial Services, through the Bureau of
27 ~~General Services~~ Business Management, has authority:

28 **Sec. 68. 5 MRSA §1811, sub-§1**, as amended by PL 1991, c. 780, Pt. Y, §62, is
29 repealed and the following enacted in its place:

30 **1. Purchases.** To purchase all services, supplies, materials and equipment required
31 by State Government or by any department or agency thereof, subject to chapters 141 to
32 155. The Chief Procurement Officer may establish dates by which departments and
33 agencies of State Government must order standard forms that each department or agency
34 requires and may determine the quantity of each standard form to be printed in order to
35 obtain savings resulting from volume purchasing;

36 **Sec. 69. 5 MRSA §1811, sub-§8**, as amended by PL 2005, c. 12, Pt. T, §8, is
37 further amended to read:

1 **8. Cooperative purchasing.** To permit any political subdivision or school
2 administrative district in the State or nonprofit free health care clinic that provides free
3 primary or preventative services to make purchases of foodstuffs, materials, equipment
4 and supplies through the Bureau of ~~General Services Business Management~~, subject to
5 such procedures, and rules ~~and regulations~~ as may be prescribed by the ~~director~~ Chief
6 Procurement Officer. This subsection applies to a municipality notwithstanding any
7 provision in its municipal charter to the contrary;

8 **Sec. 70. 5 MRSA §1811, sub-§11**, as enacted by PL 2005, c. 12, Pt. T, §10, is
9 amended to read:

10 **11. Motor vehicle replacement policy.** To require that requisitions for replacement
11 motor vehicles include the age and total mileage of the motor vehicles being replaced.
12 For the purposes of this subsection, "motor vehicles" means passenger cars and panel and
13 pickup trucks, excluding those vehicles authorized and assigned for pursuit purposes.
14 Under no circumstances are any state vehicles to be used for commuting purposes. It is
15 the intent of the Legislature that motor vehicles be in service for at least 5 years or 75,000
16 miles, whichever occurs first, before they are replaced. This policy must also be adopted
17 by the State Budget Officer when preparing a budget document. Exceptions to this
18 replacement policy require the prior approval of the Commissioner of Administrative and
19 Financial Services. The Commissioner of Administrative and Financial Services may
20 also set appropriate standards with regard to motor vehicle type, size and equipment and
21 direct that all motor vehicles be purchased in accordance with a commodity calendar
22 established by the ~~Director of the Bureau of General Services~~ Chief Procurement Officer.

23 **Sec. 71. 5 MRSA §1812, first and 3rd ¶¶**, as amended by PL 1991, c. 780, Pt.
24 Y, §67, are further amended to read:

25 The terms "services," "supplies," "materials" and "equipment" as used in this chapter
26 mean any and all services, articles or things that are used by or furnished to the State or
27 any department or agency thereof, and any and all printing, binding, publication of laws,
28 journals and reports. Except as provided in chapters 141 to 155, any and all services,
29 supplies, materials and equipment needed by one or more departments or agencies of the
30 State Government must be directly purchased or contracted for by the ~~Director of the~~
31 ~~Bureau of General Services~~ Chief Procurement Officer, as may be determined from time
32 to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of
33 Administrative and Financial Services is authorized and empowered to make. It is the
34 intent and purpose of this chapter that the ~~Director of the Bureau of General Services~~
35 Chief Procurement Officer purchase collectively all services, supplies, materials and
36 equipment for the State or any department or agency thereof in a manner that will best
37 secure the greatest possible economy consistent with the grade or quality of the services,
38 supplies, materials and equipment best adapted for the purposes for which they are
39 needed. Whenever supplies and materials are available for purchase that are composed in
40 whole or in part of recycled materials and are shown by the seller, supplier or
41 manufacturer to be equal in quality and are competitively priced, except for paper and
42 paper products, the ~~Director of the Bureau of General Services~~ Chief Procurement Officer
43 shall purchase such recycled supplies and materials. The ~~Director of the Bureau of~~
44 ~~General Services~~ Chief Procurement Officer shall also review procurement procedures

1 and bid specifications for the purchase of products and materials to ensure, to the
2 maximum extent feasible, the purchase of products or materials that are made with
3 recycled materials or may be recycled or reused once discarded. For the purposes of this
4 section and section 1812-B, "recycled materials" means materials that are composed in
5 whole or in part of elements that are reused or reclaimed.

6 The word "services," when used in this chapter, means any and all window cleaning
7 services, elevator repair and maintenance services, laundry service, linen supply service,
8 dry cleaning service, janitor service, floor maintenance service, rubbish and garbage
9 disposal service, tree surgeon service, all types of office machine repair and maintenance
10 service, exterminator service, refrigerator repair and maintenance service and oil burner
11 repair and maintenance service when any such service is performed by an independent
12 contractor. The ~~Director of the Bureau of General Services~~ Chief Procurement Officer
13 may, with the approval of the Commissioner of Administrative and Financial Services
14 add to or eliminate from the various types of service set forth in this paragraph such
15 services performed by independent contractors as may be considered by the ~~director~~
16 Chief Procurement Officer to be in the best interests of the State.

17 **Sec. 72. 5 MRSA §1812-A**, as amended by PL 1989, c. 585, Pt. C, §2, is further
18 amended to read:

19 **§1812-A. Report on purchase of recycled products**

20 The ~~State Purchasing Agent~~ Chief Procurement Officer shall report on or before
21 January 1st of the First Regular Session of each Legislature to the joint standing
22 committee of the Legislature having jurisdiction over natural resources matters on the
23 State's efforts to purchase supplies and materials composed in whole or in part of recycled
24 materials. The ~~State Purchasing Agent~~ Chief Procurement Officer shall also report on
25 any procurement policies, incentives, educational programs, promotional efforts or other
26 activities undertaken by the Department of Administrative and Financial Services, Bureau
27 of ~~Purchases~~ Business Management to encourage the purchase of those supplies and
28 materials. The ~~State Purchasing Agent~~ Chief Procurement Officer shall include in the
29 report any recommendations to increase or facilitate the purchase of those supplies and
30 materials.

31 **Sec. 73. 5 MRSA §1812-B**, as enacted by PL 1989, c. 585, Pt. C, §3, is amended
32 to read:

33 **§1812-B. Purchasing of paper and paper products**

34 **1. Purchase of paper and paper products with recycled material content.**
35 Subject to subsection 3, the ~~State Purchasing Agent~~ Chief Procurement Officer shall
36 provide that of the total dollar amount spent in each fiscal year on paper and paper
37 products purchased by the State:

38 A. On or after October 1, 1989, not less than 15% shall be spent on paper and paper
39 products with recycled material content;

40 B. On or after October 1, 1991, not less than 30% shall be spent on paper and paper
41 products with recycled material content; and

1 C. On or after October 1, 1993, not less than 50% shall be spent on paper and paper
2 products with recycled material content.

3 **2. Federal guidelines and cooperative purchases.** To qualify as having recycled
4 material content, paper or paper products must have recycled material content ~~which that~~
5 meets or exceeds the standards established for that paper or paper product category in
6 ~~Table 1 of the Guideline for Federal Procurement of Paper and Paper Products, 40 Code~~
7 ~~of Federal Regulations, Part 250 the United States Environmental Protection Agency~~
8 ~~comprehensive procurement guidelines.~~ The ~~State Purchasing Agent~~ Chief Procurement
9 ~~Agent~~ Chief Procurement Officer shall determine whether a paper or paper product qualifies. The ~~State Purchasing~~
10 ~~Agent~~ Chief Procurement Officer may join with other states in making cooperative
11 requests for bids to supply paper and paper products.

12 **3. Bids; price preference.** A person who submits a bid for a contract to supply
13 paper or paper products shall certify the percentage and nature of any recycled materials
14 content in the product subject to bid. Bids offering paper or paper products with recycled
15 material content that are within 10% of the lowest bid that meets all other specifications
16 may receive up to a 10% price preference. Any bids to supply paper or paper products
17 with recycled material content that exceed by more than 10% the low bid ~~which that~~
18 meets all other specifications ~~shall may~~ not be considered. If no bids are received on a
19 request for bids ~~which that~~ offer paper or paper products with recycled material content,
20 the ~~State Purchasing Agent~~ Chief Procurement Officer may award the contract to a bidder
21 whose paper or paper product has substandard percentages of or no recycled materials
22 content.

23 **Sec. 74. 5 MRSA §1812-D**, as enacted by PL 1989, c. 585, Pt. C, §3 and amended
24 by PL 2011, c. 657, Pt. W, §5, is further amended to read:

25 **§1812-D. Coordination of procurement information and policies**

26 The ~~Department of Administrative and Financial Services, Bureau of Purchases~~
27 ~~Business Management~~ shall coordinate with the Department of Transportation, the
28 Department of Agriculture, Conservation and Forestry; and the Department of
29 Environmental Protection ~~and the Office of Waste Reduction and Recycling~~ to develop a
30 central data base of information including, but not limited to, procurement policies,
31 market information, technical data and demonstration project results. This data ~~shall~~
32 must be compiled annually and provided to local public agencies by the ~~Office of Waste~~
33 ~~Reduction and Recycling~~ Department of Environmental Protection.

34 **Sec. 75. 5 MRSA §1812-E, first ¶**, as enacted by PL 1991, c. 207, is amended to
35 read:

36 Except for cars and light duty trucks purchased for law enforcement and other special
37 use purposes as designated by the ~~State Purchasing Agent~~ Chief Procurement Officer, the
38 ~~State Purchasing Agent~~ Chief Procurement Officer may not purchase or lease any car or
39 light duty truck for use by the State or any department or agency of the State unless:

40 **Sec. 76. 5 MRSA §1813**, as amended by PL 2005, c. 386, Pt. H, §8, is further
41 amended to read:

1 **§1813. Rules**

2 The ~~Director of the Bureau of General Services~~ **Chief Procurement Officer**, with the
3 approval of the Commissioner of Administrative and Financial Services, may adopt,
4 modify or abrogate rules for the following purposes:

5 **1. Direct purchases.** Authorizing any state department or agency to purchase
6 directly certain specified services, supplies, materials and equipment, limiting their
7 powers in relation thereto, and describing the manner in which purchases ~~shall~~ are to be
8 made;

9 **2. Purchase and distribution of supplies.** Prescribing the manner in which the
10 supplies, materials and equipment ~~shall~~ are to be purchased, delivered, stored and
11 distributed;

12 **3. Monthly reports.** Requiring monthly reports by state departments or agencies of
13 stocks of supplies, materials and equipment on hand and prescribing the form of such
14 reports;

15 **4. Requisitions and estimates.** Prescribing the dates for making requisitions and
16 estimates, the periods for which they are to be made, the form thereof and the manner of
17 authentication;

18 **5. Inspection and tests.** Prescribing the manner of inspecting all deliveries of
19 supplies, materials and equipment, and making chemical and physical tests of samples
20 submitted with bids and samples from deliveries;

21 **6. Surplus property.** Providing for transfer of supplies, materials and equipment
22 that are surplus from one state department or agency to another that may need them, and
23 for the disposal by private and public sale of supplies, materials and equipment that are
24 obsolete and unusable. Political subdivisions, educational institutions, fire departments
25 or qualifying nonprofit organizations as defined in section 1828, subsection 1, must be
26 given an opportunity to purchase the surplus items through private sale. If 2 or more
27 political subdivisions, educational institutions, fire departments or qualifying nonprofit
28 organizations are interested in any item, the sale must be the result of competitive bid.
29 Any equipment so purchased must be retained for a period of at least one year in a current
30 ongoing program. Any item purchased by a political subdivision, educational institution,
31 fire department or qualifying nonprofit organization under this section may not be sold or
32 transferred by that political subdivision, educational institution, fire department or
33 qualifying nonprofit organization for a period of 6 months from the date of the private
34 sale, except that a qualifying nonprofit organization that contracts with the Department of
35 Health and Human Services to provide vehicles to low-income families may resell a
36 passenger vehicle or light truck purchased in the private sale to a low-income family to
37 assist it in participating in work, education or training pursuant to the qualifying nonprofit
38 organization's contract with the Department of Health and Human Services. The State
39 reserves the right to refuse to sell additional equipment to a political subdivision,
40 educational institution, fire department or qualifying nonprofit organization if it is
41 determined that the political subdivision, educational institution, fire department or

1 qualifying nonprofit organization has not retained the equipment for the required period
2 of 6 months;

3 **7. Deposit or bond with bids.** Prescribing the amount of deposit or bond to be
4 submitted with a bid on a contract and the amount of bond to be given for the faithful
5 performance of a contract; and

6 **8. Other matters.** Providing for such other matters as may be necessary to give
7 effect to the foregoing rules and to chapters 141 to 155.

