

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND TWELFTH LEGISLATURE**

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

**AND AT THE**  
**THIRD SPECIAL SESSION**  
October 17, 1986

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

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

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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cluding regulations governing the records and reports of purchases, sales and shipments of mahogany quahogs and the payment dates for the tax.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Sciences	
Positions	(3)
Personal Services	\$ 76,000
All Other	113,400
Capital Expenditures	21,000
Total	<u>\$210,400</u>

These funds will be used for a full-time Scientist I and 2 full-time technician positions. Capital requirements will be minimized by contracting for boat services.

Sec. 4. Review. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs shall review the program established in this Act and shall make its report, including any necessary legislation, to the Second Regular Session of the 113th Legislature.

Effective July 16, 1986.

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## CHAPTER 785

S.P. 954 - L.D. 2392

AN ACT to Reorganize the Department of Finance and Administration and the Department of Personnel.

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

Whereas, the reorganization of the Department of Finance and Administration into the Department of Fi-

nance and the Department of Administration and the reorganization of the Department of Personnel into the Department of Administration will have a significant impact upon the State's accounting procedures; and

Whereas, the 90-day period following the adjournment of the Legislature will occur roughly 2 weeks following the commencement of the 1986-87 fiscal year of State Government; and

Whereas, savings can be incurred and the transition can be eased by aligning the effective date of the reorganization to the State's fiscal year which will occur before the required 90-day period is complete; 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:

#### PART A

Sec. 1. 2 MRSA §6, sub-§1, as amended by PL 1983, c. 553, §46, is further amended to read:

1. Range 91. The salaries of the following state officials and employees shall be within salary range 91:

Commissioner of Transportation;

Commissioner of Conservation;

Director of State Development Office;

Commissioner of Finance and Administration;

Commissioner of Administration;

Commissioner of Educational and Cultural Services;

Commissioner of Environmental Protection;

Commissioner of Human Services;

Commissioner of Mental Health and Mental Retardation;

Commissioner of Public Safety;

Commissioner of Business, Occupational and Professional Regulation;

Commissioner of Labor;

~~Commissioner of Personnel;~~

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Marine Resources; and

Commissioner of Corrections.

Sec. 2. Commissioner of Personnel. Until January 1, 1987, the Commissioner of Personnel shall be employed within salary range 91. Effective January 1, 1987, until July 1, 1987, the Commissioner of Personnel shall be employed at salary range 89.

Sec. 3. 3 MRSA §507, sub-§9, ¶B as repealed and replaced by PL 1983, c. 819, Pt. A, §3, is amended to read:

B. The evaluations and analyses of the justification reports for the programs of the following Group E-2 departments shall be reviewed by the Legislature no later than June 30, 1989:

(1) Department of Finance and ~~Administration~~;

(2) (Office of) Treasurer of State; and

(3) Department of Audit-; and

(4) Department of Administration.

Sec. 4. 3 MRSA §551, as amended by PL 1977, c. 564, §11-B, is further amended to read:

§551. Analysis of proposed bond issues

The Commissioner of Finance and ~~Administration~~, together with the Treasurer of State, shall advise the Legislature and the Governor in a timely manner

and in written form as to the effect on the state's bonded debt of any bond issue or issues proposed. Specifically, the analysis provided shall indicate the relationship of the issue or issues proposed to the limit on the aggregate level of outstanding state debt established by this chapter and to the future debt service requirements on the State. The analysis shall be comprehensive in nature and shall include consideration of the outstanding debt, bonds authorized but unissued, and proposed issues enacted by the Legislature and awaiting ratification or rejection by the electors.

Sec. 5. 5 MRSA §17, as enacted by PL 1977, c. 78, §6, is amended to read:

§17. Payroll deduction for Maine Warden Service Relief Association

The Commissioner of Finance and Administration is authorized to permit payroll deductions from the salaries of state employees for membership dues for the Maine Warden Service Relief Association and to transmit the funds so collected to the Maine Warden Service Relief Association under the appropriate departmental regulations concerning payroll deductions.

Sec. 6. 5 MRSA §135, first ¶, as amended by PL 1985, c. 501, Pt. B, §14, is further amended to read:

The Treasurer of State may deposit the moneys, including trust funds of the State, in any of the banking institutions or trust companies or state or federal savings and loan associations or mutual savings banks organized under the laws of this State or in any national bank or banks or state or federal savings and loan associations located therein. When there are excess moneys in the State Treasury which are not needed to meet current obligations he may, with the concurrence of the State Controller or the Commissioner of Finance and Administration and with the consent of the Governor, invest such amounts in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 24 months from the date of investment or in repurchase agreements secured by obligations of the United States of America which mature within the succeeding 24 months, prime commercial paper or banker's acceptances. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, provided that

the loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on such investments of moneys shall be credited to the respective funds, except that interest earned on investments of special revenue funds shall be credited to the General Fund of the State. Interest earned on funds of the Department of Inland Fisheries and Wildlife shall be credited to that fund. Interest earned on funds of the Baxter State Park Authority shall be credited to the Baxter State Park Fund. This section shall not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of such state funds as may be required by the terms of custodial contracts or agreements as may be hereafter negotiated in accordance with the laws of this State. All custodial contracts and agreements shall be subject to the approval of the Governor.

Sec. 7. 5 MRSA §138, first ¶, as amended by PL 1979, c. 127, §20, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Finance ~~and Administration~~, the Bank Superintendent and the Attorney General, shall invest all permanent funds held in trust by the State in such securities as are legal investments for savings banks under Title 9-B. This section shall not apply to the fund of the Employees' Retirement System or the fund arising from the lands reserved for public uses.

Sec. 8. 5 MRSA §138, 3rd ¶, as amended by PL 1977, c. 78, §7, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Finance ~~and Administration~~, the Bank Superintendent and the Attorney General, shall have the power to enter into contracts or agreements approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to the permanent trust funds of this State. Such services shall consist of the safekeeping of ~~said~~ those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in



part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank shall have all of the powers and duties prescribed for trust companies by Title 9-B, section 623.

Sec. 9. 5 MRSA §138, last ¶, as amended by PL 1973, c. 585, §11, is further amended to read:

The Treasurer of State shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Bank Superintendent and that of either or both the Attorney General and the Commissioner of Finance and Administration.

Sec. 10. 5 MRSA §139, first ¶, as amended by PL 1979, c. 127, §21, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Finance and Administration, the Bank Superintendent and the Commissioner of Educational and Cultural Services, shall invest and reinvest the principal of all funds derived or that may be derived from the sale and lease of lands reserved for public uses in accordance with the laws of the State governing the investment of funds of savings banks, as enumerated in Title 9-B.

Sec. 11. 5 MRSA §139, 2nd ¶, as amended by PL 1977, c. 78, §8, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Finance and Administration, the Bank Superintendent and the Commissioner of Educational and Cultural Services, shall have the power to enter into a contract or agreement approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to any trust fund created from funds derived or that may be derived from the sale and lease of lands reserved for public uses. Such services shall consist of the safekeeping of said those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service which is normally covered in a custodial contract or agreement. In performing services

under any such contract or agreement, the contracting bank shall have all of the powers and duties prescribed for trust companies by Title 9-B, section 623.

Sec. 12. 5 MRSA §139, last ¶, as amended by PL 1973, c. 585, §11, is further amended to read:

The Treasurer of State shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Bank Superintendent and that of either or both the Commissioner of Educational and Cultural Services and the Commissioner of Finance and Administration.

Sec. 13. 5 MRSA §139-A, first ¶, as amended by PL 1973, c. 585, §11, is further amended to read:

The Treasurer of State, with the approval of the Commissioner of Finance and Administration, the Bank Superintendent and the Attorney General, shall have the power to enter into contracts or agreements approved by the Governor, with any national bank, trust company or safe deposit company located in New England or New York City, for custodial care and servicing of any securities deposited with the treasurer as a guaranty fund required by statutes.

Sec. 14. 5 MRSA §142, 4th ¶, as amended by PL 1973, c. 585, §11, is further amended to read:

The Treasurer of State shall be empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Bank Superintendent and that of either or both the Governor and the Commissioner of Finance and Administration.

Sec. 15. 5 MRSA §144, as amended by PL 1973, c. 625, §17, is further amended to read:

§144. Form of unregistered bonds

Unregistered bonds issued under the laws of the State shall bear the signature, or the facsimile of the signature, of the Governor, and shall be signed by the Treasurer of State or his deputy and attested by the Commissioner of Finance and Administration, or such agent as he may designate. The seal of the State may be a facsimile.

Sec. 16. 5 MRSA §145, as amended by PL 1973, c. 625, §18, is further amended to read:

§145. Registered bonds

The Treasurer of State may issue registered bonds, transferable by assignment, in pieces of not less than \$1,000, and of any multiple of 1,000, in exchange for, and in place of, any coupon bonds issued under the laws of this State, bearing the same rate of interest and maturing at the same time as the bonds which he may receive therefor in exchange. The place of payment prescribed therein shall be the State Treasury. Said bonds shall bear the facsimile of the signature of the Governor and shall be signed by the Treasurer of State or his deputy and attested by the Commissioner of Finance and Administration, or such agent as he may designate.

Sec. 17. 5 MRSA §145-A, 2nd ¶, as enacted by PL 1979, c. 560, is amended to read:

The minibonds shall bear the facsimile of the signature of the Governor and shall be signed by the Treasurer of State, or his deputy, and attested by the Commissioner of Finance and Administration, or such agent as he may designate.

Sec. 18. 5 MRSA §145-B, sub-§2, as enacted by PL 1983, c. 745, is amended to read:

2. Signatures. Registered bonds shall bear the facsimile signatures of the Governor and the Treasurer of State, or his deputy, and shall be attested by the facsimile signature of the Commissioner of Finance and Administration or such agents as he may designate. Whenever signatures on registered bonds of other state officials are required, their facsimile signatures may be used.

Sec. 19. 5 MRSA §148, as repealed and replaced by PL 1981, c. 100, is amended to read:

§148. Cremation of old bonds

The Treasurer of State, in the presence of the Commissioner of Finance and Administration and the State Auditor, or such agents as they may designate, may cremate any state bonds and coupons, on the premises of the state bond and coupon paying agent, which have matured and have been paid after the paid certification has been received by the Treasurer of State and the State Auditor. This paid certification shall bear the additional sworn certification of the

auditor of the bank paying agent employed by the Treasurer of State. A cremation certificate, signed under oath by the state officers named in this section and the bank paying agent auditor identifying the bonds and coupons destroyed, shall be filed in the office of the Treasurer of State.

Sec. 20. 5 MRSA §244, as amended by PL 1979, c. 541, Pt. A, §22, is further amended to read:

§244. Records and reports

The State Auditor shall keep no accounts in the Department of Audit, but he shall conduct a ~~continuous~~ continuous postaudit of the accounts, books, records and other evidences of financial transactions kept in the Department of Finance and ~~Administration~~ or in the other departments and agencies of the State Government. He shall prepare and publish a report for each fiscal year, setting forth the essential facts of such audit in summary form, within the following fiscal year after the books of the State Controller have been officially closed. If he shall find in the course of his audit evidences of improper transactions, or of incompetence in keeping accounts or handling funds or of any other improper practice of financial administration, he shall report the same to the Governor and the Legislature immediately. If he shall find evidences of illegal transactions, he shall forthwith report such transactions both to the Governor and to the Attorney General. All such evidences shall be included in the annual reports of the State Auditor and he may, at his discretion, make them public at any time during the fiscal year.

Sec. 21. 5 MRSA §281, as amended by PL 1975, c. 771, §51, is repealed and the following enacted in its place:

§281. Department of Finance; commissioner

The Department of Finance is established as the principal fiscal department of State Government and shall exercise such powers and perform such duties as are provided by law.

The department shall be under the supervision and control of the Commissioner of Finance appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor.

