

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985  
Chapters 384-End

AND AT THE

**FIRST SPECIAL SESSION**

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1985

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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## CHAPTER 497

S.P. 628 - L.D. 1645

### AN ACT Relating to the Administration of Vocational Education.

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

Whereas, it is essential that the Department of Personnel, Department of Finance and Administration, Department of Educational and Cultural Services and the new Board of Trustees of the Maine Vocational-technical Institutes immediately undertake a comprehensive evaluation and study of providing flexibility for the operation of the vocational-technical institutes and report enabling legislation to the Second Regular Session of the 112th Legislature; and

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

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

Sec. 1. 5 MRSA §1507, sub-§4-A, as enacted by PL 1979, c. 602, §2, is amended to read:

4-A. Vocational-technical institutes. The Governor may allocate funds from such account in amounts not to exceed in total the sum of \$100,000 in any fiscal year to provide funds for any unusual and unforeseen needs as may arise in the operation of the vocational-technical institutes. Allocations may be made from this fund by the Governor only upon the written request of the State Board of Education Trustees of the Maine Vocational-technical Institutes and after consultation with the State Budget Officer.

Sec. 2. 5 MRSA §12004, sub-§8, ¶A, sub-¶(4-A) is enacted to read:

<u>(4-A) Education</u>	<u>Board of Trustees-</u> <u>Maine Vocational-</u> <u>technical Insti-</u> <u>tutes</u>	<u>Expenses</u> <u>only</u>	<u>20-A MRSA</u> <u>\$12553</u>
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Sec. 3. 20-A MRSA §405, sub-§3, ¶C, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 4. 20-A MRSA c. 403, as amended, is repealed.

Sec. 5. 20-A MRSA c. 429 is enacted to read:

CHAPTER 429

ADMINISTRATION OF THE MAINE  
VOCATIONAL-TECHNICAL INSTITUTES

§12551. Purpose and mission

In order to enjoy the blessings of domestic tranquility, liberty and justice, a society must recognize and valiantly strive to develop its greatest resource which is the citizens of the State. A society can only flourish and prosper if the citizens have the opportunity to achieve self-fulfillment, a sense of pride in themselves and their accomplishments and the ability to achieve for the common good.

The purpose and mission of post-secondary vocational-technical education in the State, therefore, is to provide the means by which persons may acquire knowledge and skills to grow and adapt to the changing needs of the State's economy and to successfully live in and contribute to a highly complex and dynamic society.

In order to promote the general welfare, secure the fruits of prosperity and ultimately contribute to the happiness of the citizenry, it is necessary to provide the State with working people who are conscientious, productive, well-informed, adaptable in mind and in skills and who possess a sense of self-awareness and social responsibility. To accomplish these just and noble goals, vocational-technical education in the State must be directed to meet specific objectives.

1. Objectives. The objectives include:

A. Anticipation of future economic development needs of the State and preparation of the State's labor force to expeditiously meet these needs;

B. Coordination of economic development policy with vocational-technical education and training;

C. Creation of a skilled but flexible and adaptable labor force which is responsive to the labor needs of the State's economy;

D. The opportunity for Maine workers to be retrained in new skills that are in demand;

E. Responsiveness of vocational-technical education not only to the economic needs of the State, but also to regional and local needs;

F. Expeditious adaption to changing requirements and needs, not only by the vocational-technical institutes but also by the labor force, through training and educational programs offered at the institutes and at other convenient and accessible locations; and

G. Coordination of training and educational programs and personnel with the several institutions of higher learning in the State.

2. Maine vocational-technical institutes; goals. In addition to the objectives and goals as established in this section, the board of trustees and the commissioner shall:

A. Cooperate closely with the private sector to provide both short-term training to meet private sector needs and longer-term education and training necessary for various occupations;

B. Cooperate closely with the private sector, other institutions of higher education and economic development agencies of the State to undertake long-range planning and provide for coordinated education and training programs throughout the State;

C. Coordinate the activities of the institutes with the programs of the Department of Educational and Cultural Services, Division of Adult and Continuing Education;

D. Offer courses and curricula that provide more than basic skills and teach students not only how to think but also to understand the basis of issues and problems;

E. Provide each graduate with job skills and an understanding of how to adapt these skills to changing technology and a changing economy;

F. Provide the general education necessary to complement the requirements of specific vocational and technical skills;

G. Provide supplementary education programs to

upgrade those persons already employed or retrain persons for new employment opportunities;

H. Provide special programs for disadvantaged and handicapped persons to permit them to take maximum advantage of their aptitudes and interests; and

I. Develop programs with the goal of enabling recipients of Aid to Families with Dependent Children to achieve education and skill levels that will allow them to compete for employment which can eliminate their dependency on public assistance.