8 **Sec. 77. 5 MRSA §1813-B**, as enacted by PL 2015, c. 345, §1, is amended to
9 read:

10 **§1813-B. Cost-savings information available through the Internet**

11 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall
12 make cost-savings information for the award winners of all competitively bid contracts
13 for services for the State available through the department's publicly accessible site on the
14 Internet. For a contract with a new contractor, the cost-savings information must, where
15 applicable, include projected savings of the contract over the State's costs of providing the
16 same service and include the amount of savings over the previous contractor's contract.
17 For a contract with a contractor renewing or extending a contract for the first time, the
18 cost-savings information must, where applicable, include details of ~~cost-savings~~ cost
19 savings for the expiring contract over the previous contractor's costs and details of
20 continued ~~cost-savings~~ cost savings at or below costs in the current contract adjusted for
21 inflation. For a contract with a contractor renewing or extending a contract beyond a first
22 renewal or extension, the cost-savings information must include details on continued
23 ~~cost-savings~~ cost savings at or below costs in the current contract adjusted for inflation.
24 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall
25 coordinate with all departments and agencies in the State to ensure the collection of the
26 cost-savings information described in this section. The ~~Director of the Bureau of General~~
27 ~~Services~~ Chief Procurement Officer, with the approval of the Commissioner of
28 Administrative and Financial Services, shall establish by rule practices and procedures to
29 make the cost-savings information available on the department's publicly accessible site
30 on the Internet. Rules adopted pursuant to this section are routine technical rules as
31 defined in ~~Title 5~~, chapter 375, subchapter 2-A.

32 **Sec. 78. 5 MRSA §1815** is amended to read:

33 **§1815. Requisitions required**

34 Except as otherwise provided in chapters 141 to 155 and the rules ~~and regulations~~
35 adopted hereunder, services, supplies, materials and equipment shall may be purchased
36 by or furnished to the State Government or any department or agency thereof only upon
37 requisition to the ~~State Purchasing Agent~~ Chief Procurement Officer. The ~~State~~
38 ~~Purchasing Agent~~ Chief Procurement Officer, or ~~his~~ the Chief Procurement Officer's
39 authorized representative, shall examine each requisition submitted to ~~him~~ the Chief
40 Procurement Officer by any department or agency of the State Government and may

1 revise it as to quantity, quality or estimated cost after consultation with the department or
2 agency concerned.

3 **Sec. 79. 5 MRSA §1816-A, sub-§2, ¶I**, as enacted by PL 2003, c. 501, §1 and
4 affected by §3, is amended to read:

5 I. An equivalent basis for cost comparison between state employee and private
6 contractor provision of services is calculated, as established by rules adopted by the
7 ~~State Purchasing Agent~~ Chief Procurement Officer pursuant to section 1825-B,
8 subsection 11, and it is determined that the private contractor provides the best value.

9 **Sec. 80. 5 MRSA §1817**, as amended by PL 2015, c. 102, §8, is further amended
10 to read:

11 **§1817. Printing of laws**

12 When the Revisor of Statutes has prepared material for a revision of the entire
13 statutes of the State, the revisor shall deliver the revision prepared for printing to the ~~State~~
14 ~~Purchasing Agent~~ Chief Procurement Officer, who shall contract for the printing, binding
15 and delivery to the State of a sufficient number of volumes to meet the needs of the State
16 and for sale as provided.

17 **Sec. 81. 5 MRSA §1818** is amended to read:

18 **§1818. Deliveries**

19 Supplies, materials and equipment, purchased or contracted for by the ~~State~~
20 ~~Purchasing Agent~~ Chief Procurement Officer, shall ~~must~~ be delivered by ~~him~~ the Chief
21 Procurement Officer or by the contractor to the department or agency by which or for
22 whom the same are to be used from time to time as required.

23 **Sec. 82. 5 MRSA §1819** is amended to read:

24 **§1819. Unlawful purchases**

25 Whenever any department or agency of the State Government, required by chapters
26 141 to 155 and rules ~~and regulations~~ adopted pursuant thereto, applying to the purchase
27 of services, supplies, materials or equipment through the ~~State Purchasing Agent~~ Chief
28 Procurement Officer, ~~shall contract~~ contracts for the purchase of such services, supplies,
29 materials or equipment contrary to chapters 141 to 155 or the rules ~~and regulations~~ made
30 hereunder, ~~such the contract shall be~~ is void and ~~have~~ has no effect. If any such
31 department or agency purchases any services, supplies, materials or equipment contrary
32 to chapters 141 to 155 or rules ~~and regulations~~ made hereunder, the head of ~~such the~~
33 department or agency ~~shall be~~ is personally liable for the costs thereof, and if such
34 services, supplies, materials or equipment are so unlawfully purchased and paid for out of
35 state ~~moneys~~ money, the amount thereof may be recovered in the name of the State in an
36 appropriate action instituted therefor.

37 **Sec. 83. 5 MRSA §1825-A, sub-§§2 and 3**, as enacted by PL 1989, c. 785, §2,
38 are amended to read:

1 **2. Approved equal.** "Approved equal" means any goods or service other than
2 specified in the bid proposal that in the opinion of the ~~State Purchasing Agent~~ Chief
3 Procurement Officer is equivalent in character, quality and performance to the goods or
4 service specified in the bid proposal.

5 **3. Competitive bidding.** "Competitive bidding" means the transmission of a written
6 proposal or invitation to bid to at least 3 responsible suppliers that is to be replied to at a
7 stated time. In obtaining competitive bids, if the ~~State Purchasing Agent~~ Chief
8 Procurement Officer finds that 3 responsible bidders are not available, the ~~State~~
9 ~~Purchasing Agent~~ Chief Procurement Officer may make such exceptions to this
10 subsection as are in the best interests of the State.

11 **Sec. 84. 5 MRSA §1825-B, sub-§1**, as amended by PL 1991, c. 780, Pt. Y, §70,
12 is further amended to read:

13 **1. Purchases by competitive bidding.** The ~~Director of the Bureau of General~~
14 ~~Services~~ Chief Procurement Officer shall purchase collectively all goods and services for
15 the State or any department or agency of the State in a manner that best secures the
16 greatest possible economy consistent with the required grade or quality of the goods or
17 services. Except as otherwise provided by law, the ~~Director of the Bureau of General~~
18 ~~Services~~ Chief Procurement Officer shall make purchases of goods or services needed by
19 the State or any department or agency of the State through competitive bidding.

20 **Sec. 85. 5 MRSA §1825-B, sub-§2**, as amended by PL 2011, c. 555, §1, is
21 further amended to read:

22 **2. Waiver.** The requirement of competitive bidding may be waived by the ~~Director~~
23 ~~of the Bureau of General Services~~ Chief Procurement Officer when:

24 A. The procurement of goods or services by the State for county commissioners
25 pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and
26 the interests of the State would best be served;

27 B. The ~~Director of the Bureau of General Services~~ Chief Procurement Officer is
28 authorized by the Governor or the Governor's designee to make purchases without
29 competitive bidding because in the opinion of the Governor or the Governor's
30 designee an emergency exists that requires the immediate procurement of goods or
31 services;

32 C. After reasonable investigation by the ~~Director of the Bureau of General Services~~
33 ~~Chief Procurement Officer~~, it appears that any required unit or item of supply, or
34 brand of that unit or item, is procurable by the State from only one source;

35 D. It appears to be in the best interest of the State to negotiate for the procurement of
36 petroleum products;

37 E. The purchase is part of a cooperative project between the State and the University
38 of Maine System, the Maine Community College System, the Maine Maritime
39 Academy or a private, nonprofit, regionally accredited institution of higher education
40 with a main campus in this State involving:

1 (1) An activity assisting a state agency and enhancing the ability of the
2 university system, community college system, Maine Maritime Academy or a
3 private, nonprofit, regionally accredited institution of higher education with a
4 main campus in this State to fulfill its mission of teaching, research and public
5 service; and

6 (2) A sharing of project responsibilities and, when appropriate, costs;

7 F. The procurement of goods or services involves expenditures of \$10,000 or less, in
8 which case the ~~Director of the Bureau of General Services~~ Chief Procurement Officer
9 may accept oral proposals or bids; or

10 G. The procurement of goods or services involves expenditures of \$10,000 or less,
11 and procurement from a single source is the most economical, effective and
12 appropriate means of fulfilling a demonstrated need.

13 **Sec. 86. 5 MRSA §1825-B, sub-§§3 and 4**, as amended by PL 1991, c. 780, Pt.
14 Y, §70, are further amended to read:

15 **3. Report.** By January 15th of each year the ~~Director of the Bureau of General~~
16 ~~Services~~ Chief Procurement Officer shall submit to the joint standing committee of the
17 Legislature having jurisdiction over state and local government matters a report
18 concerning any waivers from the competitive bidding provisions established in subsection
19 2, paragraph E.

20 **4. Registry of suppliers.** Suppliers desiring to have their names entered on a
21 registry of suppliers must submit a request to the ~~Director of the Bureau of General~~
22 ~~Services~~ Chief Procurement Officer in writing. The ~~Director of the Bureau of General~~
23 ~~Services~~ Chief Procurement Officer may prescribe the manner and form in which such a
24 request must be submitted and may limit the number of names of out-of-state bidders on
25 any registry. The name of any supplier entered in such a registry who fails to submit a
26 bid on 3 consecutive proposals or invitations to bid may be removed from the registry at
27 the discretion of the ~~Director of the Bureau of General Services~~ Chief Procurement
28 Officer, except that the Department of Corrections remains on any registry until the
29 Department of Corrections requests that the department be removed from that registry.

30 **Sec. 87. 5 MRSA §1825-B, sub-§§6 to 9**, as amended by PL 2015, c. 179, §2,
31 are further amended to read:

32 **6. Record of bids.** Each bid, with the name of the bidder, must be entered on a
33 record. Each record, with the successful bid indicated, must be open to public inspection
34 after the letting of the contract or grant. A bond for the proper performance of each
35 contract or grant may be required of each successful bidder at the discretion of the
36 ~~Director of the Bureau of General Services~~ Chief Procurement Officer, with the approval
37 of the Commissioner of Administrative and Financial Services.

38 **7. Awards to best-value bidder.** Except as otherwise provided by law,
39 competitively awarded orders, grants or contracts made by the ~~Director of the Bureau of~~
40 ~~General Services~~ Chief Procurement Officer or by any department or agency of the State
41 must be awarded to the best-value bidder, taking into consideration the qualities of the

1 goods or services to be supplied, their conformity with the specifications, the purposes for
2 which they are required, the date of delivery and the best interest of the State. If the
3 bidder that was initially awarded the order, grant or contract does not perform, the
4 ~~Director of the Bureau of General Services~~ Chief Procurement Officer may cancel the
5 order, grant or contract and award a new order, grant or contract to the 2nd best-value
6 bidder. The order, grant or contract may not be awarded to a bidder that the ~~Director of~~
7 ~~the Bureau of General Services~~ Chief Procurement Officer determined was not in
8 compliance at the time the initial bid was submitted.

9 **8. Tie bids.** The ~~Director of the Bureau of General Services~~ Chief Procurement
10 Officer shall award contracts, grants or purchases to in-state bidders or to bidders offering
11 commodities produced or manufactured in the State if the price, quality, availability and
12 other factors are equivalent.

13 **9. Determination of best-value bidder.** In determining the best-value bidder, the
14 ~~Director of the Bureau of General Services~~ Chief Procurement Officer or any department
15 or agency of the State shall, for the purpose of competitively awarding a contract or grant,
16 add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of
17 the preference given to that bidder in the state in which the bidder resides.

18 **Sec. 88. 5 MRSA §1825-B, sub-§10,** as amended by PL 1997, c. 263, §2, is
19 further amended to read:

20 **10. List of state preferences published.** The ~~Director of the Bureau of General~~
21 ~~Services~~ Chief Procurement Officer on or before January 1st of each year shall publish a
22 list of states that give preference to in-state bidders with the percent increase applied in
23 each such state. The ~~Director of the Bureau of General Services~~ Chief Procurement
24 Officer or any department or agency of the State may rely on the names of states and
25 percentages as published in determining the best-value bidder without incurring any
26 liability to any bidder.

27 **Sec. 89. 5 MRSA §1825-B, sub-§11,** as amended by PL 2015, c. 179, §2, is
28 further amended to read:

29 **11. Rulemaking; unfair competition.** State departments and agencies may not
30 achieve cost savings due to cost differentials that derive from a bidder's failure to provide
31 health and retirement benefits to its employees. The ~~State Purchasing Agent~~ Chief
32 Procurement Officer shall adopt rules governing the purchase of services and the
33 awarding of grants or contracts for personal services to establish a basis for bid price and
34 cost comparison among businesses that provide health and retirement benefits to their
35 employees and those that do not provide these benefits. The rules must include a
36 methodology for calculating bid price and cost differentials for services provided by
37 businesses and state employees due to the provision of health and retirement benefits for
38 employees. The rules must adjust the bid prices to establish an equivalent basis for bid
39 price and cost comparison among businesses when awarding contracts or grants and
40 between businesses and state employees when determining whether or not a contract or
41 grant is permitted under section 1816-A. These rules must apply to all state departments
42 and agencies. Rules adopted pursuant to this subsection are routine technical rules as
43 defined in chapter 375, subchapter 2-A.