Sec. 22. 5 MRSA §282, first ¶, as repealed and replaced by PL 1983, c. 489, §1, is amended to read:

The commissioner may, with the approval of the Governor, appoint a deputy commissioner, who shall be the chief of one of the department bureaus and shall perform the duties of the commissioner during the commissioner's absence, in addition to his regular duties. The compensation and expense of the deputy commissioner shall be paid from any available funds appropriated for the use of the bureau of which he is chief. ~~With the exception of the Director of Central Computer Services, the~~ The commissioner may appoint and employ the bureau chiefs and the assistant to the commissioner to be under his immediate supervision, direction and control, and to serve at his pleasure and perform such duties as he may prescribe, except as otherwise provided by law.

Sec. 23. 5 MRSA §282, sub-§§4-A and 4-B are enacted to read:

4-A. Engage in planning. To engage in short-term and long-term planning with respect to:

A. The structure and operation of the department;

B. The fiscal needs of State Government; and

C. The means by which the collection of revenues and payment of State Government obligations may be most efficiently realized;

4-B. Assist other departments. To meet with other departments and agencies of State Government at least 2 times a year to discuss fiscal problems and needs of each agency and department;

Sec. 24. 5 MRSA §283, first ¶ is amended to read:

The commissioner shall organize the Department of Finance and ~~Administration~~ into bureaus, as follows:

Sec. 25. 5 MRSA §283, sub-§3 is repealed.

Sec. 26. 5 MRSA §283, sub-§4, as repealed and replaced by PL 1977, c. 674, §4, is repealed.

Sec. 27. 5 MRSA §283, sub-§6, as enacted by PL 1971, c. 615, §3, is amended to read:

6. Bureau of Alcoholic Beverages. The Bureau of Alcoholic Beverages, the head of which shall be the State Director of Alcoholic Beverages; and

Sec. 28. 5 MRSA §283, sub-§8, as enacted by PL 1975, c. 322, §1, is repealed.

Sec. 29. 5 MRSA §283, sub-§9 is enacted to read:

9. Bureau of Lottery. The Bureau of Lottery, the head of which shall be the State Lottery Director.

Sec. 30. 5 MRSA §285, sub-§2, as amended by PL 1985, c. 295, §2, is further amended to read:

2. Coverage. Each state employee to whom this section applies shall be eligible for group accident and sickness or health insurance as provided in Title 24-A, sections 2802 to 2812, including major medical benefits. The provisions of such group insurance policy or policies shall be determined, insofar as such provisions are not inconsistent with terms and conditions contained in collective bargaining agreements negotiated pursuant to Title 26, chapter 9-B, by a board of trustees consisting of 5 members, 2 of whom shall be appointed by the employee organization certified to represent the majority of employees; one of whom shall be a retired state employee selected by a majority vote of the Presidents of the Chapters of the Retired State Employees Association; and 2 state employees who shall be appointed by the Governor. The board of trustees, as authorized by chapter 379, shall hold office for 3 years, with initial appointments to be made as follows: One member appointed by the Governor for 3 years and one member appointed by the Governor for 2 years; one member appointed by the Maine State Employees Association for 3 years and one member appointed by the Maine State Employees Association for 2 years; and one member, appointed by the Maine State Retirees, for one year. The master policy for such group insurance shall be held by the Commissioner of Finance and Administration who shall be ex officio a member of the board of trustees. Said group insurance shall be administered by the board of trustees herein provided.

Sec. 31. 5 MRSA §285, sub-§5, as enacted by PL 1967, c. 543, is amended to read:

5. Purchase of policies. The board of trustees shall purchase, by competitive bidding, from one or more insurance companies or nonprofit organizations, or both, a policy or policies of group accident and

sickness or health insurance, including major medical insurance, to provide the benefits specified by this section. Notwithstanding the first sentence of this subsection, with the consent of the policyholder and of the insurer, and at the sole discretion of the board of trustees, existing policies of insurance covering at least 1,000 of the employees defined as eligible by this section may be amended to provide the benefits specified by this section and assigned to the Commissioner of Finance and Administration for the benefit of all those eligible under this section. Such company or companies or nonprofit organizations must be licensed under the laws of the State of Maine. The policy provisions shall be subject to and as provided for by the insurance laws of this State. The board of trustees may have the right to retain such professional consultants as it deems necessary to effect and administer said agreement or contracts.

Sec. 32. 5 MRSA §287-A, as enacted by PL 1977, c. 564, §13-A, is amended to read:

§287-A. Department of Administration designated as state agency to receive and distribute federal surplus property

The Department of Finance and Administration is designated as the state agency to receive and distribute federal surplus property which may become available for distribution to eligible recipients within this State. The department is authorized and empowered, through the Bureau of Purchases, to acquire, warehouse, allocate and distribute surplus government property to all recipients within Maine who have been or who may later be designated as eligible to receive such surplus property by the Congress of the United States or any other federal official empowered to make such determination. The commissioner is authorized and empowered to enter into cooperative agreements with any duly authorized federal official to carry out the purposes of this section.

Upon transfer of surplus property to an eligible recipient, the commissioner shall charge and receive from said recipient money sufficient to cover the acquisition, warehousing, handling, administrative and delivery costs chargeable to said property. The department shall employ and assign such supervisory and clerical personnel as may be necessary to carry out this section, subject to the Personnel Law.

Sec. 33. 5 MRSA §293, as amended by PL 1983, c. 812, §14, is further amended to read:

§293. Internship committee

The State Government Internship Program Advisory Committee, established by section 12004, subsection 10, shall serve to further the purposes of the program and to provide for broad representation of institutions of higher learning within Maine and of State Government. The State Government Internship Program Advisory Committee shall be comprised of the President of the Senate and Speaker of the House or their designated representatives; the Governor or his designated representative; the Commissioner of Personnel; and the Director of the Bureau of Public Administration. In addition, one faculty member from each of 4 accredited, degree-granting institutions of higher learning in the State shall be appointed by the Director of the Bureau of Public Administration for 4-year terms, providing that the initial appointments under this chapter shall be for one, 2, 3 and 4-year terms. No faculty member shall be eligible to succeed himself if he has served a full 4-year term, nor shall a faculty member be succeeded by another from the same institution. Vacancies shall be filled by the director for the unexpired term. The members of the internship committee shall organize by electing a chairman and vice-chairman and shall be compensated as provided in chapter 379 and as authorized by the Bureau of Public Administration.

Sec. 34. 5 MRSA §307, as amended by PL 1979, c. 734, §3, is further amended to read:

§307. Interest in contracts prohibited

In addition to the limitations of section 18, no employee of the Department of ~~Finance and~~ Administration or member of the commission shall be interested directly or indirectly in any contract or contracts calling for the construction or improvements of facilities, buildings and grounds in the Capitol Area in the City of Augusta as described in Title 1, section 814.

Sec. 35. 5 MRSA §350, as amended by PL 1983, c. 812, §17, is further amended to read:

§350. Statement of purpose; Advisory Committee on State Telecommunications

The Department of ~~Finance and~~ Administration, as the principal administrative and fiscal department of the State Government, has responsibilities for the general administration of state telecommunications services, including, but not limited to, telephone



services, radio, teletype, microwave and data transmission links. It is recognized that the department should serve to provide needed coordination between state agencies utilizing telecommunications services in such areas as engineering assistance, systems maintenance, frequency allocation, systems planning, and the purchase of services and equipment. The Advisory Committee on State Telecommunications, established by section 12004, subsection 10, shall assist the Department of Finance and Administration in providing for the coordination of state telecommunications services.

Sec. 36. 5 MRSA §351, as amended by PL 1975, c. 497, §3, is further amended to read:

§351. Committee membership; organization

The commissioners of the departments of Conservation; Finance and Administration; Inland Fisheries and Wildlife; Marine Resources; Public Safety; and Transportation shall each designate a member of their departments to be a member of the Advisory Committee on State Telecommunications. The Adjutant General shall designate a member of the Bureau of the Military and a member of the Bureau of Civil Emergency Preparedness to be members of the committee. The Executive Director of the Maine Law Enforcement Planning and Assistance Agency or his designee shall be a member of the committee.

The designee of the Commissioner of Finance and Administration shall be the chairman of the committee. The committee shall meet at the call of the chairman or upon the request of a majority of the committee members. The committee shall meet at least quarterly.

Sec. 37. 5 MRSA §352, as enacted by PL 1975, c. 281, is amended to read:

§352. Duties

The Advisory Committee on State Telecommunications shall advise the Department of Finance and Administration in regard to the carrying out of the department's general administrative responsibilities for state telecommunications services. The committee shall advise and assist the department in providing for the coordination of engineering assistance, systems maintenance, frequency allocation, systems planning, and the purchase of services and equipment related to state telecommunications services.

Sec. 38. 5 MRSA §552, sub-§3, as amended by PL 1979, c. 541, Pt. B, §2, is further amended to read:

3. Classified service. "Classified service" means all offices and positions of trust and employment in the state service except those placed in the unclassified service by chapters 51 to 67 71.

Sec. 39. 5 MRSA §883, as enacted by PL 1973, c. 491, is amended to read:

§883. Administration

Administration of a deferred compensation program within state agencies, departments, boards, commissions or institutions shall be under the direction of the Department of Finance ~~and Administration~~. Each county, city, town or other political subdivision may designate an officer to administer a deferred compensation program. Payroll deductions shall be made in each instance by the appropriate payroll officer.

Sec. 40. 5 MRSA §884, as amended by PL 1983, c. 812, §22, is further amended to read:

§884. Advisory Council on Deferred Compensation

An Advisory Council on Deferred Compensation Plans, established by section 12004, subsection 10, shall consist of 7 members, who shall be the Commissioner of Finance ~~and Administration~~, ex officio, or his designee; the Insurance Superintendent, ex officio, or his designee; the Superintendent of Banking, ex officio, or his designee; and 4 state employees to be appointed by the Governor, who shall be appointed for terms of 3 years, except that of the first appointments one shall be for one year, 2 for 2 years and one for 3 years. Members of the advisory council shall be compensated as provided in chapter 379. The council shall meet at least once a year and shall review the operations of the deferred compensation program and advise the Department of Finance ~~and Administration~~ on matters of policy relating to the activities thereunder. The Commissioner of Finance ~~and Administration~~, or his designee, shall be the chairman of the advisory council.

Sec. 41. 5 MRSA §893, as enacted by PL 1983, c. 791, §2, is amended to read:

§893. Administration

Payroll deductions shall be made by the appropriate payroll officer of each county, municipality or

other political subdivision. The Commissioner of Finance and Administration shall be responsible for the administration of this chapter as it applies to state employees. Any costs incurred by the Commissioner of Finance and Administration to administer the state program shall be borne equally by state employee participants, and these costs may be compensated by means of payroll deductions.

Sec. 42. 5 MRSA §931, sub-§1, ¶I, as amended by PL 1985, c. 481, Pt. A, §8, is further amended to read:

I. Deputies, assistants, staff attorneys, research assistants and the secretary to the Attorney General of the Department of Attorney General; and

Sec. 43. 5 MRSA §931, sub-§1, ¶J as enacted by PL 1985, c. 481, Pt. A, §9, is amended to read:

J. Staff attorney, financial analyst and chief utility accountant positions at the Public Utilities Commission;

Sec. 44. 5 MRSA §931, sub-§1, ¶¶L and M are enacted to read:

L. The executive director, deputy director, general counsel and staff attorneys of the Maine Health Care Finance Commission; and

M. Other positions in the Executive Branch made unclassified by law which fall within a bargaining unit.

Sec. 45. 5 MRSA §931, sub-§2 is enacted to read:

2. Employees appointed to major policy - influencing positions. Except where a term is otherwise provided by law, the appointing authority of the department or agency in which a major policy-influencing position is located may appoint and remove persons to and from these positions at his pleasure.

A. In the event that any position is subject to the Personnel Law on the effective date of any Act making the position a major policy - influencing position, the incumbent of the position or person on leave of absence from the position on that day may retain his appointment subject to the Personnel Law.