#### §12552. Definitions

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

1. Board. "Board" means the Board of Trustees of the Maine Vocational-technical Institutes.

2. Commissioner. "Commissioner" means the Commissioner of Educational and Cultural Services.

3. Director. "Director" means the director of a vocational-technical institute, as established in section 12558.

4. Institute. "Institute" means a vocational-technical institute, as established in section 12560.

#### §12553. Board of Trustees of the Maine Vocational-technical Institute

The Board of Trustees of the Maine Vocational-technical Institutes, established pursuant to Title 5, section 12004, subsection 8, shall be the policy-making authority of the vocational-technical institutes.

1. Membership. The board shall consist of 9 voting members and 2 ex officio nonvoting members appointed by the Governor as follows:

A. Two from the field of business and industry;

B. One from the field of labor;

C. Four from the State Board of Education;

D. One from the Board of Trustees of the University of Maine;

E. One person from the general public who has demonstrated great interest in vocational education;

F. The Commissioner of Educational and Cultural Services, who shall serve as an ex officio, non-voting member; and

G. The Director of the State Development Office who shall serve as an ex officio, nonvoting member.

2. Appointment; terms. The voting members of the board of trustees shall be appointed by the Governor to 4-year terms of office, subject to review by the joint standing committee of the Legislature having jurisdiction over education and to confirmation by the Legislature. Of the members initially appointed to the board, 2 shall be appointed for one year, 3 shall be appointed for 2 years, 2 shall be appointed for 3 years and 2 shall be appointed for 4 years. No classified or unclassified employee of the State or person who holds elected state office may serve on the board of trustees. Vacancies on the board of trustees shall be filled for the unexpired term only. A member shall serve until a successor has been appointed and qualified. The Governor may remove any member for cause.

A. The members of the board of trustees shall be appointed by August 15, 1985.

3. Compensation. Members shall be compensated according to Title 5, section 12004, subsection 8, from funds within the budget of the Department of Educational and Cultural Services.

4. Chairman. The Governor shall appoint the chairman annually. A chairman shall be eligible for reappointment.

5. Meetings. The board shall meet at least once a month and at the call of the chairman or at the request of a majority of the members of the board.

6. Quorum. A quorum shall consist of 5 voting members and the board shall not conduct any official business without a quorum present and voting.

§12554. Board of trustees; powers and duties

The board of trustees shall have the following powers and duties:

1. Policy. Develop and adopt policies for the



operation of the administration and the vocational-technical institutes;

2. Administrative responsibility. Oversee the administration of the vocational-technical institutes;

3. Prepare and adopt a budget. Prepare and adopt a budget to include the board and vocational-technical institutes for submission to the Governor and Legislature. The budget may contain provisions for construction, renovation and reconstruction projects;

4. Receive and accept loans, aid or contributions. Receive and accept loans, aid or contributions from any source of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to loans, gifts or grants from any federal agency, governmental subdivision or the State and its agencies for any purpose consistent with this chapter;

5. Approval of programs and policies. Approve or disapprove programs and policies recommended by the commissioner and the directors of the institutes;

6. Establish and oversee the operation of the vocational-technical institutes. Establish and oversee the operation of the vocational-technical institutes to promote specialized training for persons who give evidence of special aptitude or need and who desire specialized training designed specifically to train for service in trade, industry or commerce. The training and education, as authorized by this section shall be directed toward the goals, objectives and purpose set forth in section 12551.

A. The board shall provide for the offering of short-term training to meet the needs of the private sector and for longer-term training and education.

B. The board shall also provide for continuing education courses by which persons may update their skills or change their skills as technology and the State's economy change;

7. Offer courses of study and degrees. Offer courses of study; grant diplomas and certificates on completion of a course of study; confer associate degrees based on 2 years of instruction; and establish qualifications for admission;

8. Approve the commissioner's appointments of directors of vocational-technical institutes. Approve the commissioner's appointments of the directors of the vocational-technical institutes who shall serve at the pleasure of the board;

9. Delegate duties and responsibilities. Delegate duties and responsibilities as the board deems necessary for the efficient operation of this chapter; and

10. Other powers. Do any acts and things necessary or convenient to carry out the powers expressly granted or reasonably implied in this chapter.