1 **Sec. 90. 5 MRSA §1825-B, sub-§12**, as enacted by PL 2007, c. 193, §1, is
2 amended to read:

3 **12. Vendor's fee.** The ~~State Purchasing Agent~~ Chief Procurement Officer may
4 collect a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or
5 textiles with a winning bid under this section. The ~~State Purchasing Agent~~ Chief
6 Procurement Officer shall apply the fee under this subsection to the costs of
7 implementing and administering the state purchasing code of conduct under section
8 1825-L, including developing a consortium to monitor and investigate alleged violations
9 of the code of conduct. The ~~State Purchasing Agent~~ Chief Procurement Officer shall
10 adopt routine technical rules under chapter 375, subchapter 2-A to carry out the purposes
11 of this subsection.

12 **Sec. 91. 5 MRSA §1825-B, sub-§13**, as enacted by PL 2007, c. 193, §2, is
13 amended to read:

14 **13. Vendor's fee report.** By January 15th of each year the ~~Director of the Bureau of~~
15 ~~General Services~~ Chief Procurement Officer shall submit a report to the joint standing
16 committee of the Legislature having jurisdiction over state and local government matters
17 concerning revenue generated by the vendor's fee established in subsection 12.

18 **Sec. 92. 5 MRSA §1825-B, sub-§14**, as amended by PL 2015, c. 179, §2, is
19 further amended to read:

20 **14. Condition of doing business with the State.** Notwithstanding any provision of
21 law to the contrary, any purchase by the State of \$100,000 or more of tangible personal
22 property, except for public utility purchases, as defined in Title 36, section 1752,
23 subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be
24 made only from a person who is registered as a seller pursuant to Title 36, section
25 1754-B. As a condition of doing business with the State, the seller must collect, report
26 and remit taxes in accordance with Title 36, Part 3. As provided in this subsection, the
27 State is prohibited from doing business with a person who is not registered as a seller
28 pursuant to Title 36, section 1754-B and is not in compliance with the requirement to
29 collect, report and remit taxes pursuant to Title 36, Part 3. After notification of the
30 award, the seller must provide the ~~State Purchasing Agent~~ Chief Procurement Officer
31 with a valid retailer certificate issued by the State Tax Assessor within 7 business days.
32 If the seller fails to provide the registration certificate within 7 business days, the ~~State~~
33 ~~Purchasing Agent~~ Chief Procurement Officer may cancel the award and make a new
34 award pursuant to subsection 7. The ~~State Purchasing Agent~~ Chief Procurement Officer
35 shall provide the State Tax Assessor with a copy of all contracts and grants awarded
36 pursuant to this section. The State Tax Assessor shall notify the ~~State Purchasing Agent~~
37 Chief Procurement Officer if at any time during the term of the contract or grant the
38 person is no longer registered or is not collecting, reporting and remitting taxes in
39 compliance with the requirements of Title 36, Part 3. Until the noncompliance is
40 corrected, the ~~State Purchasing Agent~~ Chief Procurement Officer may withhold any
41 payments to the person.

1 **Sec. 93. 5 MRSA §1825-C**, as amended by PL 2015, c. 179, §3, is further
2 amended to read:

3 **§1825-C. Rulemaking**

4 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this
5 subchapter governing the purchase of services, the awarding of grants or contracts and the
6 procedure by which aggrieved persons may appeal award decisions made by a department
7 or agency of State Government. These rules must be adopted in accordance with the
8 Maine Administrative Procedure Act and apply to all departments and agencies of State
9 Government subject to the authority of the Department of Administrative and Financial
10 Services as set forth in this chapter.

11 **Sec. 94. 5 MRSA §1825-D, first ¶**, as amended by PL 2015, c. 179, §4, is further
12 amended to read:

13 The ~~State Purchasing Agent~~ Chief Procurement Officer shall make the public aware
14 of contracts and grants for which bids are being requested and the procedure to be used in
15 reviewing bids. Rules adopted under this subchapter must include a clear procedure:

16 **Sec. 95. 5 MRSA §1825-D, 3rd ¶**, as enacted by PL 1989, c. 785, §2, is amended
17 to read:

18 A department or agency of State Government may not change or substitute the
19 procedures adopted under this subchapter without the ~~State Purchasing Agent~~ Chief
20 Procurement Officer first adopting those changes or substitutions as rules under this
21 subchapter in accordance with the Maine Administrative Procedure Act, chapter 375.

22 **Sec. 96. 5 MRSA §1825-E**, as amended by PL 2015, c. 179, §6, is further
23 amended to read:

24 **§1825-E. Appeal procedures**

25 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall
26 ensure that every department or agency of State Government affords aggrieved persons
27 an opportunity to appeal a contract or grant award decision. As provided by this section,
28 rules adopted under this subchapter must establish clear procedures by which an
29 aggrieved person may appeal a contract or grant award decision.

30 **1. Stay.** Persons aggrieved by a contract or grant award decision may request a stay
31 of an award decision. Such a request must be made to the ~~Director of the Bureau of~~
32 ~~General Services~~ Chief Procurement Officer in writing within 10 days of notification of
33 the contract or grant award and must state the nature of the grievance.

34 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall issue a
35 stay of a contract or grant award decision, pending appeal, upon a showing of irreparable
36 injury to the petitioner, a reasonable likelihood of success on the merits, and no
37 substantial harm to adverse parties or to the general public.

1 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall notify
2 the petitioner in writing of the ~~director's~~ Chief Procurement Officer's decision regarding
3 the issuance of a stay within 7 days of receipt of the request.

4 Failure of the petitioner to obtain a stay does not affect the petitioner's right to a hearing
5 of appeal under this subchapter.

6 **2. Request for hearing of appeal.** Persons aggrieved by an agency contract or grant
7 award decision under this subchapter may request a hearing of appeal. Such a request
8 must be made to the ~~Director of the Bureau of General Services~~ Chief Procurement
9 Officer in writing within 15 days of notification of the award. The ~~Director of the Bureau~~
10 ~~of General Services~~ Chief Procurement Officer shall grant a hearing of appeal unless:

11 A. The ~~Director of the Bureau of General Services~~ Chief Procurement Officer
12 determines that:

- 13 (1) The petitioner is not an aggrieved person;
- 14 (2) A prior request by the same petitioner relating to the same contract or grant
15 award has been granted;
- 16 (3) The request was made more than 15 days after notice of contract or grant
17 award; or
- 18 (4) The request is capricious, frivolous or without merit; or

19 B. No contract or grant was awarded.

20 The ~~Director of the Bureau of General Services~~ Chief Procurement Officer shall notify
21 the petitioner in writing of the ~~director's~~ Chief Procurement Officer's decision regarding a
22 request for a hearing of appeal within 15 days of receipt of the request. If a request for a
23 hearing is granted, notification must be made at least 10 days before the hearing date and
24 must include the date and location of the hearing and the names of the appeal committee
25 members.

26 **3. Appeal committee.** A committee of 3 members shall hear a petitioner's appeal
27 within 60 days of receipt of the request for an appeal. The Commissioner of
28 Administrative and Financial Services shall appoint 2 members of an appeal committee,
29 except that persons who have any direct or indirect personal, professional or financial
30 conflict of interest in the appeal or employees of any department affected by the contract
31 or grant may not serve on the appeal committee. The 3rd member is the ~~Director of the~~
32 ~~Bureau of General Services~~ Chief Procurement Officer or the ~~director's~~ Chief
33 Procurement Officer's designee.

34 Members of an appeal committee appointed under this section shall meet at the appointed
35 time and place in the presence of the petitioner and such individuals as the petitioner
36 determines necessary for a full and fair hearing. The petitioner may present to the appeal
37 committee any materials the petitioner considers relevant to the appeal.

38 The appeal committee shall keep a written record of each hearing and shall submit its
39 decision and the reasons for its decision to the ~~Director of the Bureau of General Services~~
40 Chief Procurement Officer in writing no later than 15 days following the hearing of
41 appeal.

1 Subject to the requirements of rules adopted under this section and evidence presented
2 during a hearing of appeal, the appeal committee may decide either to:

- 3 A. Validate the contract or grant award decision under appeal; or
- 4 B. Invalidate the contract or grant award decision under appeal.

5 Except as provided in paragraph B, an appeal committee may not modify the contract or
6 grant award under appeal, or make a new award. Contracts or grants found invalid by an
7 appeal committee under this subchapter become immediately void and of no legal effect.

8 **Sec. 97. 5 MRSA §1825-F, first ¶**, as amended by PL 1993, c. 192, §2, is further
9 amended to read:

10 Decisions made by an appeal committee under section 1825-E, subsection 3
11 constitute final agency action on the petitioner's appeal for the purposes of judicial review
12 under chapter 375, subchapter ~~VII~~ 7. The ~~State Purchasing Agent~~ Chief Procurement
13 Officer shall notify a petitioner of a final agency action made under this subchapter in
14 writing within 7 days of the final agency action. Notification of final agency action must
15 include:

16 **Sec. 98. 5 MRSA §1825-G**, as amended by PL 2015, c. 179, §7, is further
17 amended to read:

18 **§1825-G. Failure to act**

19 Failure or refusal of the ~~State Purchasing Agent~~ Chief Procurement Officer to adopt
20 rules under this subchapter is sufficient grounds for an aggrieved person to request
21 judicial review of agency rulemaking pursuant to section 8058. In the event that a
22 judicial declaration of an invalid rule is made under this section and section 8058, the
23 contract or grant award under appeal becomes immediately void and of no legal effect.

24 **Sec. 99. 5 MRSA §1825-H**, as enacted by PL 1989, c. 785, §2, is amended to
25 read:

26 **§1825-H. Deadline for adoption of rules**

27 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules
28 implementing this subchapter ~~no later than January 1, 1991~~.

29 **Sec. 100. 5 MRSA §1825-K, sub-§§3 to 5**, as enacted by PL 2005, c. 554, Pt. A,
30 §1, are amended to read:

31 **3. Availability of copy of code of conduct.** The ~~State Purchasing Agent~~ Chief
32 Procurement Officer shall make a copy of the state purchasing code of conduct available
33 to all bidders subject to this subchapter.

34 **4. Affidavit requirement.** The ~~State Purchasing Agent~~ Chief Procurement Officer
35 may not accept a bid for the sale of goods covered by this subchapter unless:

1 A. Prior to the close of the bidding deadline, the bidder has filed with the ~~agent~~ Chief
2 Procurement Officer a signed affidavit, executed and filed by a person authorized to
3 commit the bidder to the code of conduct, stating:

4 (1) That the bidder will comply with the code of conduct;

5 (2) That the bidder has furnished a copy of the code of conduct to each supplier
6 at the point of assembly of the goods subject to the bid process and required that
7 each supplier inform the bidder of whether the supplier is in compliance with the
8 code of conduct; and

9 (3) That, to the best of the bidder's knowledge, each supplier at the point of
10 assembly of the goods subject to the bid process is in compliance with the code
11 of conduct; and

12 B. The bidder has submitted a list of the names and addresses of suppliers at the
13 point of assembly of goods subject to the bid process.

14 **5. Affidavit update requirement.** If, after complying with the filing requirements
15 of this section, a bidder is awarded a contract, that contractor must, during the term of the
16 contract, promptly inform the ~~State Purchasing Agent~~ Chief Procurement Officer of any
17 change in the information furnished in the affidavit submitted at the time of the original
18 bid and must submit a new, updated affidavit that conforms with the requirements of
19 subsection 4.

20 **Sec. 101. 5 MRSA §1825-L, sub-§1**, as enacted by PL 2001, c. 439, Pt. NNNN,
21 §1, is amended to read:

22 **1. Statement of belief; protection of local interests.** The affidavit provided by the
23 ~~State Purchasing Agent~~ Chief Procurement Officer to bidders for contracts to provide
24 goods covered by this subchapter must include a copy of the following statement:

25 "Maine is a state that believes employers should fairly compensate hard work, that
26 the health and safety of working people should be protected and that no form of
27 unlawful discrimination or abuse should be tolerated. Maine citizens are aware that
28 laws and regulations designed to safeguard basic tenets of ethical business practice
29 are disregarded in many workplaces, commonly referred to as "sweatshops." State
30 Government purchase of goods made under abusive conditions on behalf of its
31 citizens offends Maine citizens' sense of justice and decency. Moreover, when the
32 State of Maine contracts with vendors whose suppliers profit by providing
33 substandard wages and working conditions, Maine's businesses are put at a
34 competitive disadvantage. Therefore, the State of Maine believes in doing business
35 with vendors who make a good faith effort to ensure that they and their suppliers at
36 the point of assembly adhere to the principles of the State of Maine's purchasing code
37 of conduct.