B. Any person currently occupying an unclassified position which is made a major policy - influencing position on the effective date of this paragraph shall be subject to the appropriate laws and policies pertaining to the unclassified service.

C. Any person permanently appointed to a classified position who accepts an appointment to a major policy-influencing position shall have the right, for 12 months subsequent to appointment to the major policy-influencing position, to be restored to the classified position from which he was promoted or to a position equivalent thereto in salary grade in any agency without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would entitle him.

D. If a person's service in a major policy-influencing position is terminated for cause, his right to be restored to a position pursuant to paragraph C shall be determined by the Civil Service Appeals Board.

E. During the 12-month period defined in paragraph C, the appointing authority may temporarily appoint a person to the position under the Personnel Law, provided that funds are available for the appointment and that the appointment is consistent with the law.

Sec. 46. 5 MRSA §939, as enacted by PL 1983, c. 729, §4, is amended to read:

§939. Department of Finance

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Finance and Administration. Notwithstanding any other provision of law, these positions and their successor positions shall be subject to this chapter:

- A. State Controller;
- B. State Purchasing Agent;
- C. State Tax Assessor;
- D. Director, Bureau of Public Improvements;
- E. Director, Bureau of Alcoholic Beverages;

- F. State Budget Officer;
- G. Assistant to the Commissioner; and
- ~~H. Director, Risk Management.~~
- I. Director of State Lottery.

Sec. 47. 5 MRSA §947-A is enacted to read:

§947-A. Department of Administration

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Administration. Notwithstanding any other provision of law, these positions and their successor positions shall be subject to this chapter:

- A. Deputy Commissioner for Information Services;
- B. State Purchasing Agent;
- C. Director of Public Improvements;
- D. Director of Human Resources;
- E. Director of Employee Relations;
- F. Assistant Deputy Commissioners;
- G. Director of State Employee Health;
- H. Director of Risk Management; and
- I. Director of Data Processing.

Sec. 48. 5 MRSA §1504, as amended by PL 1975, c. 771, §65, is further amended to read:

§1504. Charging off accounts due State

The State Controller shall charge off the books of account of the State or any department, institution or agency thereof, such accounts receivable, including all taxes for the assessment or collection of which the State is responsible, and all impounded bank accounts, as shall be certified to him as impractical of realization by or for ~~said the~~ the State, department, institution or agency. Such certification shall be by the Attorney General, the Commissioner of Finance ~~and Administration~~ and the head of the department, institution or agency responsible for such account, subject to the approval of the Gover-

nor. In each such case, the charging off of such accounts shall be recommended by the head of the department, institution or agency originally responsible for such account.

Sec. 49. 5 MRSA §1505 is amended to read:

§1505. Petty Cash Funds

A Petty Cash Fund shall be allowed by the Commissioner of Finance and Administration to each state department or agency, which shall in his opinion require such a fund. ~~Said~~ The fund so established shall be reimbursed only upon statements and bills audited by the State Controller.

Sec. 50. 5 MRSA §1506, as amended by PL 1975, c. 771, §66, is further amended to read:

§1506. Return of working capital advances

Whenever a working capital advance, or any part thereof, is no longer required for the purpose for which it was made, such amount shall be returned to the state fund from which the advance was made. Such return shall be made only on the recommendation of the department or agency head having jurisdiction over the advance and with the approval of the Commissioner of Finance and Administration and the Governor.

Sec. 51. 5 MRSA §1508, as amended by PL 1975, c. 771, §68, is further amended to read:

§1508. State funds eliminated

Unless the Legislature shall otherwise direct, the Commissioner of Finance and Administration, with the approval of the Governor, shall have authority to discontinue any or all special expendable state funds with the exception of the sinking funds and trust funds, and to merge the balance or balances of such fund or funds so discontinued with the General Fund.

Sec. 52. 5 MRSA §1541, first ¶ is amended to read:

The Department of Finance and Administration, through the Bureau of Accounts and Control, shall have authority:

Sec. 53. 5 MRSA §1541, sub-§13, as amended by PL 1983, c. 209, is further amended to read:

13. Travel expense reimbursement. The State Controller, with the approval of the Commissioner of Finance and Administration, may establish policies for travel expense reimbursement and carrying out this chapter. Those policies determining which expenses shall be reimbursable and levels of reimbursement shall be deemed rules, and shall be adopted, modified and repealed, only in accordance with procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375.

A. Notwithstanding any other provision of law, a state agency, as defined in section 8002, subsection 2, may not authorize reimbursement for travel by any person at a rate greater than the rate established in section 8 for state employees.

Sec. 54. 5 MRSA §1552, sub-§2, as enacted by PL 1983, c. 655, is amended to read:

2. Commissioner. "Commissioner" means the Commissioner of Finance and Administration.

Sec. 55. 5 MRSA §1653, sub-§2, as enacted by PL 1983, c. 716, §2, is amended to read:

2. Commissioner. "Commissioner" means the Commissioner of the Department of Finance and Administration.

Sec. 56. 5 MRSA §1657, sub-§1, as enacted by PL 1983, c. 716, §2, is amended to read:

1. Department of Audit. Nothing in this chapter may be construed to affect or limit any previously existing power or duty of the Department of Audit or the Department of Finance and Administration.

Sec. 57. 5 MRSA §1662, first ¶ is amended to read:

The Department of Finance and Administration, through the Bureau of the Budget, shall have the duty and authority:

Sec. 58. 5 MRSA §1662, sub-§5, as amended by PL 1985, c. 174, Pt. J, §1, is further amended to read:

5. Rules. To make rules, subject to the approval of the Commissioner of Finance and Administration, for the carrying out of chapters 145 and 149; and

Sec. 59. 5 MRSA §1668, first ¶, as enacted by PL 1975, c. 771, §77-A, is amended to read:

Whenever it appears to the Commissioner of Finance and Administration that the anticipated income and other available funds of the State will not be sufficient to meet the expenditures authorized by the Legislature, he shall so report in writing to the Governor, and shall send a copy of the report to the President of the Senate and the Speaker of the House and the majority and minority leaders of the Senate and House. After receiving the report, the Governor may temporarily curtail allotments equitably so that expenditures will not exceed the anticipated income and other available funds. No allotment shall ~~may~~ be terminated pursuant to this section. Any curtailment of allotments shall, insofar as practicable, be made consistent with the intent of the Legislature in authorizing these expenditures.

Sec. 60. 5 MRSA §1674, first ¶, as enacted by PL 1985, c. 195, §§1 and 2, is amended to read:

Each department or agency of State Government, which is authorized to expend more than \$25,000 on a single project in any fiscal year on the construction, repair or improvement of state-owned real property, shall prepare and submit a departmental indirect cost allocation proposal to the Commissioner of Finance and Administration prior to that expenditure. These proposals shall be on file in the Department of Finance and Administration.

Sec. 61. 5 MRSA §1725-A, sub-§1, as enacted by PL 1983, c. 349, §4, is amended to read:

1. Creation and authority. The Department of Finance and Administration is designated as the agency through which this chapter shall be administered and the Commissioner of Finance and Administration, in this chapter called the "commissioner," is empowered with such authority as may be necessary to carry out its purposes.

There is created within the Department of Finance and Administration a Risk Management Division, in this chapter called the "division." The division shall be under the administrative control of the commissioner and under the direct supervision of the Director of Risk Management.

Sec. 62. 5 MRSA §1732, as amended by PL 1983, c. 349, §14, is further amended to read:



§1732. Administration

The fund shall be administered by the Commissioner of ~~Finance~~ and Administration. The commissioner shall deposit the fund with the Treasurer of State for investment. All proceeds of such investment shall accrue to the fund.

Sec. 63. 5 MRSA §1742, first ¶ is amended to read:

The Department of ~~Finance~~ and Administration, through the Bureau of Public Improvements, shall have authority:

Sec. 64. 5 MRSA §1742, sub-§2, as amended by PL 1975, c. 771, §78, is further amended to read:

2. Inspection. To regularly inspect state-owned and leased buildings in the State and report to the controlling department head whatever construction, repairs, alterations and improvements are deemed necessary. If the Commissioner of ~~Finance~~ and Administration considers it advisable, he shall make a similar report to the Governor;

Sec. 65. 5 MRSA §1742, sub-§4 is amended to read:

4. Review. To review the operation and maintenance of state owned and leased buildings and property and to make recommendations with respect thereto to the Commissioner of ~~Finance~~ and Administration and controlling department or agency head concerned;

Sec. 66. 5 MRSA §1742, sub-§20, as amended by PL 1985, c. 501, Pt. B, §§15 and 16, is repealed.

Sec. 67. 5 MRSA §1742, sub-§20-A is enacted to read:

20-A. Utility services. To purchase or contract or approve the purchasing or contracting for telephone, telegraph, electric, water, sewage and gas services for any and all departments and agencies of State Government and:

A. To employ or engage outside technical and professional services that may be necessary for telecommunications purposes;

B. To establish, through the Bureau of Accounts and Control, an Internal Telecommunications Fund

Account. This fund shall include, but not be limited to, appropriations made to the program, funds transferred to the program from within the Department of Administration and funds received for telecommunications services rendered to system users;

C. To levy charges, according to a rate schedule approved by the Commissioner of Administration, against all units utilizing telecommunications services; and

D. To submit a budget of estimated revenues and costs to be incurred by the program in the same manner as required for the General Fund in chapters 145 and 149;

Sec. 68. 5 MRSA §1742, sub-§21, as amended by PL 1985, c. 481, Pt. A, §11, is further amended to read:

21. Rules. To make rules, subject to the approval of the Commissioner of ~~Finance~~ and Administration for the purposes of carrying out this subchapter; and

Sec. 69. 5 MRSA §1743, as repealed and replaced by PL 1977, c. 303, §1, is amended to read:

§1743. Competitive bids

Any contract for any public improvement in which the State or any of its agencies hold in fee or by lease hold interest, except contracts for professional, architectural and engineering services, shall be awarded by the Department of ~~Finance~~ and Administration through the Bureau of Public Improvements, under a system of competitive bidding in accordance with chapters 141 to 155 and such other conditions and restrictions as the Governor may from time to time prescribe.

Sec. 70. 5 MRSA §1811, first ¶ is amended to read:

The Department of ~~Finance~~ and Administration, through the Bureau of Purchases, shall have authority:

Sec. 71. 5 MRSA §1811, sub-§§5 and 7 are amended to read:

5. Storerooms. To establish and operate, with the approval of the Commissioner of ~~Finance~~ and Administration, such storerooms which, in the judgment

of the State Purchasing Agent, are deemed necessary for the storage and distribution of supplies, materials and equipment required for use by the State Government or any department or agency thereof;

7. Central mailing room. To establish and conduct a central mailing room for the state departments and agencies at the seat of government; and

Sec. 72. 5 MRSA §1812, as amended by PL 1975, c. 739, §1, is further amended to read:

§1812. Scope of purchasing authority

The terms "services," "supplies," "materials" and "equipment" as used in this chapter, shall be held to mean any and all services, articles or things which shall be used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government shall be directly purchased or contracted for by the State Purchasing Agent, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of ~~Finance~~ and Administration is authorized and empowered to make. It is the intent and purpose of this chapter, that the State Purchasing Agent shall purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed. Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section, recycled materials means materials that are composed in whole or in part of elements that are reused or reclaimed.

The trustees of the University of Maine may authorize the Department of ~~Finance~~ and Administration to act for them in any purchases.

The word "services," when used in this chapter, shall be held to mean any and all window cleaning

services, elevator repair and maintenance services, laundry service, linen supply service, dry cleaning service, janitor service, floor maintenance service, rubbish and garbage disposal service, tree surgeon service, all types of office machine repair and maintenance service, exterminator service, refrigerator repair and maintenance service and oil burner repair and maintenance service when any such service is performed by an independent contractor. The State Purchasing Agent may, with the approval of the Commissioner of Finance and Administration add to or eliminate from the various types of service set forth in this paragraph such services performed by independent contractors as may be deemed by him to be in the best interests of the State.