§12555. Duties and responsibilities of the commissioner

The commissioner shall implement the policies of the board and be responsible for the operation of the Maine vocational-technical institutes. The commissioner shall have the following powers and duties:

1. Investigate complaints. To investigate complaints and problems relating to the administration of the institutes and inform the board of any activities necessary to resolve any problems;

2. Undertake research and issue reports. To undertake research and issue reports to the board, the Governor and the Legislature as directed by the board;

3. Assist in the preparation of the budget. To assist in the preparation of a budget for the administration and operation of the institutes to be approved by the board prior to submission to the Governor;

4. Oversee the administration of the Maine vocational-technical institutes. To oversee the administration of the institutes;

5. Undertake any and all duties delegated to the commissioner by the board. To undertake any and all duties delegated to the commissioner by the board;

6. Approve and appoint other personnel. To appoint directors of the institutes, subject to approval by the board and to approve appointments made by the directors of the institutes as provided in section 12556;

7. Promote cooperation and communication. To promote cooperation and communication with the University of Maine system;

8. Undertake long-range planning. To undertake long-range planning to include construction, renovation and reconstruction projects and report his findings and recommendations to the board;

9. Promote cooperation among the institutes. To promote cooperation among the institutes and prepare plans for board approval with respect to the coordination of programs, activities and personnel among the institutes;

10. Provide direction to institutes. Develop policies, procedures, goals and objectives to be approved by the board with respect to the operation of the institutes. The commissioner shall meet regularly with the directors of the institutes to develop these policies and goals and to assist the directors in their duties;

11. Work with state agencies. Work closely with other state agencies that have an impact upon vocational education to promote consistent and coordinated policies, procedures and programs;

12. Implement the mission and purpose of this chapter. Implement the mission and purpose set forth in section 12551;

13. Work closely with the private sector. Work closely with the private sector in order to insure that the vocational-technical institutes respond expeditiously to the needs of the private sector and the State's economy, particularly with respect to changing technology, industries and job needs; and

14. Delegate responsibilities. Delegate responsibilities and duties as necessary to administer this chapter.

#### §12556. Directors of institutes

The board, following consideration of the recommendations of the commissioner, shall approve the appointment of directors of the vocational-technical institutes. The directors shall be qualified by education and experience.

1. Administration of institutes. The directors shall be responsible for the day-to-day administration of the institutes under the direction of the commissioner. The directors shall cooperate to provide vocational education and training that best meets the needs of the students, the private sector and the changing economy of the State. The directors shall administer the vocational-technical institutes

consistent with the purpose and mission set forth in section 12551.

A. The directors of each institute shall appoint assistant directors who shall serve at the pleasure of the director.

2. Make recommendations. The director of each institute may make recommendations to the commissioner with respect to the administration of the institute, courses of training and curricula, coordination of programs with other institutes and with other institutions of higher learning and any other matter requested by the commissioner.

3. Appointment of police officers. The directors may appoint persons to act as police officers who, while within the limits of the property owned by or under the control of the institutes, shall possess all the powers of police officers in criminal cases.

A. The board may establish guidelines by which each director may make rules for the control, movement and parking of vehicles within the limits of the property owned by or under the control of the institute. A director's rule shall be adopted or amended in accordance with subsection 3. It shall have the same force and effect as a municipal ordinance. District Courts may impose fines, not to exceed \$10, for each violation of these rules.

B. The board may adopt the provisions of Title 30, section 2151, subsection 3, paragraph A, relating to prima facie evidence and the establishment of a waiver of court action by payment of specified fees.

4. Advisory committees. The director may also appoint advisory committees to advise the director of the institute on the development and operation of academic programs at the vocational-technical institute.

§12557. Name and program of vocational-technical institutes

The program of the vocational-technical institutes shall be designed to educate and prepare qualified high school graduates, or the equivalent, in accordance with the purpose set forth in section 12551. The names of the vocational-technical institutes shall be:

1. Central Maine Vocational-Technical Institute. Central Maine Vocational-Technical Institute in the City of Auburn;

2. Eastern Maine Vocational-Technical Institute. Eastern Maine Vocational-Technical Institute in the City of Bangor;

3. Kennebec Valley Vocational-Technical Institute. Kennebec Valley Vocational-Technical Institute in the Town of Fairfield;

4. Northern Maine Vocational-Technical Institute. Northern Maine Vocational-Technical Institute in the City of Presque Isle;

5. Southern Maine Vocational-Technical Institute. Southern Maine Vocational-Technical Institute in the City of South Portland; and

6. Washington County Vocational-Technical Institute. Washington County Vocational-Technical Institute in the City of Calais.