38 "In its role as a market participant that procures goods covered by this code, the State
39 of Maine seeks to protect the interests of Maine citizens and businesses by exercising
40 its state sovereignty to spend Maine citizens' tax dollars in a manner consistent with
41 their expressed wishes that the State deal with responsible bidders who seek contracts
42 to supply goods to the State of Maine, and protect legally compliant Maine

1 businesses and workers from unfair competition created by downward pressure on
2 prices and conditions attributable to businesses that violate applicable workplace
3 laws.

4 "Seeking to protect these local interests through the least discriminatory means
5 available, the State of Maine requires that all bidders seeking contracts to supply the
6 State of Maine with goods covered by this code sign an affidavit stating that they and,
7 to the best of their knowledge, their suppliers at the point of assembly comply with
8 workplace laws of the vendor's or supplier's site of assembly and with treaty
9 obligations that are shared by the United States and the country in which the goods
10 are assembled."

11 **Sec. 102. 5 MRSA §1825-M**, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is
12 amended to read:

13 **§1825-M. Exception**

14 The ~~State Purchasing Agent~~ Chief Procurement Officer may accept and award a bid
15 to a supplier who has not met the requirements provided in section 1825-K if, after
16 reasonable investigation by the ~~State Purchasing Agent~~ Chief Procurement Officer, it
17 appears that the required unit or item of supply or brand of that unit or item, is procurable
18 by the State from only that supplier.

19 **Sec. 103. 5 MRSA §1825-N**, as amended by PL 2005, c. 554, Pt. A, §3, is further
20 amended to read:

21 **§1825-N. Support to suppliers of goods and services**

22 The ~~State Purchasing Agent~~ Chief Procurement Officer shall provide to bidders and
23 contractors resources to assist with compliance with the state purchasing code of conduct
24 established in this subchapter. These resources must include a list, easily accessed by the
25 public, of bidders and vendors who have adopted the state purchasing code of conduct.

26 **Sec. 104. 5 MRSA §1825-O, first ¶**, as enacted by PL 2001, c. 439, Pt. NNNN,
27 §1, is amended to read:

28 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this
29 subchapter governing the award of bids. Those rules must include specific guidelines for
30 vendors to follow in order to comply with the state purchasing code of conduct and
31 criteria for seeking disclosure of names and addresses of vendors' suppliers and suppliers'
32 working conditions.

33 **Sec. 105. 5 MRSA §1825-P**, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is
34 amended to read:

35 **§1825-P. Report**

36 By January 15th of each year, the ~~State Purchasing Agent~~ Chief Procurement Officer
37 shall submit a report to the joint standing committee of the Legislature having jurisdiction
38 over state and local government matters concerning the administrative and fiscal impact

1 of the requirement that vendors comply with the state purchasing code of conduct; the
2 degree of voluntary compliance with the state purchasing code of conduct; the number of
3 vendors who agreed to and the number that declined to comply with the provisions of this
4 subchapter; and any other information relevant to the state purchasing code of conduct.

5 **Sec. 106. 5 MRSA §1825-Q**, as corrected by RR 2005, c. 2, §4, is amended to
6 read:

7 **§1825-Q. Complaints of noncompliance with code of conduct; investigations of**
8 **complaints**

9 **1. Complaints alleging noncompliance.** The ~~State Purchasing Agent~~ Chief
10 Procurement Officer shall initiate an investigation to determine whether a violation of the
11 code of conduct has occurred if:

12 A. The ~~State Purchasing Agent~~ Chief Procurement Officer has independent
13 knowledge that a contractor or a supplier at the point of assembly of goods subject to
14 a contract is not in compliance with the code of conduct;

15 B. The contractor informs the ~~State Purchasing Agent~~ Chief Procurement Officer
16 that the contractor or a supplier at the point of assembly of goods subject to a contract
17 is not in compliance with the code of conduct;

18 C. A worker for a contractor or for a supplier at the point of assembly of goods
19 subject to a contract files a written complaint directly with the ~~State Purchasing~~
20 ~~Agent~~ Chief Procurement Officer stating that the contractor or supplier, to the best of
21 the worker's knowledge, is not in compliance with the code of conduct;

22 D. A 3rd party established and based outside the United States, on behalf of or on the
23 basis of information from a worker or workers, files directly with the ~~State~~
24 ~~Purchasing Agent~~ Chief Procurement Officer a signed and dated written complaint
25 stating that, to the best of the 3rd party's knowledge, a contractor or a supplier at the
26 point of assembly of goods subject to a contract is not in compliance with the code of
27 conduct. If possible, the 3rd party's written complaint must be signed and dated
28 under oath before an official authorized to administer oaths; or

29 E. A 3rd party established and based in the United States, on behalf of or on the basis
30 of information from a worker or workers, files directly with the ~~State Purchasing~~
31 ~~Agent~~ Chief Procurement Officer a written complaint, signed and dated under oath
32 before an official authorized by applicable law to administer oaths, stating that, to the
33 best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly
34 of goods subject to a contract is not in compliance with the code of conduct.

35 **2. Specificity required.** Any complaint made to the ~~State Purchasing Agent~~ Chief
36 Procurement Officer must state with reasonable specificity each reason a party subject to
37 the complaint is allegedly not in compliance with the code of conduct.

38 **3. Notification to party subject to complaint.** After receiving a complaint alleging
39 noncompliance with the code of conduct, the ~~State Purchasing Agent~~ Chief Procurement
40 Officer shall contact in a timely manner, in writing and by certified letter, the contractor
41 that is the subject of the complaint or whose supplier is the subject of the complaint.

1 **Sec. 107. 5 MRSA §1825-R**, as enacted by PL 2005, c. 554, Pt. A, §5, is amended
2 to read:

3 **§1825-R. Determinations of noncompliance with code of conduct**

4 **1. Relevant information.** In making a determination of whether a violation of the
5 code of conduct has occurred, the ~~State Purchasing Agent~~ Chief Procurement Officer may
6 take into account any factors, information, sources of information and materials
7 determined reliable and relevant by the ~~State Purchasing Agent~~ Chief Procurement
8 Officer, as determined on a case-by-case basis. The ~~State Purchasing Agent~~ Chief
9 Procurement Officer has specific authority and discretion to employ an independent
10 monitor to investigate a complaint.

11 **2. Determination by Chief Procurement Officer.** The determination of whether a
12 party subject to a complaint is in compliance with the code of conduct is solely that of the
13 ~~State Purchasing Agent~~ Chief Procurement Officer.

14 **3. Notice of determination.** After rendering a determination under this section, the
15 ~~State Purchasing Agent~~ Chief Procurement Officer promptly shall inform the complainant
16 and contractor in writing.

17 **Sec. 108. 5 MRSA §1825-S**, as amended by PL 2007, c. 193, §3, is further
18 amended to read:

19 **§1825-S. Consequences of noncompliance with code of conduct**

20 **1. Action by Chief Procurement Officer.** Upon determination of a violation of the
21 code of conduct by a contractor or contractor's supplier at the point of assembly of goods
22 covered by this subchapter, the State, through the ~~State Purchasing Agent~~ Chief
23 Procurement Officer, shall inform the contractor and engage in discussions with the
24 contractor about the violation. The purpose of the discussions is to work in partnership
25 with the contractor to influence the contractor to change its practices or to use its
26 bargaining position with the offending supplier to change the supplier's practices, rather
27 than to cease doing business with the contractor or supplier. The ~~State Purchasing Agent~~
28 Chief Procurement Officer shall prescribe appropriate measures to ensure compliance
29 with the code of conduct. These measures may include, but are not limited to:

30 A. Requesting that each party found not to be in compliance with the code of
31 conduct provide continued access to independent monitors, if available;

32 B. Requesting that each party found not to be in compliance with the code of conduct
33 offer their workers and managers the training and guidelines necessary to bring the
34 workplace into compliance with the code of conduct; and

35 C. Requesting that each party found not to be in compliance with the code of conduct
36 demonstrate to the ~~State Purchasing Agent~~ Chief Procurement Officer that prescribed
37 changes or improvements have been completed and implemented.

38 **2. Termination of contract.** If, in the opinion of the ~~State Purchasing Agent~~ Chief
39 Procurement Officer, a contractor that has been determined as not in compliance with the
40 code of conduct does not make good faith efforts to change its practices or use its

1 bargaining position with an offending supplier to change the supplier's practices, the ~~State~~
2 ~~Purchasing Agent~~ Chief Procurement Officer may take appropriate remedial action
3 including, but not limited to, barring the subject contractor from bidding on future state
4 contracts or terminating the State's contract with the contractor. Reference to the
5 authority given in this subsection must be specifically referenced in the State's contracts
6 with those contractors that are subject to the code of conduct.

7 **Sec. 109. 5 MRSA §1826-B, sub-§3**, as enacted by PL 2007, c. 395, §2, is
8 amended to read:

9 **3. Officer.** "~~Director~~ Officer" means the ~~Director of the Bureau of General Services~~
10 Chief Procurement Officer within the Department of Administrative and Financial
11 Services, Bureau of Business Management.

12 **Sec. 110. 5 MRSA §1826-C**, as amended by PL 2007, c. 395, §3, is further
13 amended to read:

14 **§1826-C. Work center purchases**

15 **4. Work center purchases schedule.** The ~~director~~ officer shall develop and use a
16 work center purchases schedule. The ~~director~~ officer shall:

17 A. Identify and develop a list of all products and services purchased or scheduled to
18 be purchased by State Government;

19 B. Identify and develop a list of all work centers in the State, including a description
20 of the products and services work centers are currently providing or have recently
21 provided and including an assessment of the products and services that work centers
22 are capable of providing, but have not recently provided; and

23 C. Develop from the information obtained in paragraphs A and B a work center
24 purchases schedule that describes all products and services to be purchased by the
25 State that, in the view of the ~~director~~ officer, could be provided by work centers. In
26 developing this schedule, the ~~director~~ officer shall give consideration to the abilities
27 of work centers to meet contract requirements and to meet generally accepted quality
28 control standards and any potential technical assistance that may be required to
29 enable a work center to compete fairly for contracts, pursuant to this subchapter.

30 **5. Competitive bidding.** The ~~director~~ officer shall develop procedures for
31 competitive bidding by eligible work centers only for products and services identified on
32 the work center ~~purchase~~ purchases schedule. If no bid is received from a work center for
33 any product or service on the schedule, the ~~director~~ officer shall confer with the
34 Department of Corrections to determine whether the Department of Corrections is able to
35 provide the product or service at a fair price. If the ~~director~~ officer and the Department of
36 Corrections do not come to agreement, the product or service must be put out to general
37 bid by the ~~director~~ officer in accordance with standard rules and procedures. If only one
38 work center bid is received, the ~~director~~ officer shall review the bid and make a
39 determination regarding the fairness of the price and terms of the proposed contract. If the
40 ~~director~~ officer determines that the work center may not be awarded this bid, the ~~director~~
41 officer shall confer with the Department of Corrections to determine whether the

1 Department of Corrections is able to provide the product or service at a fair price. If the
2 ~~director~~ officer and the Department of Corrections do not come to agreement, the contract
3 must be offered for standard competitive bid by the ~~director~~ officer in accordance with
4 standard rules and procedures.

5 **6. Award of contracts; fair price.** The ~~director~~ officer has final determination in
6 awarding contracts to work centers through the competitive bidding process. The
7 ~~director's~~ officer's judgment prevails in the determination that the price and contract terms
8 are fair and reasonable both to the work center and to the State. In determining a fair
9 price, the ~~director~~ officer shall ensure the ability of the work center to recover the costs of
10 labor, material, equipment, overhead and delivery.

11 **7. Assignment of contracts.** The ~~director~~ officer shall ensure that contracts awarded
12 to work centers may not be assigned to any other vendor, except as may be necessary to
13 complete the contracts, because of extraordinary events beyond the control of the work
14 centers. Any additional costs incurred because of these assignments must be borne by the
15 work center as a normal cost of doing business.