Sec. 73. 5 MRSA §1813, first ¶ is amended to read:

The State Purchasing Agent, with the approval of the Commissioner of Finance and Administration, may adopt, modify or abrogate rules and regulations for the following purposes:

Sec. 74. 5 MRSA §1813-A, sub-§2, as enacted by PL 1985, c. 158, §3, is amended to read:

2. Surplus property; private sale to educational institutions. Pursuant to this chapter and rules promulgated under section 1813, the Department of Finance and Administration through the Bureau of Purchases shall allow private sales of surplus property to educational institutions.

Sec. 75. 5 MRSA §1814, last 3 ¶¶, as repealed and replaced by PL 1977, c. 332, are amended to read:

A majority of the members shall elect a recording secretary of the Standardization Committee, who shall maintain a complete record of the minutes of every committee meeting. Upon the request of the committee, the State Purchasing Agent shall furnish such assistance as the committee requests. The committee shall meet at least semiannually and at such other times as the Commissioner of Finance and Administration may request or at such other times as may be deemed necessary by at least 3 members of the committee. Committee meetings shall be held at such locations as may be agreed upon by a majority of the members of the committee.

It shall be the duty of the Standardization Committee to advise the State Purchasing Agent and the Commissioner of Finance and Administration in the

formulation, adoption and modification of the rules and regulations which shall prescribe the purchasing policy of the State and to assist the State Purchasing Agent in the formulation, adoption and modification of the specifications as may be deemed necessary for the procurement of services, supplies, materials and equipment required for use by the State or any department or agency thereof.

In addition, whenever the State Purchasing Agent, after having received bids on a contract, awards the contract to anyone other than the lowest responsible bidder, shall notify the Standardization Committee. The Standardization Committee shall evaluate the reasons for that award in a written report. That report shall be made available for public inspection in the office of the Department of Finance and Administration during normal business hours.

Sec. 76. 5 MRSA §1831, sub-§§1 and 3, as enacted by PL 1983, c. 188, are amended to read:

1. Adoption of rules. Every department or agency of State Government, subject to chapters 141 to 152, purchasing services or awarding grants or contracts which are not subject to the authority of the Department of Finance and Administration, as defined in chapters 153 and 155, shall establish a procedure by which these services shall be purchased or by which grants or contracts shall be awarded. This procedure shall be adopted in accordance with the Maine Administrative Procedure Act, chapter 375, and shall be approved by the State Purchasing Agent prior to their adoption. The procedure shall include, among any other provisions deemed necessary by the State Purchasing Agent:

A. A notification process to inform prospective bidders about contracts for which bids are being requested;

B. A process by which bid applications shall be reviewed;

C. Criteria for the selection of bids for any additional review prior to any award of contracts;

D. Criteria for the award of a contract;

E. A definition of the procedure by which a person, aggrieved by the decision of a department or agency under this chapter, may appeal the decision; and

F. Criteria for the review of any decision that has been appealed under this chapter.

3. Application. The procedure adopted by a department or agency in this section may be used by the department or agency for any qualifying purchase or award of a contract or grant. Nothing in this section may be construed to require the adoption of new procedures for every new purchase, contract or award. Nothing in this section may be construed to require the State Purchasing Agent or the Department of ~~Finance~~ and Administration to approve any contract, grant or award that is not presently approved by the State Purchasing Agent or the Department of ~~Finance~~ and Administration under chapters 153 and 155.

Sec. 77. 5 MRSA c. 157, as amended, is repealed.

Sec. 78. 5 MRSA c. 158 is enacted to read:

#### CHAPTER 158

#### ADMINISTRATIVE SERVICES

#### SUBCHAPTER I

#### DEPARTMENT OF ADMINISTRATION

§1871. Department of Administration established; purpose

The Department of Administration is established to provide for the coordination of data processing and computer programming activities of State Government, to provide for the administration of the civil services law as required in this chapter in a manner that satisfactorily meets the needs of state agencies and state employees and to provide general administrative services to state agencies, including the purchase of materials and equipment the construction, reconstruction and maintenance of public improvements and insurance programs as required.

§1872. Provision of services

The department and its subunits shall, in achieving the purposes for which they were established, be responsible for providing their services promptly in a cooperative manner and with due regard for the special needs of some agencies.

§1873. Definitions

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

1. Board. "Board" means the Information Services Policy Board.

2. Commissioner. "Commissioner" means the Commissioner of Administration.

3. Data processing. "Data processing" means the process that encompasses all computerized and auxiliary automated information handling, including systems analysis and design, conversion of data, computer programming, information storage and retrieval, data and facsimile transmission, requisite system controls, simulation and all the related man-machine interaction. Data processing includes all word or text manipulation processing.

4. Deputy commissioner. "Deputy commissioner" means the Deputy Commissioner of the Office of Information Services.

5. Telecommunications. "Telecommunications" means, but is not limited to, the process of transmitting and receiving any information, to include voice, data and video, by any media to include wire, microwave, fibreoptics, radio and laser or satellite.

§1874. Commissioner; appointment

The commissioner shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor.

§1875. Responsibilities and duties of the department

The department shall have the duties and responsibilities as described in this section.

1. Cooperate with state agencies. The department shall cooperate with state agencies and work closely with these agencies with respect to the data processing, computer programming and personnel needs and matters of each agency.

2. Respond quickly to requests. The department shall act expeditiously upon requests of state agen-

cies with respect to the programs and services administered by the department.

3. Maintain coordinated data processing system. Maintain and preserve the integrity of a well - coordinated and efficient data processing and computer programming system throughout State Government as provided in this chapter.

4. Consider unique needs of state agencies. The department shall consider the unique needs of state agencies and diligently strive to serve these needs as expeditiously as possible.

§1876. Department organization

The department shall consist of the organizations as established in this section. The commissioner shall not establish any other organizations within the department without approval of the Legislature.

1. Organizations. The department shall contain the following organizations:

A. The Office of Information Services, the head of which shall be the Deputy Commissioner for Information Services;

B. The Bureau of Data Processing, the head of which shall be the Director of Data Processing;

C. The Bureau of Human Resources, the head of which shall be the Director of Human Resources;

D. The Bureau of Employee Relations, the head of which shall be the Director of Employee Relations;

E. The Bureau of Public Improvements, the head of which shall be the Director of Public Improvements;

F. The Bureau of Purchases, the head of which shall be the Director of Purchases;

G. The Bureau of State Employee Health, the head of which shall be the Director of State Employee Health;

H. The Division of Risk Management, the head of which shall be the Director of Risk Management;

I. The Board of Trustees of Group Accident and Sickness or Health Insurance; and



J. Division of administrative services, the head of which shall be the Director of Administrative Services.'

§1877. Powers and duties of the commissioner

The commissioner shall have the authority and duties as provided in this section.

1. Appointment of Deputy Commissioner for Information Services. The Commissioner of Administration shall appoint the Deputy Commissioner for Information Services who shall direct the Office of Information Services. The appointment of the Deputy Commissioner of Information Services shall be subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature.

A. The Deputy Commissioner of Information Services shall be a well qualified, professional person who is qualified by education and substantial experience in the administration of data processing and computer programming systems. The Deputy Commissioner for Information Services shall meet the qualifications established in section 1883.

2. Appointment of bureau chiefs, division directors, assistant deputy commissioners. The commissioner shall appoint bureau chiefs, division directors and assistant deputy commissioners as provided in this subsection.

A. The Director of Human Resources shall be appointed in accordance with chapter 372.

B. The commissioner may appoint other bureau chiefs and division directors, as required, except that the Director of Data Processing shall be subject to the supervision and direction of the Deputy Commissioner and shall serve at his pleasure.

3. Appointment of other employees. The commissioner may appoint and prescribe the duties of other employees, except as otherwise provided, subject to the Civil Service Law or he may delegate this authority to bureau chiefs and division heads.

4. Supervise and direct activities. The commissioner shall supervise and direct the activities of the organizations within the department as provided in this chapter.

5. Require and assist in planning. The commissioner shall require the organizations within the department to engage in short-term and long-term planning with respect to their goals and purpose and assist the organizations in developing short-term and long-term plans.

6. Monitor progress of each organization within the department. The commissioner shall monitor the progress and activities of the organizations within the department to assure consistency of policies and procedures. The commissioner shall also determine whether the policies and procedures continue to meet the needs of state agencies as the needs of state agencies change.

7. Administrative services for the commissioner. The commissioner may employ persons subject to the Personnel Law and the office of the commissioner, to provide assistance to the commissioner with respect to personnel matters, budgeting and financial matters, purchasing, clerical and support services.

8. Report to the Legislature. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over State Government at the beginning of the first regular session of each Legislature with respect to:

A. The degree of progress that has been made with respect to the coordination of data processing and computer programming within State Government:

(1) The Information Services Policy Board shall also evaluate the degree of progress with respect to the coordination of data processing and computer programming within State Government which shall be included in this part of the report;

B. The problems that exist with respect to the coordination of data processing and computer programming activities within State Government:

(1) The Information Services Policy Board shall also describe and evaluate the problems that exist with respect to the coordination of data processing and computer programming in State Government to be included in this part of the report;

C. The degree to which personnel needs of state agencies are being met. This portion of the re-

port shall also include the evaluation of the Civil Service Policy Review Board with respect to this same issue; and

D. Any problems that exist with respect to current policies and procedures as they relate to the personnel needs of state agencies. This portion of the report shall also include the evaluation of the Civil Service Policy Review Board with respect to the issue of this paragraph.

## SUBCHAPTER II

### OFFICE OF INFORMATION SERVICES

#### §1881. Mission

Within State Government there are numerous types of data processing equipment, a vast number of computer programs and a substantial number of approaches to the creation, use and maintenance of information involving computers. To a large extent, there is little coordination of computer equipment and program purchases. There is very little planning with respect to the future needs of State Government for computer programming, information collection and storage, data retrieval and transmission of information. The current data processing-computer programming system is a decentralized system that is characterized by a substantial degree of independent and duplicative efforts.

The current system, while providing essential information to the agencies which have the equipment and means, may not be working in the best interests of the State or as efficiently as it could be working. There may also be state agencies and activity programs that, for the want of adequate information and data, cannot be as effective to the greatest possible extent.

In order to make the best use of the very valuable data and information that is continuously created throughout State Government, it is necessary to develop the means by which coordination of effort and use may be achieved. It is in the best interest of the State to be able to develop and use computer data and information in the most efficient manner possible.

It is also essential that when confidentiality of computer data and information is necessary or desirable, the confidentiality of this information can be assured.

§1882. Definitions

As used in this subchapter and subchapter III, unless the context otherwise indicates, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Data Processing.

2. Director. "Director" means the Director of Data Processing.

§1883. Office of Information Services established

The Office of Information Services is established to help achieve the purpose set forth in this chapter.

§1884. Deputy commissioner

1. Deputy commissioner; appointment and qualifications. The Commissioner of Administration shall appoint the Deputy Commissioner for Information Services who shall be subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature. The Governor shall establish the salary for the deputy commissioner. The deputy commissioner shall be a well-qualified professional person who has demonstrated ability and accomplishments in the administration of data processing and computer programming services. Specifically, the deputy commissioner shall meet the following qualifications:

A. Training, knowledge and experience in the design of data processing and computer programming systems for multiple types of users;

B. Training, knowledge and experience in the management of data processing and computer programming systems;

C. Training, knowledge and experience in the operation of data-processing equipment;

D. Knowledge of telecommunications equipment and systems;

E. An outstanding record of achievement in the administration or management of a data processing-computer programming system with multiple and diverse types of users; and

F. Any other qualifications deemed necessary or prudent by the board or the Commissioner of Administration.

2. Restricted political activity. The provisions in section 679-A as they relate to the political activities of employees in the classified service shall apply to the deputy commissioner.