§12557-A. Operation of courses at a secondary vocational facility; administration; tuition charges

1. Courses offered. The board of trustees may institute vocational courses at grade levels 13 and 14 which may be operated in vocational centers or vocational regions if approved by the State Board of Education.

2. Administration. If these courses are not part of an adult education program, they shall be administered as satellite programs of an institute designated by the State Board of Education.

3. Tuition. Tuition for these courses shall be charged directly to the students enrolled, at rates approved by the State Board of Education.

§12558. Accreditation

The vocational-technical institutes may seek accreditation and maintain membership in the regional accrediting association, satisfy the requirements necessary to achieve and maintain regional accreditation as vocational-technical institutes and meet the requirements necessary for federal aid. Each program of study offered shall meet all of the requirements for professional accreditation or licensing of the particular speciality.

§12559. State scholarships at the vocational-technical institutes

1. Scholarships. The board shall develop and administer a program of scholarships for students enrolled at an institute. A student selected to receive a scholarship shall fulfill the following qualifications:

A. Show evidence of the qualifications necessary to successfully complete the course of study and to become a competent craftsman in a trade or industrial pursuit;

B. Show demonstrated ability and willingness to support the expenses of training; and

C. Show demonstrated need of partial financial assistance to pay the cost of attendance at the institute.

2. Awards. Awards shall be based on evidence of individual need and worth.

3. National Guard Scholarship Program. Members of the Maine National Guard with over 10 years' continuous service may be awarded scholarships at vocational-technical institutes not to exceed 3 credit hours or the equivalent each semester. The guard shall select those who will receive scholarships from among those members eligible for admission to a vocational-technical institute. The program shall be administered by the board.

§12560. Loan fund revolving accounts

The board may establish and administer such loan fund revolving accounts as may be approved by the Governor to completely comply with all federal regulations and to effectively and efficiently operate the loan programs within vocational-technical institutes. The board shall adopt rules pursuant to Title 5, chapter 375, for the giving of loans to students who are in need of financial aid at the vocational-technical institutes, the repayment of the loans or other requirements relative to the loans. Each loan fund revolving account authorized and the specific funds associated with it shall be kept in a separate special account by the Treasurer of State and any repayment of loans made from one of these separate special accounts shall be credited to that separate special account for continued use as a loan fund.

§12561. Instructional Projects Revolving Fund

The board and commissioner shall administer an Instructional Projects Revolving Fund to aid instruction at state vocational-technical institutes. The fund shall be used to pay necessary costs of projects which are carried out as part of the instructional program. No project may be undertaken unless the fund contains enough money to cover the proposed budget. All money generated through operation of any project shall be put into the fund, shall be continually appropriated for use in another instructional project and shall not lapse, except that the total money in the funds shall not exceed \$200,000.

§12562. Journeyman's examinations

An individual may take a journeyman's examination conducted by the following boards in accordance with the following requirements.

1. Electricians' Examining Board. The individual:

A. Who has completed satisfactorily a course of instruction certified by the Electricians' Examining Board at a Maine vocational-technical institute may take the journeyman's examination and after passage of the examination and after working in the field of electrical installation for 4,000 hours under the supervision of a master electrician or the equivalent, shall receive a journeyman's license. The board shall adopt a written criteria for certification of a course of instruction; or

B. Who is enrolled in a course of instruction at a Maine vocational-technical institute on January 1, 1982, is entitled to take a journeyman's examination. Upon the successful completion of that course of instruction and after passage of the examination, the student shall receive a journeyman's license.

2. Oil and Solid Fuel Board. The individual has completed an approved course of at least 1,000 hours of instruction related to the respective field at a Maine vocational-technical institute, a post-secondary satellite program at a vocational region or vocational center or an equivalent training approved by the Oil and Solid Fuel Board.

3. Plumbers' Examining Board. The individual:

A. Who has satisfactorily completed one academic year of instruction in plumbing at a Maine vocational-technical institute may take the

journeyman's examination and after passage of the examination shall receive a journeyman-in-training license. After a minimum of 2,000 hours of work in the field of plumbing installation as a journeyman-in-training under the supervision of a master plumber, that person shall receive a journeyman's license, provided that the work experience is obtained within 4 years of the date upon which the individual was issued a journeyman-in-training license; or

B. Who is enrolled in a course of instruction in plumbing at a Maine vocational-technical institute on July 1, 1983, shall receive a journeyman's license upon successful completion of that course of instruction and passage of the journeyman's examination.