16 **Sec. 111. 5 MRSA §1827**, as enacted by PL 2005, c. 386, Pt. H, §10, is amended
17 to read:

18 **§1827. Powers; Bureau of Business Management**

19 The Department of Administrative and Financial Services, through the Bureau of
20 ~~General Services~~ Business Management, may establish the Central Services Division in
21 the Bureau of ~~General Services~~ Business Management for the purpose of operating the
22 postal service, central copy and duplicating service, central warehouse, surplus property
23 service and central mail room. The Bureau of ~~General Services~~ Business Management
24 may:

25 **1. Postal service.** Purchase or contract for all postal service required for the use of
26 State Government or any department or agency thereof;

27 **2. Central copy and duplicating.** Establish and conduct a central printing service,
28 copy service and audio-visual service at the seat of government. Such services must be
29 available to all departments and agencies of State Government. The ~~Director of the~~
30 ~~Bureau of General Services~~ Chief Procurement Officer may make charges to those
31 departments and agencies of State Government making use of the facilities and supplies
32 of the central printing service;

33 **3. Central warehouse.** Establish and operate, with the approval of the
34 Commissioner of Administrative and Financial Services, a warehouse that, in the
35 judgment of the ~~Director of the Bureau of General Services~~ Chief Procurement Officer, is
36 determined necessary for the storage and distribution of supplies, materials and
37 equipment by resale, rental or other method, required for use by State Government or any
38 department or agency, or any political subdivision or school administrative unit. In
39 accordance with section 1587, the ~~Director of the Bureau of General Services~~ Chief
40 Procurement Officer may purchase, lease, lease-purchase or enter into other financing
41 agreements for the acquisition of equipment in accordance with this subsection when it

1 can be demonstrated that any such action or agreement provides a clear cost advantage to
2 the State;

3 **4. Central mail room.** Establish and conduct a central mail room for the state
4 departments and agencies at the seat of government;

5 **5. Surplus property.** Transfer to or between state departments and agencies or
6 educational institutions or sell supplies, materials and equipment that are surplus,
7 obsolete or unused;

8 **6. Internal service fund accounts.** Maintain or establish, through the Office of the
9 State Controller, an internal service fund account for each of the central services
10 described in subsections 1 to 5. The funds deposited in the account must include, but are
11 not limited to, appropriations made to the account, funds transferred to the account from
12 within the Department of Administrative and Financial Services, funds received from
13 state departments and agencies using the services provided by the central services and
14 earnings by the fund from the Treasurer of State's pool.

15 Each of the central services described in subsections 1 to 5 may levy charges according to
16 a rate schedule recommended by the ~~Director of the Bureau of General Services~~ Chief
17 Procurement Officer and approved by the Commissioner of Administrative and Financial
18 Services against all departments and agencies using ~~their~~ the services.

19 **Sec. 112. 5 MRSA §1828, sub-§2,** as amended by PL 2017, c. 310, §2, is further
20 amended to read:

21 **2. Surplus property.** Pursuant to this chapter and rules adopted under section 1813,
22 the Department of Administrative and Financial Services through the Bureau of ~~General~~
23 Services Business Management shall allow private sales of surplus property to:

24 B. Homeless shelter sponsors;

25 C. Educational institutions; and

26 E. Nonprofit organizations that have been determined to be exempt from taxation
27 under the United States Internal Revenue Code of 1986, Section 501(c).

28 **Sec. 113. 5 MRSA §1828, sub-§3,** as enacted by PL 2005, c. 386, Pt. H, §10, is
29 amended to read:

30 **3. Computers to fire departments.** Notwithstanding any requirement of this chapter
31 or rules adopted pursuant to this chapter, a fire department may purchase one personal
32 computer from the Department of Administrative and Financial Services, Bureau of
33 ~~General Services~~ Business Management to be used for reporting to the State Fire Marshal
34 as required under Title 25, section 2395. The Bureau of ~~General Services~~ Business
35 Management may charge a fire department only reasonable administrative and handling
36 costs of no more than \$35 for the purchase of a personal computer under this subsection.

37 **Sec. 114. 5 MRSA §1829, first ¶,** as enacted by PL 2005, c. 386, Pt. H, §10, is
38 amended to read:

1 The Department of Administrative and Financial Services is designated as the state
2 agency to receive and distribute federal surplus property that may become available for
3 distribution to eligible recipients within this State. The department, through the Bureau of
4 ~~General Services Business Management~~, may acquire, warehouse, allocate and distribute
5 surplus government property to all recipients within the State who have been or who may
6 later be designated as eligible to receive such surplus property by the Congress of the
7 United States or any other federal official empowered to make such determination. The
8 Commissioner of Administrative and Financial Services may enter into cooperative
9 agreements with any duly authorized federal official to carry out the purposes of this
10 section.

11 **Sec. 115. 5 MRSA §1830**, as enacted by PL 2005, c. 386, Pt. H, §10, is amended
12 to read:

13 **§1830. Central Fleet Management Division**

14 **1. Division established.** The Central Fleet Management Division is established in
15 the Department of Administrative and Financial Services, Bureau of ~~General Services~~
16 Business Management for the purpose of acquiring, maintaining and managing vehicles
17 for use by State Government and its employees on official state business, except the
18 Department of Public Safety. The Central Fleet Management Division shall rent or lease
19 vehicles to agencies, except the Department of Public Safety, in accordance with an
20 established rate structure. Revenues derived from operations must be used to acquire,
21 replace and maintain vehicles; adequately staff the Central Fleet Management Division;
22 pay for required space; and otherwise provide for the overall operation of the Central
23 Fleet Management Division. Department vehicles that exceed the car, light duty truck and
24 special use vehicle specifications are exempt from this section, but must be reported in
25 accordance with this section. For the purposes of this section, the terms "car," "light duty
26 truck" and "special use vehicle" refer to vehicles with gross vehicle weight rating less
27 than 10,000 pounds.

28 **2. Agency program requirements.** The Bureau of ~~General Services~~ Business
29 Management shall work closely with all departments and agencies to identify annual
30 transportation and vehicle usage requirements to ensure that agency program
31 requirements are met to the maximum extent possible. The bureau shall:

32 A. Maintain the Central Fleet Management Division to service the transportation
33 requirements of all state agencies not exempted under subsection 3, paragraph C and
34 their employees and control assignments of vehicles to ensure they are used to the
35 best economic advantage of the State;

36 B. Maintain records of transportation and vehicle requirements and all motor
37 vehicles owned, leased and available for use for those agencies not exempted under
38 subsection 3, paragraph C and make this information available to state agencies;

39 C. Require all state agencies not exempted under subsection 3, paragraph C and their
40 employees to use the Central Fleet Management Division when transportation is
41 required. Employees requesting to use personal vehicles on state business are
42 required to seek an exemption from the Central Fleet Management Division;

1 D. Acquire or replace Central Fleet Management Division vehicles in accordance
2 with an established vehicle replacement policy;

3 E. Transfer motor vehicles from other agencies, purchase, lease, lease-purchase or
4 enter into other financing agreements, in accordance with section 1587, for the
5 acquisition or replacement of motor vehicles in accordance with subsection 3 when it
6 can be demonstrated that any such action or agreement provides a clear cost or
7 program advantage to the State;

8 F. Establish facilities to store and maintain motor vehicles; and

9 G. Devise a mechanism for the distribution of fuel by competitive bidding by
10 commercial vendor, by the use of existing state-owned fueling facilities and the
11 establishment of a statewide credit card system.

12 **3. Standards; specifications.** The Bureau of ~~General Services~~ Business
13 Management shall establish the following:

14 A. Standards for vehicle operation;

15 B. Specifications for vehicles to be acquired by the State; and

16 C. Standards for the exemption or waiver of state agencies from the requirements of
17 this section. The ~~Director of the Bureau of General Services~~ Chief Procurement
18 Officer may provide a waiver to an agency or an employee requiring the services of
19 the Central Fleet Management Division or the standards and criteria established under
20 this section if the ~~director~~ Chief Procurement Officer concludes that such a waiver is
21 in the best economic interest of the State or critical agency mission.

22 Standards developed for use of Central Fleet Management Division services by all state
23 agencies not exempted under paragraph C and employees of any such agency must be
24 available for inspection at the Central Fleet Management Division's central office. The
25 ~~Director of the Bureau of General Services~~ Chief Procurement Officer may provide a
26 temporary waiver of the standards and criteria established under this section if the
27 ~~director~~ Chief Procurement Officer concludes that the unique conditions of program or
28 employee function require such a waiver.

29 **4. Central Fleet Management Internal Service Fund Account.** The Bureau of
30 ~~General Services~~ Business Management shall establish, through the Office of the State
31 Controller, the Central Fleet Management Internal Service Fund Account. The funds
32 deposited in the account must include, but are not limited to, appropriations made to the
33 account, funds transferred to the account from within the Department of Administrative
34 and Financial Services, funds received from state departments and agencies using the
35 services provided by the ~~bureau~~ Bureau of Business Management, earnings by the fund
36 from the Treasurer of State's pool and proceeds from the sale of vehicles under the
37 administrative control of the Central Fleet Management ~~division~~ Division by the state
38 surplus property program in the Bureau of ~~General Services~~ Business Management in
39 accordance with current provisions of law and subsection 3.

40 **5. Levy charges.** The Central Fleet Management Division may levy charges
41 according to a rate schedule recommended by the ~~Director of the Bureau of General~~
42 ~~Services~~ Chief Procurement Officer and approved by the Commissioner of

1 Administrative and Financial Services against all departments and agencies using the
2 services of the Central Fleet Management Division.

3 **6. Service charges.** Service charges for the rental and lease of motor vehicles must
4 be calculated to provide for vehicle replacement costs, operating costs, necessary capital
5 investment, personal services and sufficient working capital for the Central Fleet
6 Management Division.

7 **7. Assignment of appropriate credits.** The Central Fleet Management Division
8 may develop a method of assigning appropriate credits to be used to reduce the charges
9 for those state agencies from which vehicles are transferred to the Central Fleet
10 Management Division. These credits must be calculated both to reasonably compensate
11 the agencies and to ensure adequate revenues to support the Central Fleet Management
12 Division.

13 **8. Staff.** ~~The Director of the Bureau of General Services~~ Chief Procurement Officer
14 shall appoint, as approved by the Legislature and subject to the Civil Service Law, staff
15 necessary to carry out the purposes of this section.

16 **9. Budget adequate funds.** Each department or agency using the services of the
17 Central Fleet Management Division must budget adequate funds to pay for the leasing
18 services provided by the Central Fleet Management Division.

19 **10. Transfer of funds.** Notwithstanding section 1585, state agencies that are in the
20 process of transferring vehicle operations to the Central Fleet Management Division may
21 transfer Capital Expenditures funds to the All Other category for those agencies to allow
22 agencies to pay vehicle expenses.

23 **11. Report.** ~~The Director of the Bureau of General Services~~ Chief Procurement
24 Officer within the Department of Administrative and Financial Services shall report to the
25 joint standing committee of the Legislature having jurisdiction over state and local
26 government matters and the joint standing committee of the Legislature having
27 jurisdiction over appropriations and financial affairs by February 15th of each year with
28 respect to the status of current vehicle operations, projected requirements, anticipated
29 costs and savings realized to date for each fiscal year in the operation of the Central Fleet
30 Management Division.

31 **Sec. 116. 5 MRSA §1831, sub-§1,** as amended by PL 1989, c. 785, §3, is further
32 amended to read:

33 **1. Adoption of rules.** Every department or agency of State Government, subject to
34 chapters 141 to 152, purchasing services or awarding grants or contracts ~~which that~~ are
35 not subject to the authority of the Department of ~~Administration~~ Administrative and
36 Financial Services, as defined in chapters 153 and 155, shall establish a procedure by
37 which these services are purchased or by which grants or contracts are awarded. This
38 procedure must be adopted in accordance with the Maine Administrative Procedure Act,
39 ~~chapter 375 no later than January 1, 1991~~ and must be approved by the ~~State Purchasing~~
40 ~~Agent~~ Chief Procurement Officer prior to ~~their~~ its adoption. The ~~State Purchasing Agent~~
41 Chief Procurement Officer shall ensure that the rules adopted under this section meet the

1 standards of public notice, administrative review, and rights to appeal as set forth in
2 chapter 155, subchapter I-A 1-A. Any department or agency of State Government that
3 does not adopt rules under this section by January 1, 1991, is subject to rules adopted by
4 the ~~State Purchasing Agent~~ Chief Procurement Officer under chapter 155, subchapter I-A
5 1-A.

6 **Sec. 117. 5 MRSA §1831, sub-§3**, as amended by PL 1985, c. 785, Pt. A, §76, is
7 further amended to read:

8 **3. Application.** The procedure adopted by a department or agency in this section
9 may be used by the department or agency for any qualifying purchase or award of a
10 contract or grant. Nothing in this section may be construed to require the adoption of
11 new procedures for every new purchase, contract or award. Nothing in this section may
12 be construed to require the ~~State Purchasing Agent~~ Chief Procurement Officer or the
13 Department of ~~Administration~~ Administrative and Financial Services to approve any
14 contract, grant or award that is not presently approved by the ~~State Purchasing Agent~~
15 Chief Procurement Officer or the Department of ~~Administration~~ Administrative and
16 Financial Services under chapters 153 and 155.