3. Removal. The deputy commissioner may be removed by the commissioner following review and comment by the board. If the deputy commissioner is removed for reasons other than just cause, the former deputy commissioner shall receive a sum of 1/2 of his annual compensation. The commissioner may remove the deputy commissioner for just cause, in which case, the deputy commissioner shall not receive 1/2 of his annual salary.

#### §1885. Purpose and organization

The Office of Information Services shall be under the direction of the Deputy Commissioner of Administration and shall be responsible for providing information services in data processing, planning for telecommunications and planning for the coordination of data processing throughout State Government.

1. Appointment of director. The deputy commissioner shall appoint the Director of Data Processing with the approval of the commissioner. The director of the bureau shall be a person with demonstrated knowledge, training and skills and significant experience in data processing and computer services. In addition, the director shall have a high record of achievement in providing data processing and computer programming services to multiple and diverse users.

A. The director shall serve at the pleasure of the deputy commissioner.

2. Appointment of other employees. The deputy commissioner may appoint other employees, as he deems necessary, to the Office of Information Services in accordance with the Personnel Law, except that any assistant to the deputy commissioner shall be in the unclassified service.

#### §1886. Powers and duties of the deputy commissioner

1. Supervision of data processing within the State Government. The deputy commissioner shall supervise data processing activities within State Government.

2. Approve the acquisition and use of equipment. The deputy commissioner, in accordance with standards established by this chapter shall approve acquisition and use of all data processing and telecommunications services, equipment and systems by state agencies.

3. Develop training programs in data processing. The deputy commissioner shall be responsible for developing training programs for state employees in data processing and for the implementation of these programs.

4. Staff and technical assistance. The deputy commissioner shall provide staff and technical assistance in data processing to other state agencies.

5. Develop in conjunction with the board and administer standards for data processing. The deputy commissioner shall develop in conjunction with the board and administer standards for data processing to include standards for:

A. Acquisition of equipment;

B. Acquisition of computer programs;

C. The development of computer systems and computer programs;

D. Computer operations; and

E. Any other standards deemed necessary by the deputy commissioner and the board.

6. Maintain central data processing services. The deputy commissioner through the Bureau of Data Processing shall maintain and operate central data processing services.

7. Develop and implement comprehensive master plan. The deputy commissioner, in conjunction with the board, shall develop and maintain a comprehensive state master plan, as approved by the board, for data processing and telecommunications. The deputy commissioner shall be responsible for assisting state agencies in implementing the master plan.

A. The deputy commissioner shall submit a report on the comprehensive plan to the Governor and the Legislature at the beginning of each legislative session.

B. The plan shall include a report on the current status of state data processing and telecom-

munications, including information on major items of equipment, major applications, personnel, costs and sources of funding for state data processing and telecommunications. In addition, the plan shall include specific agency plans for the future development of state systems, including comments on the major staffing and acquisition activities.

C. Each state agency shall submit a business operating plan every 2 years to include goals and objectives for data processing and needs for data processing equipment and programs, for the review and approval of the deputy commissioner and the board. These agency plans shall be included in the comprehensive master plan.

8. Charges. The deputy commissioner may levy appropriate charges against all state agencies utilizing services provided by the office. The charges shall be those fixed in a schedule or schedules prepared and revised as necessary by the deputy commissioner and approved by the Information Services Policy Board and the commissioner. The schedule of charges shall be supported and explained by accompanying information.

9. Budget. The deputy commissioner shall submit a budget of estimated revenues and costs to be incurred by the office.

10. Professional and technical services. The deputy commissioner may employ or engage, within funds available, outside technical or professional personnel and services as may be necessary for carrying out the purposes of this chapter, subject to the approval of the commissioner.

11. Other powers and duties. The deputy commissioner may make rules, subject to the approval of the Information Services Policy Board and the commissioner, for carrying out the purpose of this chapter.

12. Protection of information files. The deputy commissioner, with the advice of the board, shall develop rules regarding the safeguarding, maintenance and use of information files relating to data processing required by law to be kept confidential, subject to the approval of the commissioner. The office shall be responsible for the enforcement of those rules. All data files shall be the property of the agency or agencies responsible for their collection and utilization.

13. Assist the board. The deputy commissioner shall assist the board in its duties and responsibilities. The deputy commissioner shall make recommendations to the board with respect to the coordination of data processing, telecommunications and computer programming systems.

14. Report to the Legislature. The deputy commissioner shall report to the joint standing committee of the Legislature having jurisdiction over State Government by January 31st of each year with respect to the achievements, the problems and the procedures planned for resolving the problems of the office and its mission.

§1887. Bureau of Data Processing

The Bureau of Data Processing shall provide the major data processing services in State Government, including computer operations and programming and applications systems. The bureau, as authorized by the deputy commissioner, shall work to assure consistency in programming services, stability in data processing functions, reliability in the operation and maintenance of systems throughout State Government and responsiveness and flexibility to react to changing situations and needs.

1. Director. The Director of Data Processing shall be appointed as provided in section 1885, subsection 1.

2. Service agency. The bureau shall serve as a service agency to meet the needs of client agencies in a timely, efficient and cost effective manner.

A. The bureau shall assure a high quality of service to all users.

B. The bureau shall allocate resources as necessary to meet peak demands and to best use available resources.

C. The bureau shall assure adequate backup for all information services.

3. Assist the deputy commissioner. The bureau shall assist the deputy commissioner in carrying out his duties and responsibilities.

§1888. Noncompliance defined

No purchase of data processing equipment, software or services and no internal systems development



efforts may be made except in accordance with this subchapter. No agency may purchase any data processing equipment, software or services without the prior written approval of the deputy commissioners. The state controller shall not authorize payment for data processing equipment, software or services without evidence of prior approval of the purchases by the deputy commissioner.

1. Definition of noncompliance. A state agency shall be deemed in noncompliance with this subchapter in the event that the agency:

A. Purchases data processing equipment, software or services in noncompliance with this subchapter;

B. Fails to adhere to the data processing standards established by the deputy commissioner and the board;

C. Fails to submit an approved agency plan as required by this subchapter; and

D. Fails to meet the goals and objectives within the timetable described in the approved plan as determined by the board and deputy commissioner.

2. Penalty. Any state agency found to be in noncompliance as defined in this subsection, shall be prohibited from acquiring or purchasing data processing equipment, software and services until the deputy commissioner determines that the state agency is in compliance with this subchapter.

A. Notwithstanding the provisions of this section, the deputy commissioner may act to acquire or purchase data processing equipment, software and services to maintain or meet the emergency needs of a state agency.

§1889. Data processing professional and support staff in state agencies

Professional, technical and support employees engaged in data processing and employed in state agencies outside the department shall remain with the respective departments and shall not be moved to or employed by any other organization unless the specific changes are approved by the Legislature.

§1890. Intergovernmental cooperation and assistance

The deputy commissioner, with the approval of the commissioner, may enter into agreements with the Federal Government, the University of Maine and other agencies and organizations as will promote the objectives of this chapter and to accept funds from the Federal Government, municipal and county agencies or from any individual or corporation to be expended for purposes consistent with this chapter.

§1890-A. Internal services fund accounts

The Office of Information Services may establish internal services fund accounts. These funds include, but are not limited to, appropriations made to the office, funds transferred to the office from within the department and funds received for data processing and telecommunications planning services rendered to state agencies.

SUBCHAPTER III

INFORMATION SERVICES POLICY BOARD

§1891. Information Services Policy Board established; purpose of board

The Information Services Policy Board is established to assist the deputy commissioner to meet the purpose and mission of this chapter.

§1892. Membership on board; appointment, terms of office and compensation

The board shall consist of 11 voting members and advisory members appointed as provided in this section. For the purpose of this section, the word "designee" means a person in a major policy-influencing position as defined in chapter 71.

1. Voting members. The voting members of the board shall consist of:

A. The Commissioner of Administration or his designee;

B. The Commissioner of Finance or his designee;

C. The Commissioner of Human Services or his designee;

D. The Commissioner of Labor or his designee;

E. The Commissioner of Transportation or his designee;

F. The Deputy Secretary of State, Division of Motor Vehicles;

G. One member appointed by the Governor from the Office of the Governor;

H. Two members appointed by the Governor representing the remaining state agencies of State Government; and

I. Two members, appointed by the Governor who are administrators or managers of data processing systems in the private sector.

2. Advisory members. Advisory members shall be appointed by the Legislative Council to represent the agencies of the Legislature who provide research and information to the Legislature and its committees and an advisory member shall be appointed by the Chief Justice of the Supreme Judicial Court to assure that the needs of the Legislature and the Judiciary are known and to inform them of available information, access and innovations to be considered.

3. Terms of office. The voting and advisory members representing state agencies of the Legislature, the Judiciary and the office of the Governor shall serve for a period that coincides with the term of appointment to the agency which they represent or to the term designated by the appointing authority, unless revoked sooner by the appointing authority. The members of the private sector shall serve 3-year terms, except that the initial term of one member shall be 2 years and the initial term of the other members shall be 3 years.

4. Expenses and compensation. All members shall be reimbursed for expenses in accordance with chapter 379. Members representing state agencies, the Executive Office, the Legislature and the Judiciary shall be reimbursed for expenses from the budgets of the departments which they represent.

A. No rate of compensation may be paid to the members of the board.

5. Chairman. The Commissioner of Finance shall serve as the temporary chairman at the first meeting at which the board shall elect a permanent chairman from among the voting members to serve for a term of

2 years. The Commissioner of Administration may not serve as the chairman of the board.

6. Meetings. The board shall meet at least 10 times a year.

§1893. Duties and responsibilities of the board

The board shall have the authority, responsibilities and duties as defined in this section.

1. Establish standards. The board shall assist the deputy commissioner in the development of standards governing data processing as defined in subchapter II.

2. Examine centralization of data processing and computer programming and data processing personnel. The board shall carefully examine the issue relating to the centralization within the Office of Informational Services on data processing services to include equipment and professional and support staffs.

A. In the event that the board determines and recommends a greater degree of centralization of data processing activities, the report shall:

(1) Designate the state agencies to be affected by the centralization;

(2) Designate the extent of centralization to occur to include data processing equipment; professional, technical, and support personnel in data processing; and application systems;

(3) Recommend the order in which the agencies shall be centralized; and

(4) Recommend a timetable for the implementation of its recommendations.

B. The board shall report its findings and implementing legislation relating to this issue to the joint standing committee of the Legislature having jurisdiction over State Government no later than the Second Regular Session of the 113th Legislature. The board shall provide an interim report to the committee no later than March 30, 1987. This report, in addition to describing the progress of the board shall include proposals that the board deems important to the purpose of this chapter. These proposals shall include any necessary implementing legislation.

3. Develop comprehensive master plan. The board shall assist the deputy commissioner in the development of the comprehensive master plan as defined in subchapter II.

4. Investigate and establish priorities. The board, with the deputy commissioner, shall investigate and establish priorities within the scope of the comprehensive master plan. For the purpose of this subsection, the priorities shall be priorities of goals and objectives with their associated target dates.

5. Rules, policies and fees. The board shall assist in the development of and give its approval to the commissioner for:

A. Rules and policies relating to data processing; and

B. The schedule of charges.

6. Provide for regular review. The board with the deputy commissioner shall provide for a regular review of information processing operations in State Government and make recommendations to the Governor, commissioner and other affected agency heads for improving service and efficiency and for reducing costs.

7. Investigation of issues. The board may conduct an investigation or provide for the investigation of any issue it deems essential to the purpose and mission of this chapter.

#### SUBCHAPTER IV

#### APPEALS PROCESS

#### §1896. Appeals

Any state agency disagreeing with an action or decision of the Office of Informational Services or the deputy commissioner as it affects that agency may appeal the decision in accordance with the provisions of this subsection.