§12563. Annual report

1. Operation of the institutes. The board shall prepare an annual report to be submitted to the joint standing committees of the Legislature having jurisdiction over education and over appropriations and financial affairs by January 1st of each year. This report shall include:

A. Line-item budget expenditures for the last complete fiscal year and the projected expenditures for the fiscal year in which the report is submitted;

B. The number of applications for enrollment in the current academic year compared to current student enrollments at each institute and enrollments for the previous 2 years;

C. Current student enrollments by type of program offered at each institute;

D. A description of activities undertaken to coordinate vocational-technical training and education throughout the State with other training and with other institutions of higher learning;

E. A description of any new courses or curricula provided by the institutes;

F. A description and analysis of job placement of graduates of the vocational-technical institutes;

G. A list of needs, in order of priority, of the Maine vocational-technical institutes; and



H. Any other information deemed significant by the board.

§12564. Repayment of bonds

The Treasurer of State, in consultation with the board, shall establish for each institute a rate at which money generated by room and board charges at each institute shall be allocated for the repayment of bond principal and interest incurred by the construction of dormitories and other facilities at each institute.

Sec. 6. 26 MRSA §1021, first ¶, as amended by PL 1977, c. 581, §1, is further amended to read:

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform basis for recognizing the right of the University of Maine employees, Maine Maritime Academy employees, ~~and vocational-technical institute employees and state schools for practical nursing employees~~ to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

Sec. 7. 26 MRSA §1022, sub-§11, as amended by PL 1979, c. 602, §5, is further amended to read:

11. University, academy or vocational-technical institute employee. "University, academy, or vocational-technical institute ~~or state schools for practical nursing~~ employee" means any regular employee of the University of Maine, the Maine Maritime Academy, or vocational-technical institutes ~~or state schools for practical nursing~~ performing services within a campus or unit, except any person:

- A. Appointed to office pursuant to statute;
- B. Appointed by the Board of Trustees as a vice-president, dean, director or member of the chancellor's or superintendent's immediate staff;
- C. Whose duties necessarily imply a confidential relationship with respect to matters subject to collective bargaining as between such person and the university or the academy; or
- D. Employed in his initial 6 months of employment.

Sec. 8. 26 MRSA §1023, as repealed and replaced by PL 1977, c. 581, §4, is amended to read:

§1023. Right of university, academy or vocational-technical institute employees to join labor organizations

No one shall directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against university, academy, or vocational-technical institute ~~or state schools for practical nursing~~ employees or a group of university, academy, or vocational-technical institute ~~or state schools for practical nursing~~ employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Sec. 9. 26 MRSA §1024-A, sub-§§3 and 5, as enacted by PL 1979, c. 541, Pt. B, §31, are amended to read:

3. Vocational-technical institutes. It is the express legislative intent to foster meaningful collective bargaining for employees of the vocational-technical institutes ~~and state schools for practical nursing~~. Therefore, in accordance with this policy, the bargaining units shall be structured with one unit in each of the following occupational groups:

- A. Faculty and instructors; and
- B. Administrative staff.

5. Additional bargaining units. Notwithstanding subsection 1, 2 or 3, the Legislature recognizes that additional or modified university system-wide units, academy units, or vocational-technical institute units ~~or state schools for practical nursing~~ units may be appropriate in the future. Therefore, the employer or employee organizations may petition the executive director for the establishment of additional or modified university system-wide units, academy units, or vocational-technical institute units ~~or state schools for practical nursing~~ units. The executive director or his designee shall determine the appropriateness of such petitions, taking into consideration the community of interest and the declared legislative intent to avoid fragmentation whenever possible and to insure employees the fullest freedom in exercising the rights guaranteed by this chapter. The executive director or his designee conducting unit determination proceedings shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production

of books, records and other evidence relative or pertinent to the issues represented to them.

Sec. 10. 26 MRSA §1025, as amended by PL 1977, c. 581, §§8 and 9, is further amended to read:

§1025. Determination of bargaining agent

1. Voluntary recognition. Any employee organization may file a request with the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ alleging that a majority of the university, academy, ~~or~~ vocational-technical institute ~~or~~ state schools ~~for practical nursing~~ employees in an appropriate bargaining unit as established in section 1024, wish to be represented for the purpose of collective bargaining between the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ and the employees' organization. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support. Such request for recognition shall be granted by the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ unless the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ desires that an election determine whether the organization represents a majority of the members in the bargaining unit. In the event that the request for recognition is granted by the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~, the executive director shall certify the organization so recognized as the bargaining agent.