17 **Sec. 118. 7 MRSA §214, sub-§3**, as amended by PL 2011, c. 655, Pt. EE, §12
18 and affected by §30, is further amended to read:

19 **3. Advisory committee.** The commissioner shall establish an advisory committee to
20 discuss possibilities and review proposals for expanding purchases of local foodstuffs.
21 The commissioner shall invite one or more representatives from each of the following
22 agencies to serve on the advisory committee: the Department of Education; the
23 Department of Marine Resources; the Department of Corrections; the Department of
24 Administrative and Financial Services, Bureau of ~~Purchases~~ Business Management; the
25 Department of Health and Human Services; the University of Maine System; and the
26 Maine Community College System.

27 **Sec. 119. 7 MRSA §215, sub-§2**, as amended by PL 1989, c. 700, Pt. A, §31, is
28 further amended to read:

29 **2. Coordination of development of quality standards.** The Department of
30 Administrative and Financial Services, Bureau of ~~Purchases~~ Business Management
31 shall coordinate the development of quality standards with state institutions and the
32 Department of Education. The coordinator ~~will~~ shall collaborate with the ~~State~~
33 ~~Purchasing Agent~~ Chief Procurement Officer in assisting state and school purchasers in
34 formulating consistent, although not necessarily uniform, quality standards. In the event
35 there are differences of opinion about the quality of foodstuffs supplied institutions or
36 schools, final authority for resolution rests with the ~~State Purchasing Agent~~ Chief
37 Procurement Officer.

38 **Sec. 120. 10 MRSA §1478, sub-§5**, as enacted by PL 1985, c. 569, §2, is
39 amended to read:

40 **5. Temporary certification.** Any motor vehicle for which there is no current and
41 valid certificate of motor vehicle inspection at the time of sale at a state auction and

1 ~~which~~ that does not pose a serious threat to the general public, as determined by the
2 Department of Administrative and Financial Services, Bureau of ~~Purchases~~ Business
3 Management from the form required in subsection 2 and from an inspection of the
4 vehicle, may be provided a temporary certificate authorizing the operation of the motor
5 vehicle from the auction site to a point designated by the purchaser.

6 **Sec. 121. 12 MRSA §908, sub-§2**, as amended by PL 2007, c. 466, Pt. A, §32, is
7 further amended to read:

8 **2. Certain approval unnecessary; purchases.** Notwithstanding any other provision
9 of law, purchases of materials or services by the Baxter State Park Authority do not need
10 the approval of the Department of Administrative and Financial Services through the
11 Bureau of ~~General Services~~ Business Management.

12 **Sec. 122. 12 MRSA §908, sub-§3**, as corrected by RR 1993, c. 1, §34, is
13 amended to read:

14 **3. Certain approval unnecessary; construction or improvement.**
15 Notwithstanding any other provision of law, the construction or reconstruction of roads
16 and buildings or any other improvements by the Baxter State Park Authority does not
17 need the approval of the Department of Administrative and Financial Services through
18 the Bureau of ~~General Services~~ Real Estate Management.

19 **Sec. 123. 12 MRSA §8003, sub-§3, ¶M-1**, as amended by PL 2011, c. 657, Pt.
20 X, §6 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

21 M-1. The proceeds under paragraph M may be used only to upgrade existing
22 structures owned by the forest protection unit within the bureau, to consolidate
23 operations of the unit through the improvement, repair, replacement, purchase or
24 construction of structures and to purchase land upon which to build structures.
25 Ownership of any land purchased under this paragraph or structures purchased or
26 constructed under this paragraph must be held in the name of the unit. Ownership of
27 land or property purchased under this paragraph may also be held in the name of the
28 Department of Administrative and Financial Services, Bureau of ~~General Services~~
29 Real Estate Management when the unit participates in the consolidation of facilities
30 with other state agencies. Any purchase of land or a structure pursuant to this
31 paragraph must be approved by the ~~Director of the Bureau of General Services~~ Chief
32 Facilities Officer.

33 **Sec. 124. 20-A MRSA §12706, sub-§4-A**, as amended by PL 2013, c. 368, Pt.
34 R, §4, is further amended to read:

35 **4-A. Public improvements budgetary submission.** To prepare and adopt a
36 biennial capital improvements budget for presentation to the Governor and the
37 Legislature, incorporating all projected expenditures and all resources expected or
38 proposed to be made available to fund public improvements, as defined by Title 5, section
39 1741, for the system. In accordance with Title 5, section 1742-C, subsection 3, the
40 system's public improvements budget must be developed with the advice and assistance
41 of the Department of Administrative and Financial Services, Bureau of ~~General Services~~

1 Real Estate Management and must represent the capital improvement priorities within the
2 system;

3 **Sec. 125. 20-A MRSA §15903, sub-§3, ¶A**, as amended by PL 2011, c. 691, Pt.
4 B, §21, is further amended to read:

5 A. The Bureau of ~~General Services~~ Real Estate Management, Department of
6 Administrative and Financial Services;

7 **Sec. 126. 20-A MRSA §15908, sub-§§1 and 3**, as amended by PL 2011, c. 691,
8 Pt. B, §22, are further amended to read:

9 **1. Technical assistance.** In order to provide the technical assistance required by the
10 state board in assessing proposed school construction projects, the Department of
11 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
12 Management may contract for the services of a professional engineer whenever the
13 bureau is not employing qualified personnel on a full-time basis.

14 **3. Life-cycle costs.** The department and the Department of Administrative and
15 Financial Services, Bureau of ~~General Services~~ Real Estate Management may not
16 approve the plans and specifications of a project that does not meet the requirements of
17 Title 5, chapter 153, subchapter 1-A.

18 **Sec. 127. 20-A MRSA §15910, sub-§4**, as amended by PL 2011, c. 691, Pt. B,
19 §23, is further amended to read:

20 **4. Time of signing.** A school administrative unit may not sign a contract for
21 construction or begin construction until the final plans and specifications have been
22 approved by the commissioner, the Department of Administrative and Financial Services,
23 Bureau of ~~General Services~~ Real Estate Management, the Department of Health and
24 Human Services and the State Fire Marshal.

25 **Sec. 128. 20-A MRSA §15915, sub-§1-A**, as enacted by PL 2011, c. 279, §2, is
26 amended to read:

27 **1-A. Performance criteria.** An agreement under this section between a school
28 administrative unit and an energy services company must include performance criteria
29 that guarantee:

30 A. Energy savings;

31 B. A maximum price, including operation, maintenance and financing costs;

32 C. That the project will meet local, state and federal codes;

33 D. That measurement and verification of energy savings are determined using the
34 international performance measurement and verification protocol published by the
35 United States Department of Energy, Office of Scientific and Technical Information;
36 and

37 E. An annual reconciliation of energy savings based on the measurement and
38 verification process under this section.

1 Prior to entering into an agreement, a school administrative unit may request that the
2 Department of Administrative and Financial Services, Bureau of ~~General Services~~ Real
3 Estate Management review the performance criteria in the agreement for conformance
4 with this subsection. The Bureau of ~~General Services~~ Real Estate Management shall
5 review and advise school administrative units to the extent resources allow.

6 **Sec. 129. 22 MRSA §8307, sub-§2**, as amended by PL 2011, c. 691, Pt. B, §24,
7 is further amended to read:

8 **2. Feasibility study of other child care facilities and programs.** Prior to the
9 creation of new or additional state financed or operated child care facilities provided
10 primarily for the benefit of state employees, except the initial facility to be located in the
11 Augusta area, the Office of Child Care Coordination, in cooperation with the Department
12 of Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
13 Management, shall conduct a feasibility study of the proposed child care facility, which
14 must be located in a state-owned facility or in a facility located conveniently near the
15 workplaces of state employees. This feasibility study, at a minimum, must include:

16 A. The location of the site and the reasons justifying the location, including reasons
17 justifying or not justifying using state-owned facilities;

18 B. An analysis of the benefits and liabilities of contracting with the private sector to
19 provide child care programs under this section;

20 C. An analysis of the benefits and liabilities of State Government operation of child
21 care programs and facilities for children of state employees;

22 D. The number and ages of children proposed for the site;

23 E. The type of assistance to be made available to children of state employees
24 classified as low-income households;

25 F. The types of activities and programs to be provided, including preschool and
26 after-school programs;

27 G. A time schedule for the commencement of programs at each facility;

28 H. Sources of income, including fees, if any, for funding each facility; and

29 I. Any other information determined important by the Office of Child Care
30 Coordination and the Bureau of ~~General Services~~ Real Estate Management.

31 The report required by this subsection must be provided to the joint standing committee
32 of the Legislature having jurisdiction over human resources matters in a timely manner
33 preceding the selection of the site.

34 **Sec. 130. 23 MRSA §52, 2nd ¶**, as repealed and replaced by PL 2005, c. 313, §2,
35 is amended to read:

36 The department has full power to purchase all supplies, materials and equipment that
37 are incidental to, or necessary for, project-specific construction, improvement or
38 maintenance of transportation infrastructure. The purchase of supplies, materials and
39 equipment for nonproject-specific purposes must be made through the ~~State Purchasing~~
40 ~~Agent~~ Chief Procurement Officer as provided by law. For the purposes of this section,

1 unless the context otherwise indicates, "project-specific" means relating to a specific
2 location for a limited duration, as opposed to perennial, nonlocation-specific activities.
3 The department may be consulted by and shall, without charge, advise municipal officers
4 and road commissioners on the subject of construction, improvement and maintenance of
5 public highways, bridges and other structures. The department shall whenever practicable
6 give preference in employment to the inhabitants of the town in which such highways are
7 located.

8 **Sec. 131. 23 MRSA §4210, sub-§3**, as enacted by PL 2001, c. 83, Pt. C, §1, is
9 amended to read:

10 **3. Distribution from fund.** Money distributed from the fund may be used for the
11 purpose of purchasing, operating, maintaining, improving, repairing, constructing and
12 managing buildings, including permanent storage facilities, garages and field office
13 buildings, except for buildings and facilities under the supervision of the Department of
14 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
15 Management.

16 **Sec. 132. 25 MRSA §2905, 2nd ¶**, as amended by PL 1987, c. 416, §2 and PL
17 2005, c. 236, §4, is further amended to read:

18 The words "parking area" or "parking areas," when used in this chapter, or
19 ~~regulations in rules issued thereunder~~ under this chapter, shall be held to mean all lands
20 maintained by the State at the capitol area or other state controlled locations in Augusta
21 ~~which that~~ may be designated as parking areas by the ~~State Director of Public~~
22 ~~Improvements~~ Chief Facilities Officer within the Department of Administrative and
23 Financial Services or by the superintendent of the Riverview Psychiatric Center, with the
24 approval of the Commissioner of Public Safety.

25 **Sec. 133. 26 MRSA §565-A, sub-§1**, as amended by PL 2011, c. 691, Pt. B, §25,
26 is further amended to read:

27 **1. Advise and propose standards.** The board shall work with the Department of
28 Administrative and Financial Services, Bureau of ~~General Services~~ Real Estate
29 Management with respect to evaluation of indoor air quality and ventilation in public
30 school buildings and buildings occupied by state employees and the preparation of the
31 report pursuant to Title 5, section 1742, subsection 24, paragraph A.

32 A. The board may advise the Department of Administrative and Financial Services,
33 Bureau of ~~General Services~~ Real Estate Management and propose for consideration
34 by the bureau air quality and ventilation standards that are more stringent than the
35 minimum standards as defined in Title 5, section 1742, subsection 24.

36 **Sec. 134. 27 MRSA §452, sub-§3-A**, as amended by PL 2011, c. 691, Pt. B, §26,
37 is further amended to read:

38 **3-A. Construction.** "Construction" means the construction or renovation of a public
39 building or public facility, the cost of which is at least \$100,000, but does not include
40 repairs or minor alterations. In its rulemaking and decisions regarding construction

1 projects governed by this Act, the commission is guided by the determinations of the
2 Director of the Bureau of General Services Chief Facilities Officer within the Department
3 of Administrative and Financial Services.

4 **Sec. 135. 27 MRSA §455**, as amended by PL 1993, c. 435, §9 and PL 2003, c. 20,
5 Pt. OO, §2 and affected by §4, is further amended to read:

6 **§455. Determination of amount for acquisition of art**

7 The commission, in consultation with the Department of Administrative and
8 Financial Services, Bureau of General Services Real Estate Management, the Department
9 of Education, the Office of Facilities within the University of Maine System or the Maine
10 Community College System, whichever has budgetary authority over the project, shall
11 determine the minimum amount to be made available for the purchase of art for each
12 public building or facility.