1. Order of appeal. A state agency may appeal the decision or action of the deputy commissioner or Office of Informational Services to:

A. The Information Services Policy Board and then to;

B. The commissioner.

2. Appeal to the Governor. In the event that an agency is aggrieved by the decision of the commissioner, the agency may appeal to the Governor to alter the decision or action and the decision of the Governor shall be final.

3. Written decisions. In responding to a state agency, the person or organization to whom the appeal has been made shall provide the decision in writing. If the decision fails to uphold the state agency appeal, the decision shall explain the specific reasons for the decision.

Sec. 79. 5 MRSA §7006, sub-§5, ¶A, as enacted by PL 1983, c. 477, Pt. E, Sub-Pt. 26, §5, is amended to read:

A. The State Development Office, with the advice of the Department of Finance and Administration, shall establish a standard accounting procedure to be used by any organization receiving moneys under this section.

Sec. 80. 5 MRSA §12002-C, as enacted by PL 1985, c. 295, §10, is amended to read:

§12002-C. Per diem and expense vouchers

In order to receive per diem compensation or reimbursement for expenses as authorized by this chapter, a member of a board, which is required to submit expense vouchers to the Department of Finance and Administration for reimbursement, shall complete and sign an expense voucher form to the satisfaction of the Commissioner of Finance and Administration. Every board member shall certify in writing on the voucher form whether the per diem or expenses incurred for each item is an official meeting or hearing activity required by statute that has been called by the chairman of the board or by a person authorized by statute to call the meeting or hearing. In the event that the requested per diem or expense reimbursement is not the result of an official meeting or hearing of the board, the board member shall explain on the voucher the reason for the claim. The Commissioner of Finance and Administration may disapprove those expenses or portion of expenses that do not comply with this chapter.

Sec. 81. 5 MRSA §12004, sub-§8, ¶A, sub-¶(12-A), as enacted by PL 1985, c. 359, §4, is amended to read:

12-A	<u>Finance</u>	Work Center	Expenses only	5 MRSA
	<u>Adminis-</u>	Purchases	for Nonstate	\$1826-C
	<u>tration</u>	Committee	employee	
			members to be	
			paid from funds	
			of departments	
			represented on	
			the committee	

Sec. 82. 5 MRSA §12004, sub-§8, ¶A, sub-¶(12-B), as enacted by PL 1985, 441, §2, is repealed and the following enacted in its place:

12-B	<u>Human Ser-</u>	<u>Board of the</u>	<u>Expenses</u>	<u>22 MRSA</u>
	<u>vices:</u>	<u>Maine's Chil-</u>	<u>only</u>	<u>\$4083</u>
	<u>Child Pro-</u>	<u>dren's Trust</u>		
	<u>tection</u>	<u>Fund</u>		

Sec. 83. 5 MRSA §12004, sub-§10, ¶A, sub-¶(26) is amended to read:

(26)	<u>Finance</u>	Standardization	\$25/Day	5 MRSA	\$1814
	<u>Adminis-</u>	Committee	Public		
	<u>tration</u>		Member		

Sec. 84. 5 MRSA §12004, sub-§10, ¶A, sub-¶(68) is repealed.

Sec. 85. 5 MRSA §12006, as amended by PL 1985, c. 295, §22, is further amended to read:

§12006. Penalty for failure to report

Members of any board which fail to report to the Secretary of State, as required by section 12005, shall not be eligible to receive any daily rate or annual rate of compensation or any money for expenses incurred in the work of the board until the report to the Secretary of State is complete to the satisfaction of the Secretary of State. The Commissioner of Finance ~~and Administration~~, the Secretary of State or the authorized person to pay compensation or expenses to members of the boards, shall not pay any rate of compensation or expenses to any member of a board which has failed to report to the Secretary of State.

Sec. 86. 8 MRSA §350 is enacted to read:

§350. State Lottery Bureau

The State Lottery Bureau is established within the Department of Finance to carry out the purposes of this chapter.

Sec. 87. 10 MRSA §918, sub-§3, as amended by PL 1983, c. 636, is further amended to read:

3. Ex officio corporators. Ex officio corporators shall consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine. State department and agency heads shall include the following:

Treasurer of State;

Director of the State Planning Office;

Director of the State Development Office;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Business, Occupational and Professional Regulation;

Commissioner of Conservation;

Commissioner of Educational and Cultural Services;

Commissioner of Environmental Protection;

Commissioner of Finance and Administration;

Commissioner of Administration;

Commissioner of Human Services;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Labor;

Commissioner of Marine Resources;

Commissioner of Mental Health and Mental Retardation;

Commissioner of Transportation;

Chief Executive Officer of the Finance Authority of Maine;

Executive Director of the Maine Municipal Bond Bank; and

Executive Director of the Maine State Housing Authority.



Sec. 88. 14 MRSA §8109, sub-§1, ¶A, as amended by PL 1985, c. 81, is further amended to read:

A. Any agency may settle any claim for an amount of \$1,500 or less when such settlement is approved by the appropriate department or agency head in accordance with regulations promulgated by the Commissioner of Finance and Administration.

Sec. 89. 14 MRSA §8109, sub-§1, ¶B, as enacted by PL 1977, c. 2, §2, is amended to read:

B. Any other claim may be settled when such settlement is approved by the head of the department or agency against which the claim is filed, the Commissioner of Finance and Administration and the Attorney General.

Sec. 90. 14 MRSA §8115, sub-§1, as enacted by PL 1977, c. 2, §2, is further amended to read:

1. Payment from next appropriation. In the event no insurance has been procured by the State to pay a claim or judgment arising under this chapter, and no appropriated funds are reasonably available, as determined by the Commissioner of Finance and Administration, the claim or judgment shall be paid from the next appropriation to the state instrumentality whose action or omission, or the action or omission of whose employee, gave rise to the claim.

Sec. 91. 20-A MRSA §11054, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§11054. Duties of board

The board on the part of the State shall obtain accurate accounts of all the board's receipts and disbursements and shall report to the Governor and the Commissioner of Finance and Administration annually on or before the 15th day of September, setting forth in such detail as the commissioner may require the transactions of the board for the fiscal year ending on the preceding June 30th. They shall include in such report recommendations for any legislation as may be necessary or desirable to carry out the intent and purposes of the New England Higher Education Compact among the states joining.

Sec. 92. 20-A MRSA §13506, as enacted by PL 1983, c. 859, Pt. J, §2, is amended to read:

2. Transmittal of information. The commissioner shall transmit the necessary filing data to the Department of Finance and Administration in sufficient time to allow the issuance of payments on February 15th and August 15th of each year.

Sec. 93. 20-A MRSA §15903, sub-§3, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. The Bureau of Public Improvements, Department of Finance and Administration;

Sec. 94. 22 MRSA §254, last ¶, as amended by PL 1983, c. 290, is further amended to read:

The Commissioner of Finance and Administration may create a dedicated revenue account to receive moneys pursuant to this section from whatever source is available which money may be disbursed solely for the purposes of implementing this section.

Sec. 95. 22 MRSA §1471-B, sub-§7, as enacted by PL 1981, c. 632, §2, is amended to read:

7. State contracts. Notwithstanding any other provisions of law, members of the board shall be eligible to contract with the State where the contracts are awarded consistent with normal bidding procedures of the Department of Finance and Administration. Members shall also be eligible to receive grants where grants are awarded consistent with normal state procedures. In no case may any member vote on the award of a contract or grant for which he has submitted a bid or proposal.

Sec. 96. 23 MRSA §152, 5th ¶, as amended by PL 1983, c. 553, §23, is further amended to read:

The board shall maintain an office in Kennebec County. The Commissioner of Finance and Administration shall appoint, subject to the Personnel Law, a clerk of the board to keep its records and to perform such other duties as the board shall prescribe. The clerk shall have authority to certify to all official acts of the board, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the board.

Sec. 97. 23 MRSA §152, 6th ¶, as amended by PL 1983, c. 553, §24, is further amended to read:

The Commissioner of Finance and Administration shall appoint and fix the compensation of a reporter to the board, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the board. The Commissioner of Finance and Administration may appoint, subject to the Personnel Law, such clerical assistants for the board as he may deem necessary.

Sec. 98. 26 MRSA §979-A, sub-§5, as amended by PL 1981, c. 289, §11, is further amended to read:

5. Public employer. "Public employer" means all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or his designee. In the furtherance of this chapter, the State shall be considered as a single employer and employment relations, policies and practices throughout the state service shall be as consistent as practicable. It is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer such agreements. To coordinate the employer position in the negotiation of agreements, the Legislative Council or its designee shall maintain close liaison with the Governor or his designee representing the executive branch relative to the negotiation of cost items in any proposed agreement. The Governor's office or its designee Governor is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern. It is the responsibility of the legislative branch to act upon those portions of tentative agreements negotiated by the executive branch which require legislative action.

The Governor's office, or its designee, the location of which within the organization of State Government shall be designated by the Governor, which shall be known as the Governor's Office of Employee Relations, may The Bureau of Employee Relations, through the Commissioner of Administration, shall act as directed by the Governor to:

A. Develop and execute employee relations' policies, objectives and strategies consistent with the overall objectives of the Governor;

B. Conduct negotiations with certified and recognized bargaining agents under applicable statutes;

C. Administer and interpret collective bargaining agreements, and coordinate and direct agency activities as necessary to promote consistent policies and practices;

D. Represent the State in all bargaining unit determinations, elections, prohibited practice complaints and any other proceedings growing out of employee relations and collective bargaining activities;

E. Coordinate the compilation of all data and information needed for the development and evaluation of employee relations' programs and in the conduct of negotiations;

F. Coordinate the state's resources as needed to represent the State in negotiations, mediation, fact finding, arbitration and other proceedings; and

G. Provide staff advice on employee relations to the various departments and agencies of State Government, including providing for necessary supervisory and managerial training.

All state departments and agencies shall provide such assistance, services and information as required by the Governor's office, or ~~its designee~~ the Bureau of Employee Relations, and shall take such administrative or other action as may be necessary to implement and administer the provisions of any binding agreement between the State and employee organizations entered into under law.

Sec. 99. 26 MRSA §979-A, sub-§6, ¶I, as enacted by PL 1981, c. 381, §3, is amended to read:

I. Who is appointed to a major policy-influencing position as designated by Title 5, ~~section 711, subsection 2~~ chapter 71; or

Sec. 100. 28 MRSA §2, sub-§2, as repealed and replaced by PL 1975, c. 741, §1, is amended to read:

2. Bureau. "Bureau" ~~shall mean~~ means the Bureau of Alcoholic Beverages within the Department of Finance and Administration.

Sec. 101. 28 MRSA §56, as amended by PL 1983, c. 865, Pt. B, §§1 and 2, is further amended to read:

§56. Working capital

The net profits of the commission shall be general revenue of the State. The commission is authorized to keep and have on hand a stock of wines, except table wines, and spirits for sale, the value of which, when priced for resale, shall be computed on less carload price quotations f.o.b. warehouse filed by liquor and wine vendors. The inventory value shall be based upon actual cost for which payment may be due and shall not at any time exceed the amount of working capital authorized. Wines and spirits shall not be considered in the inventory until payment has been made therefor. The maximum permanent working capital of the commission is established at \$3,500,000 and permanent advances up to this amount may be authorized by the Governor upon recommendation of the commission with the approval of the Commissioner of Finance and Administration. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the Commissioner of Finance and Administration and the Governor.

Sec. 102. 28 MRSA §57, first ¶, as amended by PL 1977, c. 674, §26, is further amended to read:

The Commissioner of Finance and Administration, with the advice and consent of a majority of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages whose term of office shall be continuous, subject only to removal by a majority of the commission and the Commissioner of Finance and Administration. The salary of the director shall be fixed by the Commissioner of Finance and Administration with the advice and consent of a majority of the State Liquor Commission.