2. Elections.

A. The executive director of the board, upon signed request of the university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ alleging that one or more university, academy, ~~or~~ vocational-technical institutes ~~or~~ state schools ~~for practical nursing~~ employees or employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of university, academy, ~~or~~ vocational-technical institute ~~or~~ state schools ~~for practical nursing~~ employees, or upon signed petition of at least 30% of a bargaining unit of university, academy, ~~or~~ vocational-technical institutes' ~~or~~ state schools ~~for practical nursing~~ employees that they desire to be represented by an organization, shall conduct a secret ballot election to determine wheth-

er the organization represents a majority of the members of the bargaining unit.

B. The ballot shall contain the name of such organization and that of any other organization showing written proof of at least 10% representation of the university, academy, or vocational-technical institute ~~or state schools for practical nursing~~ employees within the unit, together with a choice for any university, academy, or vocational-technical institutes ~~or state schools for practical nursing~~ employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot, and no one of the 3 or more choices receives a majority vote of the university, academy, or vocational-technical institute ~~or state schools for practical nursing~~ employees voting, a run-off election shall be held. The run-off ballot shall contain the 2 choices which received the largest and 2nd largest number of votes. When an organization receives the majority of votes of those voting, the executive director shall certify it as the bargaining agent. The bargaining agent certified as representing a bargaining unit shall be recognized by the university, academy, or vocational-technical institutes ~~or state schools for practical nursing~~ as the sole and exclusive bargaining agent for all of the employees in the bargaining unit unless and until a decertification election by secret ballot shall be held and the bargaining agent declared by the executive director as not representing a majority of the unit.

C. Whenever 30% of the employees in a bargaining unit petition for a bargaining agent to be decertified, the procedures for conducting an election on the question shall be the same as for representation as bargaining agent hereinbefore set forth.

D. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question concerning unit or representation may be raised except during the period not more than 90 nor less than 60 days prior to the expiration date of the agreement.

Sec. 11. 26 MRSA §1026, sub-§1, as amended by PL 1983, c. 127, is further amended to read:

1. Negotiations. It shall be the obligation of

the university, academy, or vocational-technical institutes ~~or state schools for practical nursing~~ and the bargaining agent to bargain collectively. "Collective bargaining" means, for the purpose of this chapter, their mutual obligation:

- A. To meet at reasonable times;
- B. To meet within 10 days after receipt of written notice from the other party requesting a meeting for collective bargaining purposes, provided the parties have not otherwise agreed in a prior written contract;
- C. To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession;
- D. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation, but not to exceed 2 years; and
- E. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section.

Cost items in any collective bargaining agreement of vocational-technical institutes ~~or state schools for practical nursing~~ employees shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties. If the Legislature rejects any of the cost items submitted to it, all cost items submitted shall be returned to the parties for further bargaining. Cost items shall include salaries, pensions and insurance.

Sec. 12. 26 MRSA §1026, sub-§4, ¶C, as amended by PL 1977, c. 581, §§12 and 13, is further amended to read:

- C. In reaching a decision under this section, the arbitrators shall consider the following factors:

- (1) The interests and welfare of the students and the public and the financial ability of the university, academy, or vocational-technical institutes ~~or state schools for practical nursing~~ to finance the cost items proposed by each party to the impasse;

(2) Comparison of the wages, hours and working conditions of the employees involved in the arbitration proceeding with the wages, hours and working conditions of other employees performing similar services in public and private employment competing in the same labor market;

(3) The over-all compensation presently received by the employees, including direct salary and wage compensation, vacation, holidays, life and health insurance, retirement and all other benefits received;

(4) Such other factors not confined to the foregoing, which are normally and traditionally taken into consideration in the resolution of disputes involving similar subjects of collective bargaining in public higher education;

(5) The need of the university, academy, or vocational-technical institutes or state schools ~~for practical nursing~~ for qualified employees;

(6) Conditions of employment in similar occupations outside the university, academy, or vocational-technical institutes or state schools ~~for practical nursing~~;

(7) The need to maintain appropriate relationships between different occupations in the university, academy, or vocational-technical institutes or state schools ~~for practical nursing~~; and

(8) The need to establish fair and reasonable conditions in relation to job qualifications and responsibilities.