13 **Sec. 136. 27 MRSA §457, sub-§2**, as amended by PL 1993, c. 435, §9 and PL
14 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

15 **2. Procedures for participation of architect.** Advise the Department of
16 Administrative and Financial Services, Bureau of General Services Real Estate
17 Management, the Department of Education, the Office of Facilities within the University
18 of Maine System and the Maine Community College System concerning procedures for
19 participation and compensation of the architect in connection with the acquisition of
20 works of art under this chapter;

21 **Sec. 137. 28-A MRSA §83-C, sub-§3**, as enacted by PL 2013, c. 476, Pt. A, §9,
22 is amended to read:

23 **3. Purchase.** Oversee the wholesale purchase and storage of spirits for sale in the
24 State. If the bureau awards a contract under section 90, spirits delivered to and stored at a
25 warehouse approved by the bureau are the property of the supplier. Spirits become the
26 property of the bureau upon removal from the warehouse for shipment to an agency
27 liquor store. Spirits delivered to an agency liquor store become the property of the
28 licensee upon receipt of delivery. A person awarded a contract under section 90 at no
29 time takes legal title to any spirits delivered to the warehouse. The bureau may buy and
30 have in its possession spirits for sale to the public. The bureau shall buy spirits directly
31 and not through the ~~State Purchasing Agent~~ Chief Procurement Officer. All spirits must
32 be free from adulteration and misbranding;

33 **Sec. 138. 30-A MRSA §4349-A, sub-§2**, as amended by PL 2013, c. 368, Pt. V,
34 §56, is further amended to read:

35 **2. State facilities.** The Department of Administrative and Financial Services,
36 Bureau of ~~General Services~~ Real Estate Management shall develop site selection criteria
37 for state office buildings, state courts, hospitals and other quasi-public facilities and other
38 civic buildings that serve public clients and customers, whether owned or leased by the
39 State, that give preference to the priority locations identified in this subsection while
40 ensuring safe, healthy, appropriate work space for employees and clients and accounting

1 for agency requirements. On-site parking may only be required if it is necessary to meet
2 critical program needs and to ensure reasonable access for agency clients and persons
3 with disabilities. Employee parking that is within reasonable walking distance may be
4 located off site. If there is a change in employee parking from on-site parking to off-site
5 parking, the Department of Administrative and Financial Services must consult with the
6 duly authorized bargaining agent or agents of the employees. Preference must be given
7 to priority locations in the following order: service center downtowns, service center
8 growth areas and downtowns and growth areas in other than service center communities.
9 If no suitable priority location exists or if the priority location would impose an undue
10 financial hardship on the occupant or is not within a reasonable distance of the clients and
11 customers served, the facility must be located in accordance with subsection 1. The
12 following state facilities are exempt from this subsection: a lease of less than 500 square
13 feet; and a lease with a tenure of less than one year, including renewals.

14 **Sec. 139. 30-A MRSA §4349-A, sub-§4**, as enacted by PL 1999, c. 776, §10, is
15 amended to read:

16 **4. Application.** Subsections 1 and 2 apply to a state capital investment for which an
17 application is accepted as complete by the state agency funding the project after January
18 1, 2001 or ~~which~~ that is initiated with the Department of Administrative and Financial
19 Services, Bureau of ~~General Services~~ Real Estate Management by a state agency after
20 January 1, 2001.

21 **Sec. 140. 30-A MRSA §6209**, as enacted by PL 2005, c. 266, §2, is amended to
22 read:

23 **§6209. Request for proposals**

24 No later than November 1st of each year, the department shall issue a request for
25 proposals in accordance with the Bureau of ~~General Services~~ Business Management
26 Rules, Chapter 110 that includes the schedules for submission and action on applications
27 for grants under this chapter; procedures for scoring and ranking those applications; and
28 procedures and information requirements related to application submissions. The
29 department shall provide reasonable notice to all eligible applicants about the availability
30 of the fund and the solicitation of grant proposals.

31 **Sec. 141. 34-A MRSA §1403, sub-§5**, as amended by PL 1995, c. 111, §1, is
32 further amended to read:

33 **5. Lease of unused buildings.** The commissioner may, with the approval of the
34 ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the Department
35 of Administrative and Financial Services, lease unused buildings at the correctional and
36 detention facilities for the purposes of providing services to clients.

37 A. The leases must be for a period not to exceed 2 years and may be extended, with
38 the approval of the ~~Director of the Bureau of General Services~~ Chief Facilities
39 Officer, for 3 more 2-year periods.

40 B. The commissioner shall submit a plan of the proposed leases and their impact on
41 the correctional and detention facilities and clients to the joint standing committee of

1 the Legislature having jurisdiction over corrections matters no later than January 31st
2 of each year.

3 **Sec. 142. 34-A MRSA §1403, sub-§5-A**, as enacted by PL 1995, c. 502, Pt. F,
4 §20 and amended by PL 2001, c. 439, Pt. G, §6, is further amended to read:

5 **5-A. Lease of Long Creek Youth Development Center building.** Notwithstanding
6 subsection 5 and Title 5, chapter 154, the commissioner may, with the approval of the
7 ~~Director of the Bureau of General Services~~ Chief Facilities Officer within the Department
8 of Administrative and Financial Services, lease any building that the commissioner
9 determines is no longer needed to be a part of the Long Creek Youth Development Center
10 for the purpose of providing services to clients under such terms as the commissioner and
11 ~~director~~ the Chief Facilities Officer determine appropriate.

12 **Sec. 143. 34-A MRSA §1403, sub-§11**, as enacted by PL 1999, c. 583, §4, is
13 amended to read:

14 **11. Contracting agent.** The chief administrative officer is the contracting agent for
15 all sales of articles from a correctional facility and for all other contracts made on behalf
16 of the correctional facility except those made by the ~~State Purchasing Agent~~ Chief
17 Procurement Officer.

18 A. All contracts must be made in the manner prescribed by the commissioner.

19 B. A contract may not be accepted by the chief administrative officer, unless the
20 contractor gives satisfactory security for its performance.

21 C. An employee of the correctional facility may not be directly or indirectly
22 interested in any contract.

23 **Sec. 144. 34-A MRSA §3004, sub-§1**, as amended by PL 1991, c. 314, §28, is
24 further amended to read:

25 **1. Contract actions.** Actions founded on any contract made with the ~~State~~
26 ~~Purchasing Agent~~ Chief Procurement Officer, or with any official of the department
27 under the authority granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on
28 behalf of a correctional or detention facility may be brought by the official making the
29 contract or the official's successor in office.

30 **Sec. 145. 34-B MRSA §1404, sub-§1**, as enacted by PL 1983, c. 459, §7, is
31 amended to read:

32 **1. Contract actions.** Actions founded on any contract made with the ~~State~~
33 ~~Purchasing Agent~~ Chief Procurement Officer, or with any official of the department
34 under the authority granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on
35 behalf of any of the state institutions, may be brought by the official making the contract
36 or ~~his~~ the official's successor in office.

37 **Sec. 146. 35-A MRSA §1908**, as enacted by PL 2013, c. 369, Pt. B, §1, is
38 amended to read:

1 **§1908. Exemption from Chief Procurement Officer rules**

2 Notwithstanding any other provision of law, agreements and contracts entered into
3 pursuant to this chapter are not subject to the competitive bid requirements of the ~~State~~
4 ~~Purchasing Agent~~ Chief Procurement Officer.

5 **Sec. 147. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2017, c. 134, §2, is
6 further amended to read:

7 **3. Commission authority.** The commission may direct investor-owned
8 transmission and distribution utilities to enter into long-term contracts for:

9 A. Capacity resources;

10 B. Any available energy associated with capacity resources contracted under
11 paragraph A:

12 (1) To the extent necessary to fulfill the policy of subsection 2, paragraph A; or

13 (2) If the commission determines appropriate for purposes of supplying or
14 lowering the cost of standard-offer service or otherwise lowering the cost of
15 electricity for the ratepayers in the State. Available energy contracted pursuant to
16 this subparagraph may be sold into the wholesale electricity market in
17 conjunction with solicitations for standard-offer supply bids;

18 C. Any available renewable energy credits associated with capacity resources
19 contracted under paragraph A. The price paid by the investor-owned transmission
20 and distribution utility for the renewable energy credits must be lower than the price
21 received for those renewable energy credits at the time they are sold by the
22 investor-owned transmission and distribution utility; and

23 D. Transmission capacity, capacity resources, energy or renewable energy credits
24 pursuant to a regional procurement process in conjunction with other states.

25 The commission may permit, but may not require, investor-owned transmission and
26 distribution utilities to enter into contracts for differences that are designed and intended
27 to buffer ratepayers in the State from potential negative impacts from transmission
28 development. To the greatest extent possible, the commission shall develop procedures
29 for long-term contracts for investor-owned transmission and distribution utilities under
30 this subsection having the same legal and financial effect as the procedures used for
31 standard-offer service pursuant to section 3212 for investor-owned transmission and
32 distribution utilities.

33 The commission may enter into contracts for interruptible, demand response or energy
34 efficiency capacity resources. These contracts are not subject to the rules of the ~~State~~
35 ~~Purchasing Agent~~ Chief Procurement Officer. In a competitive solicitation conducted
36 pursuant to subsection 6, the commission shall allow transmission and distribution
37 utilities to submit bids for interruptible or demand response capacity resources.

38 Capacity resources contracted under this subsection may not exceed the amount
39 necessary to ensure the reliability of the electric grid of this State, to meet the energy
40 efficiency program budget allocations articulated in the triennial plan as approved by the
41 commission pursuant to section 10104, subsection 4 or any annual update plan approved

1 by the commission pursuant to section 10104, subsection 6 or to lower customer costs as
2 determined by the commission pursuant to rules adopted under subsection 10.

3 Unless the commission determines the public interest requires otherwise, a capacity
4 resource may not be contracted under this subsection unless the commission determines
5 that the capacity resource is recognized as a capacity resource for purposes of any
6 regional or federal capacity requirements.

7 The commission shall ensure that any long-term contract authorized under this subsection
8 is consistent with the State's goals for greenhouse gas reduction under Title 38, section
9 576 and the regional greenhouse gas initiative as described in the state climate action plan
10 required in Title 38, section 577.

11 By January 1st of each year, the commission shall submit a report to the joint standing
12 committee of the Legislature having jurisdiction over energy and utilities matters on the
13 procurement of transmission capacity, capacity resources, energy and renewable energy
14 credits in the preceding 12 months under this subsection, the Community-based
15 Renewable Energy Act and deep-water offshore wind energy pilot projects under Public
16 Law 2009, chapter 615, Part A, section 6, as amended by Public Law 2013, chapter 369,
17 Part H, sections 1 and 2 and chapter 378, sections 4 to 6. The report must contain
18 information including, but not limited to, the number of requests for proposals by the
19 commission for long-term contracts, the number of responses to requests for proposals
20 pursuant to which a contract has been finalized, the number of executed term sheets or
21 contracts resulting from the requests for proposals, the commission's initial estimates of
22 ratepayer costs or savings associated with any approved term sheet, actual ratepayer costs
23 or savings for the previous year associated with any procurement, the total ratepayer costs
24 or savings at the time of the report and the megawatt-hours, renewable energy credits or
25 capacity produced or procured through contracts. The report must also include a plan for
26 the succeeding 12 months pertaining to the procurement of capacity resources, energy
27 and renewable energy credits, including dates for requests for proposals, and types of
28 resources to be procured.

29 **Sec. 148. 35-A MRSA §3212, sub-§2**, as amended by PL 1999, c. 577, §4 and c.
30 578, §1, is further amended to read:

31 **2. Selection of standard-offer service providers.** After terms and conditions for
32 standard-offer service have been established under subsection 1, the commission shall
33 administer a bid process to select a standard-offer service provider for that transmission
34 and distribution utility's service territory. By December 1, 1999, the commission shall
35 review the bid submissions for each transmission and distribution utility and select the
36 standard-offer service provider or providers for that utility's service territory.

37 A. The commission shall determine the general credit data and specific information
38 from general load and usage data that transmission and distribution utilities must
39 provide to potential standard-offer service bidders, including, but not limited to,
40 monthly demand and energy consumption and the number of customers in each
41 customer class. The commission shall ensure that individual customer confidentiality
42 is preserved in this process and that a transmission and distribution utility releases
43 customer-specific data only with the customer's permission. If the transmission and
44 distribution utility incurs additional costs to develop and produce the required data,

1 the commission shall permit that utility to recover those costs through transmission
2 and distribution rates.

3 B. The commission shall establish the maximum duration of a standard-offer service
4 contract after considering all relevant factors, including, but not limited to, market
5 risks and the need for price stability and contract flexibility.

6 C. A competitive electricity provider that is an affiliate of a large investor-owned
7 transmission and distribution utility may submit bids to provide standard-offer
8 service for up to 20% of the electric load within the service territory of the large
9 investor-owned transmission and distribution utility with which it is affiliated. To
10 prevent the unfair use of information possessed by a large investor-owned
11 transmission and distribution utility, the commission shall ensure that a utility
12 seeking to bid on standard-offer service has no greater access to relevant information
13 than is provided to other potential bidders.