Sec. 103. 28 MRSA §58, as enacted by PL 1975, c. 741, §4, is amended to read:

§58. Director of the Bureau of Alcoholic Beverages; powers and duties

The Director of the Bureau of Alcoholic Beverages within the Department of Finance and Administration shall be the chief administrative officer of the bureau. The Director of the Bureau of Alcoholic Beverages shall be subject to the direction of the State Liquor Commission as defined in this chapter. The director of the bureau shall administer the policies, rules and regulations of the State Liquor Commission under the supervision of the commission. The direc-

tor of the bureau shall operate the bureau and implement the liquor laws according to the procedures established by the State Liquor Commission.

The Director of the Bureau of Alcoholic Beverages shall have general charge of the office and records and shall employ, with the approval of the Commissioner of Finance and Administration and the State Liquor Commission, subject to the Personnel Law, such personnel and make expenditures as may be necessary to fulfill the purposes of this Title.

Sec. 104. 28 MRSA §451, first ¶, as amended by PL 1979, c. 161, is further amended to read:

All spirits and wines, except table wines, shall be sold by the commission at a price to be determined by the commission which will produce a state liquor tax of not less than 75% based on the less carload cost f.o.b., State Liquor Commission warehouse, and in addition thereto there shall be levied and imposed an excise tax of 75¢ per gallon, or its metric equivalent, on wines containing more than 14% alcohol by volume; except that spirits and wines sold at wholesale under section 204 may be sold at wholesale prices established pursuant to the provisions thereof. Prices for sale of spirits and wines bought by the commission from Maine licensees to manufacture liquor under section 501 shall be based on minimum truck load delivery prices f.o.b. warehouse as the same are filed with the Public Utilities Commission. Special orders by the commission for unstocked merchandise shall be priced at not less than 75% over actual cost delivered f.o.b. warehouse. In all cases the commission is authorized to round off costs to the next highest 5 cents. Any increased federal taxes levied on or after November 1, 1941 shall be added to the established price without markup. All net revenue derived from such tax shall be deposited to the credit of the General Fund of the State. Notwithstanding the other provisions of this section, the commission, with approval of the Commissioner of Finance and Administration, may reduce the price of discontinued items of liquor. The reduced price shall not be less than the actual cost of the discontinued liquor items and no item shall be discontinued by the commission for a period of at least 6 months after such item has been listed and on sale in state stores. Notwithstanding the other provisions of this section, the commission, with the approval of the Commissioner of Finance and Administration, may reduce the price of liquor in one store, and licensees permitted to purchase liquor at a discount under section 204 may purchase liquor for resale from that store at the same

price they are permitted to purchase liquor for resale from any state store which does not offer a retail discount.

Sec. 105. 29 MRSA §2243-C, first and 2nd ¶¶, as enacted by PL 1983, c. 818, §21, are amended to read:

So long as another jurisdiction imposes a tax or fee on a class of motor vehicles registered in Maine and traveling in that jurisdiction and that tax or fee is additional to those imposed by Maine upon the same class of motor vehicles not registered in that jurisdiction, the Secretary of State, Commissioner of Finance and ~~Administration~~ and Commissioner of Transportation acting together shall levy the same or substantially the same tax or fee upon the same class of motor vehicles registered in that jurisdiction and traveling in Maine.

The Secretary of State, Commissioner of Finance and ~~Administration~~ and Commissioner of Transportation shall jointly promulgate rules for collection of taxes or fees due pursuant to this section, for enforcement of the collection and for otherwise carrying out the purposes of this section. The Secretary of State shall monitor taxes and fees assessed against Maine-registered motor vehicles by other jurisdictions, in order to ensure comparable treatment of foreign-registered motor vehicles traveling in Maine.

Sec. 106. 30 MRSA §4786, sub-§5, as reenacted by PL 1979, c. 732, §§21 and 31, is amended to read:

5. Indian Housing Mortgage Insurance Committee. "Indian Housing Mortgage Insurance Committee" means a committee consisting of the Treasurer of State, the Director of the Maine State Housing Authority, the Commissioner of Finance and ~~Administration~~ and one person from the Passamaquoddy Tribe and one person from the Penobscot Nation to be chosen by the respective tribe or nation.

Sec. 107. 30 MRSA §5057, sub-§1, ¶A, as enacted by PL 1983, c. 477, Pt. E, sub-pt. 27, is amended to read:

A. On or before September 30, 1984, and for each succeeding year, the Commissioner of ~~Finance and Administration~~ shall provide to the Treasurer of State a list of state-owned buildings in each municipality, along with the total floor space of state-owned buildings in each municipality and

the share of floor space of all state-owned buildings accounted for by the state-owned buildings in each municipality.

(1) The following state buildings shall not be included in the calculation provided by this section:

(a) Buildings in which the State holds only a leasehold interest;

(b) Buildings owned by the Bureau of Parks and Recreation and for which payments are made under Title 12, section 602, subsection 4;

(c) Buildings owned by the University of Maine;

(d) Buildings owned by the Maine Maritime Academy; and

(e) Buildings owned by the vocational-technical institutes established by Title 20-A, section 10103.

Sec. 108. 30 MRSA §5301, as amended by PL 1983, c. 812, §185, is further amended to read:

§5301. Membership

The Board of Emergency Municipal Finance, as authorized by Title 5, section 12004, subsection 8, and designated in this subchapter as the "board," shall be composed of the 3 persons who legally hold the offices of Commissioner of Finance and Administration, Treasurer of State and State Tax Assessor. Upon the succession of any person to any of these respective offices, he or she shall immediately become a member of the board and the person who formerly held such office shall cease to be such a member. The person holding the office of State Tax Assessor shall be the chairman of the board. The members of the board shall be compensated according to the provisions of Title 5, chapter 379.

Sec. 109. 36 MRSA §575, as amended by PL 1973, c. 460, §18, is further amended to read:

§575. Administration; rules

The State Tax Assessor shall have the powers and duties provided in this subchapter. He shall adopt and amend such rules and regulations as may be rea-



sonable and appropriate to carry out these responsibilities. He may contract with municipal, State and Federal Governments or their agencies to assist in the carrying out of any of his assigned tasks. He is authorized to hire such technical assistance as may be required for the performance of his assigned tasks. He is authorized to request such technical assistance from the Forestry Bureau or the Department of Finance and Administration as the respective department may be able to provide.

Sec. 110. 36 MRSA §653, sub-§1, ¶H is amended to read:

H. Any municipality granting exemptions under this subsection shall have a valid claim against the State to recover 90% of the taxes lost by reason of such exemptions as exceeds 3% of the total local tax levy, upon proof of the facts in form satisfactory to the Commissioner of Finance and Administration. Such claims shall be presented to the Legislature next convening.

Sec. 111. 36 MRSA §841-B, as repealed and replaced by PL 1985, c. 295, §54, is amended to read:

§841-B. Land Classification Appeals Board; purpose; composition

The Land Classification Appeals Board, as established by Title 5, section 12004, subsection 2, is established to hear appeals from decisions of municipal tax assessors, chief assessors and the State Tax Assessor acting as assessor of the unorganized territory relating to the Maine Tree Growth Tax Law or the Farm and Open Space Tax Law. The board shall be composed of 4 voting members: The Commissioner of Conservation or his designee; the Commissioner of Agriculture, Food and Rural Resources or his designee; and 2 members, serving 4 years, to be appointed by the Governor. One of these members shall be a municipal officer and one shall be a forest landowner. The initial appointment of the municipal officer shall be for a 2-year period. In the event of the death or resignation of such an appointee, the Governor shall make an appointment to the appeals board for the unexpired term. The Commissioner of Finance and Administration or his designee shall serve in an advisory capacity as a nonvoting member and as chairman of the board. In the case of a tie vote, the Commissioner of Finance and Administration or his designee shall vote to break the tie. The landowner member and the municipal officer shall be compensated according to Title 5, chapter 379. All other members

shall be compensated by the agency they represent for actual expenses incurred in the performance of their duties under this section.

Sec. 112. 36 MRSA §2863, sub-§1, ¶A, as enacted by PL 1981, c. 711, §10, is amended to read:

A. "Commissioner" means the Commissioner of Finance and Administration.

Sec. 113. 38 MRSA §1306-C, sub-§4, ¶A, as enacted by PL 1981, c. 430, §18, is amended to read:

A. A final order issued by the court under that procedure shall provide for disposition of the conveyance by the Department of Finance and Administration, including official use by a public agency or sale at public auction or by competitive bidding.

#### PART B

Sec. 1. 2 MRSA §6, sub-§3, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is amended to read:

3. Range 89. The salaries of the following state officials and employees shall be within salary range 89:.

State Director of Public Improvements;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Chief of the State Police;

Director, State Planning Office;

Director, Energy Resources Office;

Public Advocate; and

Commissioner of Defense and Veterans' Services; and

Director of Human Resources.

Sec. 2: 2 MRSA §6, sub-§4, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees shall be within salary range 88:

State Purchasing Agent;

Director, Arts and Humanities Bureau;

Director, State Museum Bureau;

Director of the Bureau of Parks and Recreation;

State Director of Alcoholic Beverages;

Executive Director, Retirement System;

Director of Public Lands;

State Librarian; and

Director of Employee Relations.

Sec. 3. 2 MRSA §6, sub-§5, as repealed and replaced by PL 1985, c. 506, Pt. A, §1, is repealed and the following enacted in its place:

5. Range 86. The salaries of the following state officials and employees shall be within salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

Director of State Lotteries;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Director of the Risk Management Division;

Chairman, Maine Unemployment Insurance Commission; and

Director of the Bureau of State Employee Health.

Sec. 4. 3 MRSA §163, sub-§2-A, as enacted by PL 1985, c. 501, Pt. B, §4, is amended to read:

2-A. Appointment of legislative staff. To appoint, upon recommendation of the appropriate office director and subject to the approval of the Legislative Council, qualified persons to legislative staff positions based solely on their ability to perform their duties and without regard to party affiliation. The general duties and compensation of these positions shall be established under the direction of the council and in accordance with organizational and performance objectives established by the council. These legislative staff positions shall be unclassified and not subject to the ~~personnel~~ civil service law.

Sec. 5. 3 MRSA §507, sub-§9, ¶A, as repealed and replaced by PL 1983, c. 819, Pt. A, §3, is amended to read:

A. The evaluations and analyses of the justification reports for the programs of the following Group E-1 departments shall be reviewed by the Legislature no later than June 30, ~~1988~~ 1989:

- (1) Maine State Retirement System;
- (2) Department of Attorney General;
- ~~(3) Department of Personnel; and~~
- (3-A) Bureau of Human Resources;
- (3-B) Bureau of Employee Relations; and
- (4) Department of Labor.

Sec. 6. 3 MRSA §507, sub-§10, ¶A, as repealed and replaced by PL 1983, c. 819, Pt. A, §4, is amended to read:

A. Unless continued or modified by law, the following Group E-1 independent agencies shall terminate, not including the grace period, no later than June 30, ~~1988~~ 1989:

- (1) Board of Trustees, Group Accident and Sickness or Health Insurance;
- (2) Maine Commission for Women;
- (3) Maine Human Rights Commission;

- (4) Maine Labor Relations Board;
- ~~(5) Governor's Office of State Employee Re-~~  
~~tations;~~
- (6) State Personnel Civil Service Appeals  
Board;
- (7) Educational Leave Advisory Board; and
- (8) Workers' Compensation Commission.

Sec. 7. 5 MRSA §11, as amended by PL 1979, c. 541, Pt. A, §18, is further amended to read:

§11. Certification of payrolls

No fiscal officer of the State ~~shall~~ may draw, sign or issue, or authorize the drawing, signing or issuing, of any warrant or check upon the Treasurer of State or other disbursing officer of the State for the payment of a salary or other compensation for personal services, nor ~~shall~~ may the Treasurer of State or other disbursing officer of the State pay any salary or other compensation for personal services in the Executive or Legislative Departments, unless a payroll or account for such salary or other compensation, containing the names of all persons to be paid and the amounts to be paid them, has been certified by the ~~Commissioner of Personnel~~ Director of Human Resources or a person designated by him. In the case of all unclassified employees, certification shall be by their appointing authority.