Sec. 13. 26 MRSA §1027, sub-§1, as amended by PL 1977, c. 581, §14, is further amended to read:

1. University, academy and vocational-technical institutes prohibitions. The university, its representatives and agents, the academy, its representatives and agents, and the vocational-technical institutes, their representatives and agents and the state schools ~~for practical nursing~~, their representatives and agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023;

B. Encouraging or discouraging membership in any employee organization by discrimination in regard to hire or tenure of employment or any term or condition of employment;

C. Dominating or interfering with the formation, existence or administration of any employee organization;

D. Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;

E. Refusing to bargain collectively with the bargaining agent of its employees as required by section 1026; or

F. Blacklisting of any employee organization or its members for the purpose of denying them employment.

Sec. 14. 26 MRSA §1027, sub-§2, as repealed and replaced by PL 1977, c. 581, §15, is amended to read:

2. University, academy and vocational-technical institutes prohibitions. University employees, university employee organizations, their agents, members and bargaining agents; academy employees, academy employee organizations, their agents, members and bargaining agents; and vocational-technical institute employees, vocational-technical institute employee organizations, their agents, members and bargaining agents; and state schools for practical nursing employees, state schools for practical nursing employee organizations, their agents, members and bargaining agents are prohibited from:

A. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 1023 or the university, academy, and vocational-technical institutes and state schools for practical nursing in the selection of their representatives for the purposes of collective bargaining or the adjustment of grievances;

B. Refusing to bargain collectively with the university, academy, and vocational-technical institutes and state schools for practical nursing as required by section 1026; and

C. Engaging in:

(1) A work stoppage, slowdown or strike; and

(2) The blacklisting of the university, academy, or vocational-technical institutes ~~or the state schools for practical nursing~~ for the purpose of preventing them from filling employee vacancies.

Sec. 15. 26 MRSA §1029, sub-§1, as amended by PL 1977, c. 581, §16, is further amended to read:

1. Board power to prevent prohibited acts. The board is empowered, as provided, to prevent any person, the university, any university employee, any university employee organizations, the academy, any academy employees, any academy employee organizations, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organizations; ~~the state schools for practical nursing, any state schools for practical nursing employee, any state schools for practical nursing employee organizations~~ or any bargaining agent from engaging in any of the prohibited acts enumerated in section 1027. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law or otherwise.

Sec. 16. 26 MRSA §1029, sub-§2, as amended by PL 1977, c. 581, §17, is further amended to read:

2. Complaints. The university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organization, ~~the state schools for practical nursing, any state school for practical nursing employee, any state school for practical nursing employee organization~~ or any bargaining agent which believes that any person, the university, any university employee, any university employee organization, the academy, any academy employee, any academy employee organization, the vocational-technical institutes, any vocational-technical institute employee, any vocational-technical institute employee organization; ~~the state schools for practical nursing, any state school for practical nursing employee, any state school for practical nursing employee organization~~ or any bargaining agent has engaged in or is engaging in any such prohibited practice may file a complaint with the executive director of the board stating the charges in that regard. No such complaint shall be



filed with the executive director until the complaining party shall have served a copy thereof upon the party named in the complaint. Upon receipt of such complaint, the executive director or his designee shall review the charge to determine whether the facts as alleged may constitute a prohibited act. If it is determined that the facts do not, as a matter of law, constitute a violation, the charge shall be dismissed by the executive director, subject to review by the board. If a formal hearing is deemed necessary by the executive director or by the board, the executive director shall serve upon the parties to the complaint a notice of the prehearing conference and of the hearing for the prehearing conference or the hearing, as appropriate, provided that no hearing shall be held based upon any alleged prohibited practice occurring more than 6 months prior to the filing of the complaint with the executive director. The party complained of shall have the right to file a written answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed for the hearing. In the discretion of the board, any other person or organization may be allowed to intervene in that proceeding and to present testimony. Nothing in this subsection shall may restrict the right of the board to require the executive director or his designee to hold a prehearing conference on any prohibited practice complaint prior to the hearing before the board and taking whatever action, including dismissal, attempting to resolve disagreements between the parties or recommending an order to the board, as he may deem appropriate, subject to review by the board.

Sec. 17. 26 MRSA §1029, sub-§6, as repealed and replaced by PL 1977, c. 581, §18, is amended to read:

6. Simultaneous injunctive relief. Whenever a complaint is filed with the executive director of the board alleging that the university, academy, vocational-technical institutes ~~or state schools for practical nursing~~ have violated section 1027, subsection 1, paragraph F, or alleging that an employee, employee organization or bargaining agent of the university, academy, or vocational-technical institutes ~~or state schools for practical nursing~~ have violated section 1027, subsection 2, paragraph C, the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter.