14 D. A consumer-owned transmission and distribution utility and a small investor-
15 owned transmission and distribution utility may submit bids to provide standard-offer
16 service for that utility's service territory. To prevent the unfair use of information
17 possessed by a consumer-owned transmission and distribution utility or a small
18 investor-owned transmission and distribution utility, the commission shall ensure that
19 a utility seeking to bid on standard-offer service has no greater access to relevant
20 information than is provided to other potential bidders.

21 The commission shall adopt rules establishing a methodology for structuring the bidding
22 process for standard-offer service in order to implement the provisions of this subsection.
23 In adopting rules, the commission shall consider methods to ensure, to the extent
24 possible, at least 3 providers of standard-offer service in each transmission and
25 distribution utility service territory, as long as the method does not result in any
26 significant adverse impacts on rates paid by consumers. Rules adopted under this
27 subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~
28 2-A.

29 Notwithstanding any other provision of this Title, the commission may, in the event of a
30 default by a standard-offer service provider, require the transmission and distribution
31 utility in whose service territory the provider was providing standard-offer service to
32 arrange and to provide for default service. Notwithstanding any other provision of this
33 Title, the commission may, in the event that the commission receives no bids to provide
34 standard-offer service in a transmission and distribution utility's territory or the
35 commission determines that the bids it receives are inadequate or unacceptable, require
36 the transmission and distribution utility to arrange and to provide for default service.
37 Notwithstanding any other provision of this Title, the commission may require a
38 transmission and distribution utility to provide default service to its customers that are not
39 located within either the New England independent system operator control area or the
40 Maritimes control area; and this default service ~~pursuant to this sentence~~ must be
41 provided to customers at the same price and on the same terms and conditions as
42 standard-offer service is provided to the customers of the transmission and distribution
43 utility in the standard-offer class in which the customer is eligible to receive service. The
44 arrangement and provision of ~~such~~ this default service by a transmission and distribution

1 utility ~~does~~ do not constitute selling electric energy or capacity at retail for purposes of
2 section 3205, subsection 2.

3 Notwithstanding Title 5, section 1831, the commission is not subject to rules adopted by
4 the ~~State Purchasing Agent~~ Chief Procurement Officer in conducting the competitive
5 bidding process required under this section.

6 **Sec. 149. 35-A MRSA §10104, sub-§9**, as amended by PL 2017, c. 110, §34, is
7 further amended to read:

8 **9. Coordination with other entities.** Consistent with the requirements of this
9 chapter and other applicable laws, the board shall coordinate with the activities and
10 programs of state agencies and authorities that relate to the purposes of this chapter in
11 order to align such activities and programs with the plans and programs of the trust. For
12 purposes of this subsection, activities and programs of state agencies and authorities that
13 relate to the purposes of this chapter include but are not limited to energy efficiency
14 programs relating to state facilities administered by the Department of Administrative and
15 Financial Services, Bureau of ~~General Services~~ Real Estate Management, the adoption,
16 amendment and maintenance of the Maine Uniform Building and Energy Code by the
17 Technical Building Codes and Standards Board, established in Title 5, section 12004-G,
18 subsection 5-A within the Department of Public Safety, energy efficiency or green energy
19 workforce development activities of the Department of Labor or the State Workforce
20 Board and energy efficiency and weatherization programs administered by the Maine
21 State Housing Authority.

22 **Sec. 150. 35-A MRSA §10105, sub-§4**, as enacted by PL 2009, c. 372, Pt. B, §3,
23 is amended to read:

24 **4. Chief Procurement Officer rules.** Notwithstanding Title 5, section 1831, the
25 trust is not subject to rules adopted by the ~~State Purchasing Agent~~ Chief Procurement
26 Officer in selecting service providers pursuant to this chapter. The trust shall consider
27 delivery of programs by means of contracts with service providers that participate in
28 competitive bid processes for providing services within individual market segments or for
29 particular end uses.

30 **Sec. 151. 35-A MRSA §10110, sub-§3**, as enacted by PL 2009, c. 372, Pt. B, §3,
31 is amended to read:

32 **3. Implementation.** The trust shall seek to implement the delivery of conservation
33 programs in all regions of the State on an equitable basis and to citizens at all income
34 levels. The trust may arrange the delivery of conservation programs by contracting with
35 service providers. The trust shall select service providers in accordance with this
36 subsection.

37 A. The trust shall select service providers through a competitive bidding process.

38 B. To the extent practicable, the trust shall encourage the development of resources,
39 infrastructure and skills within the State by giving preference to in-state service
40 providers.

41 C. Notwithstanding paragraph A:

1 (1) The trust may select a service provider for one or more conservation
2 programs without employing a competitive bidding process if the trust finds that
3 the selection of the service provider will promote the efficient and effective
4 delivery of conservation programs and is consistent with the objectives and
5 overall strategy of the conservation programs; and

6 (2) For the delivery of conservation programs to low-income residential
7 consumers, the commission, without employing a competitive bidding process,
8 may use the delivery system for the Weatherization Assistance for Low-income
9 Persons Program administered through the United States Department of Energy
10 and the network of for-profit and not-for-profit entities who have held contracts
11 with transmission and distribution utilities to deliver conservation services to
12 low-income and residential customers.

13 In accordance with section 10105, the trust is not subject to rules adopted by the ~~State~~
14 ~~Purchasing Agent~~ Chief Procurement Officer in selecting service providers pursuant to
15 this subsection. The board shall adopt rules establishing procedures governing the
16 selection of service providers under this subsection. The board shall consult with the
17 ~~State Purchasing Agent~~ Chief Procurement Officer in developing the rules.

18 A trade association aggregator is eligible to participate in competitive bid processes under
19 this subsection.

20 **Sec. 152. 36 MRSA §191, sub-§2, ¶JJ**, as amended by PL 2009, c. 361, §12, is
21 further amended to read:

22 JJ. The disclosure to the ~~State Purchasing Agent~~ Chief Procurement Officer of a
23 person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection
24 14;

25 **Sec. 153. 36 MRSA §4372-A, sub-§7**, as amended by PL 1999, c. 616, §6, is
26 further amended to read:

27 **7. Hearings; disposition; deposit of funds.** At a hearing, other than a default
28 proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law
29 and file a final order from which the parties have the right of appeal. When cigarettes are
30 ordered forfeited, the final order must provide for the disposition of the cigarettes by the
31 State Tax Assessor by public auction or by the ~~State Purchasing Agent~~ Chief
32 Procurement Officer. Proceeds must be deposited in the General Fund. Cigarettes
33 described in section 4366-C, subsection 1 must be destroyed by the State Tax Assessor in
34 a manner that prevents their reintroduction into the marketplace.

35 **Sec. 154. 36 MRSA §4404-C, sub-§7**, as enacted by PL 2005, c. 627, §11, is
36 amended to read:

37 **7. Hearings; disposition; deposit of funds.** At a hearing other than a default
38 proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law
39 and file a final order to which the parties have the right of appeal. When tobacco products
40 are ordered forfeited, the final order must provide for the disposition of the tobacco
41 products by the assessor by public auction or by the ~~State Purchasing Agent~~ Chief
42 Procurement Officer. Proceeds must be deposited in the General Fund. Tobacco products

1 described in section 4404-B, subsection 1 must be destroyed by the assessor in a manner
2 that prevents their reintroduction into the marketplace.

3 **Sec. 155. 37-B MRSA §157, sub-§2, ¶E**, as enacted by PL 2003, c. 646, §5, is
4 amended to read:

5 E. In accordance with applicable law, proceeds from the sale of vehicles and
6 equipment under the administrative control of the Maine Military Authority by the
7 state surplus property program in the Department of Administrative and Financial
8 Services, Bureau of ~~General Services~~ Business Management.

9 **Sec. 156. 38 MRSA §1303-C, sub-§6, ¶D**, as amended by PL 2011, c. 655, Pt.
10 GG, §7 and affected by §70, is further amended to read:

11 D. Beginning January 1, 2007, a solid waste facility owned and controlled by the
12 Department of Administrative and Financial Services, Bureau of ~~General Services~~
13 Real Estate Management under chapter 24;

14 **Sec. 157. 38 MRSA §2101-A, sub-§3**, as enacted by PL 2011, c. 655, Pt. GG,
15 §28 and affected by §70, is amended to read:

16 **3. Bureau.** "Bureau" means the Bureau of ~~General Services~~ Real Estate
17 Management within the Department of Administrative and Financial Services as
18 authorized pursuant to Title 5, section 1742.

19 **Sec. 158. 39-A MRSA §105-A, sub-§6, ¶B**, as enacted by PL 2011, c. 403, §3,
20 is amended to read:

21 B. The board and the Department of Administrative and Financial Services, Bureau
22 of ~~General Services~~ Real Estate Management shall cooperate and provide notice to
23 each other regarding the letting of state-funded construction projects and any
24 stop-work order, debarment or other action as either may take or issue.

25 **Sec. 159. Department of Administrative and Financial Services; Chief**
26 **Facilities Officer position established.** The Department of Administrative and
27 Financial Services, Bureau of Human Resources and Bureau of the Budget shall authorize
28 and establish in the Department of Administrative and Financial Services, Public
29 Improvements - Planning/Construction - Administration General Fund program account
30 the permanent position of Chief Facilities Officer as a confidential position subject to the
31 Civil Service Law funded from the elimination of the Director, Bureau of General
32 Services position in the Public Improvements - Planning/Construction - Administration
33 General Fund program account. The positions - legislative count for the Director, Bureau
34 of General Services position must be used as authorization for the Chief Facilities Officer
35 position.

36 **Sec. 160. Maine Revised Statutes amended; revision clause.** Wherever in
37 the Maine Revised Statutes the words "Department of Administration" appear or
38 reference is made to that entity or those words, those words are amended to read or mean,
39 as appropriate, "Department of Administrative and Financial Services" or "department"

1 and the Revisor of Statutes shall implement this revision when updating, publishing or
2 republishing the statutes.

3 **Sec. 161. Maine Revised Statutes amended; revision clause.** Wherever in
4 the Maine Revised Statutes the words "Director of Public Improvements" appear or
5 reference is made to that entity or those words, those words are amended to read or mean,
6 as appropriate, "Chief Facilities Officer" and the Revisor of Statutes shall implement this
7 revision when updating, publishing or republishing the statutes.

8 **Sec. 162. Maine Revised Statutes amended; revision clause.** Wherever in
9 the Maine Revised Statutes the words "Bureau of Public Improvements" appear or
10 reference is made to that entity or those words, those words are amended to read or mean,
11 as appropriate, "Bureau of Real Estate Management" or "bureau" and the Revisor of
12 Statutes shall implement this revision when updating, publishing or republishing the
13 statutes.

14 **Sec. 163. Maine Revised Statutes amended; revision clause.** Wherever in
15 the Maine Revised Statutes the words "Bureau of Purchases" appear or reference is made
16 to that entity or those words, those words are amended to read or mean, as appropriate,
17 "Bureau of Business Management" or "bureau" and the Revisor of Statutes shall
18 implement this revision when updating, publishing or republishing the statutes.

19 **Sec. 164. Maine Revised Statutes amended; revision clause.** Wherever in
20 the Maine Revised Statutes the words "State Purchasing Agent" appear or reference is
21 made to that entity or those words, those words are amended to read or mean, as
22 appropriate, "Chief Procurement Officer" and the Revisor of Statutes shall implement this
23 revision when updating, publishing or republishing the statutes.

24 SUMMARY

25 This bill is introduced in accordance with Public Law 2017, chapter 284, Part
26 QQQQ, section 3. The bill removes the Director of the Bureau of General Services from
27 the list of state officials whose salaries are subject to adjustment by the Governor. It
28 removes the authority and responsibility for general services functions and activities in
29 the Department of Administrative and Financial Services from the Bureau of General
30 Services and the Director of the Bureau of General Services and transfers that authority
31 and responsibility to a Bureau of Business Management headed by the Chief Procurement
32 Officer and a Bureau of Real Estate Management headed by the Chief Facilities Officer, a
33 position created by the bill.

34 The bill removes and corrects references to the Bureau of Purchases, the State
35 Purchasing Agent, the Director of Public Improvements and the Department of
36 Administration, all of which no longer exist as a result of the creation of the Department
37 of Administrative and Financial Services. It includes revision clauses to authorize the
38 Revisor of Statutes to implement any necessary changes in statutory references when
39 updating, publishing or republishing the statutes.

1 The bill also updates an outdated reference to standards for the recycled content of
2 paper and paper products and removes outdated references to the Office of Waste
3 Reduction and Recycling, whose duties have been absorbed by the Department of
4 Environmental Protection.