Sec. 18. 26 MRSA §1031, as amended by PL 1977, c. 581, §19, is further amended to read:

§1031. Scope of binding contract arbitration

A collective bargaining agreement between the university, the academy, the vocational-technical institutes or the state schools for practical nursing and a bargaining agent may provide for binding arbitration as the final step of a grievance procedure but the only grievances which may be taken to such binding arbitration shall be disputes between the parties as to the meaning or application of the specific terms of collective bargaining agreement. An arbitrator with the power to make binding decisions pursuant to any such provisions shall have no authority to add to, subtract from or modify the collective bargaining agreement.

Sec. 19. 26 M RSA §1034, sub-§2, as amended by PL 1977, c. 581, §20, is further amended to read:

2. No restriction on eligibility for federal grant-in-aid or assistance programs. Nothing in this chapter or any contract negotiated pursuant to this chapter shall may in any way be interpreted or allowed to restrict or impair the eligibility of the university, any of its campuses or units, academy, or vocational-technical institutes or state schools for practical nursing in obtaining the benefits under any federal grant-in-aid or assistance programs.

Sec. 20. 26 M RSA c. 13, sub-c. IX, as amended, is repealed.

Sec. 21. Transition provision. The Governor may appoint an executive director and members to the board of trustees prior to the effective date of this Act. The powers and duties of the board shall not take effect until the effective date of this Act.

1. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances or allocations, transfers, revenues or other available funds in any account or subdivision of an account of the Bureau of Vocational Education and authorized for use by or for the vocational-technical institutes shall be reallocated to the Maine vocational-technical institutes.

2. Rules and procedures. All rules and procedures currently in effect and operation pertaining to the vocational-technical institutes within the Bureau of Vocational Education shall remain in effect until rescinded or amended by the Board of Trustees of the Maine Vocational-technical Institutes.

3. Equipment and property transferred. All equipment and property of the vocational-technical institutes shall remain with the Maine vocational-technical institutes, unless the board authorizes a different policy.

4. Contracts and agreements. All contracts and agreements currently in effect with the Bureau of Vocational Education and contracts relating to the vocational-technical institutes shall remain in effect following the effective date of this Act until rescinded, terminated or modified by the Board of Trustees of the Maine Vocational-technical Institutes.

5. Location of board. The Board of Trustees of the Maine Vocational-technical Institutes as created by the Maine Revised Statutes, Title 20-A, section 12553, shall be located at the present location of the Bureau of Vocational Education following the effective date of this Act, unless the board of trustees agrees to a new location.

6. Employees. Employees of the Bureau of Vocational Education and the vocational-technical institutes shall remain as members within the Maine State Retirement System during their tenure in the administration. New employees shall also be eligible for membership in the Maine State Retirement System.

7. Board of trustees review operation. The board of trustees shall review the operation of the Maine vocational-technical institutes and shall report its findings and recommendations to the Legislature at the completion of one full year of operation.

Sec. 22. Requirement for legislative proposal. The Department of Finance and Administration, the Department of Personnel, the Governor's Office of Employee Relations, the Department of Educational and Cultural Services, the Board of Trustees of the Maine Vocational-institutes and one member each, appointed jointly by the Speaker of the House of Representatives and the President of the Senate, from the Joint Standing Committee on State Government, the Joint Standing Committee on Education and the Joint Standing Committee on Appropriations and Financial Affairs shall jointly review, recommend and submit legislation to the Governor addressing:

1. Appropriations in the form of a lump sum for the vocational-technical institutes;

2. The authority and procedures governing personnel and labor relations functions of the

vocational-technical institutes for the purpose of providing flexibility in personnel employment and management decisions; and

3. Other administrative authority and functions, including staffing, relating to the vocational-technical institutes.

The Governor shall review and approve or revise the recommended legislation and submit it to the Legislature no later than February 1, 1986.

Sec. 23. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1985-86

EDUCATIONAL AND CULTURAL  
SERVICES, DEPARTMENT OF

Board of Trustees of the  
Maine Vocational-technical  
Institutes

All Other

\$10,000

Provides funds  
for the expenses  
of the Board of  
Trustees of the  
Maine  
Vocational-technical  
Institutes.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1986, except that the Maine Revised Statutes, Title 20-A, section 12553, and sections 22 and 23 of the bill shall become effective when approved.

Effective July 1, 1986, unless otherwise indicated.

**CHAPTER 498**

H.P. 263 - L.D. 317

**AN ACT to Control Acid Rain.**

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

Sec. 1. 38 MRS §603-B is enacted to read:

§603-B. Acid deposition control