Any payment, made in violation of the compensation plan or the rules pertaining thereto or made to a person appointed or established in his position in a manner contrary to chapters 51 to 67, may be recovered from the appointing authority, the ~~Commissioner of Personnel~~ Director of Human Resources or any officer or person making such payment, whoever is culpable, or from the sureties on the official bond of such officer or person. Action for such recovery may be maintained by the State ~~Personnel~~ Civil Service Appeals Board or any member thereof, any officer or employee of the state service or any citizen of the State. All moneys recovered under this section shall be paid into the State Treasury and credited to the General Fund.

Sec. 8. 5 MRSA §16, sub-§3, as amended by PL 1981, c. 28, §1, is further amended to read:

3. Regulations. The Commissioner of Personnel Director of Human Resources shall, acting under section 631, prescribe or amend rules and regulations to assure that state personnel policy conforms to the minimums set out in this section. The minimum limits contained in this section shall not be construed to be maximum limits, and the Commissioner of Personnel Director of Human Resources may prescribe or amend rules and regulations permitting accumulation of vacation leave and sick leave beyond the limits set forth here for limited categories of state employees for state employees in special situations, or for all classified or unclassified state employees.

Sec. 9. 5 MRSA §33, as enacted by PL 1985, c. 167, is amended to read:

§33. Bureau of Human Resources to inform supervisors and state employees

The Commissioner of Personnel Director of Human Resources is responsible for informing supervisors and state employees about the provisions of this chapter. The Commissioner of Personnel Director of Human Resources, at a minimum, shall distribute a sufficient number of copies of this chapter, which shall be visibly posted in all state buildings, in order to notify the greatest possible number of state employees about the provisions in this chapter.

The Commissioner of Personnel Director of Human Resources shall use the necessary means to instruct all supervisory personnel about the provisions in this chapter.

Sec. 10. 5 MRSA §95, sub-§1, as enacted by PL 1973, c. 625, §16, is amended to read:

1. Administration. To administer the office of the State Archivist. In exercising his administration, the State Archivist shall formulate policies, establish organizational and operational procedures and exercise general supervision. He shall employ, with the approval of the Secretary of State subject to the Personnel Civil Service Law, such assistants as may be necessary to carry out this chapter. The State Archivist shall adopt a seal for use in the official business of his office. He shall have custody and control of the facilities provided for the administration of this chapter;

Sec. 11. 5 MRSA §197, as amended by PL 1965, c. 478, §1, is further amended to read:

§197. State criminal inspectors; clerks; office expenses

The Attorney General is authorized to employ in his office in addition to the officers named in section 196, state criminal inspectors and additional clerks as the business of his office may demand, whose appointment and compensation shall be subject to the Personnel Civil Service Law. He may incur a reasonable expense for postage, printing, stationery and other office expenses.

Sec. 12. 5 MRSA §242, first ¶ is amended to read:

The Department of Audit shall be organized in the manner the State Auditor may deem best suited to the accomplishment of its functions. It shall have such auditors, assistants and employees as the State Auditor may require, but they shall be subject to the Personnel Law Civil Service Law.

Sec. 13. 5 MRSA §246, sub-§1, as enacted by PL 1985, c. 459, Pt. C, §1, is amended to read:

1. Position created. There is created within the Department of Audit the position of fiscal administrator of the unorganized territory. The fiscal administrator shall be a person qualified by education or experience in the administration of budgets. The position shall be subject to the Personnel Civil Service Law.

Sec. 14. 5 MRSA §282, 2nd ¶, as amended by PL 1983, c. 477, Pt. E, sub-pt. 22, is further amended to read:

The commissioner may employ such other deputies, division heads, assistants and employees as may be necessary, subject to the Personnel Civil Service Law. In addition, the commissioner may employ a Director of Compliance to carry out departmental responsibilities related to: Labor relations and labor contract compliance; human rights and affirmative action compliance; and, audit guidelines and other 3rd-party compliance requirements. The Director of Compliance shall serve at the pleasure of the commissioner.

Sec. 15. 5 MRSA §283, sub-§8, as enacted by PL 1975, c. 322, §1, is amended to read:

8. Bureau of Data Processing. Bureau of Central Computer Services Data Processing, the head of which

shall be the Director of ~~Central Computer Services~~  
Data Processing appointed subject to the ~~Personnel~~  
Civil Service Law.

Sec. 16. 5 MRSA §286, sub-§1, as repealed and replaced by PL 1979, c. 657, is amended to read:

1. Board of trustees; regulations. The board of trustees shall be responsible for the efficient operation of this group insurance program and is authorized to promulgate such regulations as are necessary to properly administer the plan, except as otherwise provided. It may exercise general supervision through an executive director, who shall be employed pursuant to the ~~Personnel~~ Civil Service Law.

Sec. 17. 5 MRSA §287-A, 2nd ¶, as enacted by PL 1977, c. 564, §13-A, is amended to read:

Upon transfer of surplus property to an eligible recipient, the commissioner shall charge and receive from ~~said that~~ that recipient money sufficient to cover the acquisition, warehousing, handling, administrative and delivery costs chargeable to ~~said that~~ that property. The department shall employ and assign such supervisory and clerical personnel as may be necessary to carry out this section, subject to the ~~Personnel~~ Civil Service Law.

Sec. 18. 5 MRSA §293, as amended by PL 1983, c. 812, §14, is further amended to read:

§293. Internship committee

The State Government Internship Program Advisory Committee, established by section 12004, subsection 10, shall serve to further the purposes of the program and to provide for broad representation of institutions of higher learning within Maine and of State Government. The State Government Internship Program Advisory Committee shall be comprised of the President of the Senate and Speaker of the House or their designated representatives; the Governor or his designated representative; the ~~Commissioner of Personnel~~ Director of Human Resources; and the Director, Bureau of Public Administration. In addition, one faculty member from each of 4 accredited, degree-granting institutions of higher learning in the State shall be appointed by the Director of the Bureau of Public Administration for 4-year terms, providing that the initial appointments under this chapter shall be for one, 2, 3 and 4-year terms. No faculty member ~~shall~~ may be eligible to succeed himself if he has served a full 4-year term, nor shall a faculty



member be succeeded by another from the same institution. Vacancies shall be filled by the director for the unexpired term. The members of the internship committee shall organize by electing a chairman and vice-chairman and shall be compensated as provided in chapter 379 and as authorized by the Bureau of Public Administration.

Sec. 19. 5 MRSA cc. 51, 53, 55 and 57, as amended, are repealed.

Sec. 20. 5 MRSA §298, 3rd ¶ from the end, as repealed and replaced by PL 1973, c. 622, §1, is amended to read:

The members of the commission shall elect a chairman who shall preside at all meetings of the commission when present. The commission shall meet at least once every 4 months and in addition, may meet as often as necessary, at such times and places as the chairman may designate. Any 3 members constitute a quorum for the exercise of all powers of the commission. The commission may employ, subject to the Personnel Civil Service Law, such assistance as may be necessary to properly carry out the duties of the commission.

Sec. 21. 5 MRSA §723, as amended by PL 1983, c. 812, §21, is further amended to read:

§723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004, subsection 10, shall advise and consult with the Department of Personnel Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of more than one week. The board shall consist of 3 members as follows: The Commissioner of Personnel Director of Human Resources who shall serve as chairman of the board, the Commissioner of Educational and Cultural Services or his designee; and one member who shall be a state employee appointed by the Governor to serve for a term of 3 years. Members of the board shall be compensated as provided in chapter 379.

Sec. 22. 5 MRSA §783, as amended by PL 1985, c. 388, §2, is further amended to read:

§783. Appointment, assignment and promotion of personnel

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to race, color, religious creed, national origin, sex, ancestry, age, physical handicap or mental handicap, unless related to a bona fide occupational qualification. Each appointing authority shall designate an affirmative action officer. The officer must be so placed within the agency's organizational structure that he or she shall have direct access to the appointing authority. Each department or agency shall prepare an affirmative action program for that department or agency in accordance with criteria set forth by the State Department of Personnel Bureau of Human Resources.

Sec. 23. 5 MRSA §788, as amended by PL 1985, c. 388, §3, is further amended to read:

§788. Bureau of Human Resources

The State Department of Personnel Bureau of Human Resources shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel Bureau of Human Resources will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the State Affirmative Action Coordinator in the Department of Personnel Bureau of Human Resources to monitor the civil service affirmative action program and insure compliance with all federal and state regulations.

Sec. 24. 5 MRSA §903, sub-§2, as enacted by PL 1981, c. 270, §4, is amended to read:

2. Employees not in collective bargaining units. The Commissioner of Personnel Director of Human Resources shall adopt rules to implement alternative working hours employment for persons who are not in collective bargaining units. Notwithstanding any other state law, any such rules shall provide for the proration of any benefits, including retirement benefits, made available to a person employed for job-sharing and part-time employment, provided that such the proration is not prohibited by federal law.

Sec. 25. 5 MRSA §947, as enacted by PL 1983, c. 729, §4, is repealed.

Sec. 26. 5 MRSA §1001, sub-§10, as amended by PL 1983, c. 863, Pt. B, §§41 and 45, is further amended to read:

10. Employee. "Employee" shall mean means any regular classified or unclassified officer or employee in a department, including for the purposes of this chapter, teachers in the public schools, but shall not include any judge, as defined in Title 4, section 1201 or 1301, who is now or may be later entitled to retirement benefits under Title 4, chapter 27 or 29, nor shall it include any member of the State Police who is now entitled to retirement benefits under Title 25, chapter 195. Persons serving during any probationary period required under the Personnel Civil Service Law and rules of the Personnel Civil Service Appeals Board shall be deemed regular employees for purposes of this definition. In all cases of doubt, the board of trustees shall determine whether any person is an employee as defined in this chapter.

Sec. 27. 5 MRSA §1005, sub-§1, as amended by PL 1975, c. 766, §4, is further amended to read:

1. Review of statutory amendments. All amendments to this chapter that are proposed to be enacted by the Legislature shall be reviewed by the board of trustees, which shall report to the proper legislative committee or authority on the impact of each such amendment on the retirement system. Such report shall state the impact on all aspects of the system, including the amendment's purposes, the resulting equitable or inequitable treatment of members, the funding of the costs of benefits, its consistency with other provisions of this chapter, and the value of such amendments to the system. Such report shall also include a separate evaluation of each amendment by the actuary and by the Commissioner of Personnel Director of Human Resources, which shall be requested by the board of trustees and included with their report.

Sec. 28. 5 MRSA §1031, sub-§6, as amended by PL 1975, c. 622, §9, is further amended to read:

6. Chairman; executive director; employees. The board of trustees shall elect from its membership a chairman and shall appoint an executive director who shall engage such services as shall be required to transact the business of the retirement system. The personnel staff of the executive director shall include employees qualified to administer the payment of disability benefits under the retirement system

and to investigate applications for disability retirement benefits, or the board of trustees shall authorize the contracting for professional services for such administration and investigation. All such employees shall be considered as employees of the State and subject to all the provisions of state law regarding state employees and shall be employed under the rules and regulations established by the Personnel Board Bureau of Human Resources and shall receive such compensation as is provided by the rules and regulations of the Personnel Board Bureau of Human Resources for state employees in similar capacities. The necessary expenses incurred by the board and executive director in the operation of the retirement system shall be paid from the funds so allocated. The board of trustees shall set the salary of the executive director.

Sec. 29. 5 MRSA §1031, sub-§12, ¶D, as amended by PL 1975, c. 766, §4, is further amended to read:

D. The actuary shall determine the equivalent cash compensation value to the members of the system of the benefits provided for them by the retirement system and shall furnish such information to the Commissioner of Personnel Director of Human Resources.

Sec. 30. 5 MRSA §1725-A, sub-§3, as enacted by PL 1983, c. 349, §4, is amended to read:

3. Personnel. The director may employ such assistants and employees as are necessary, and distribute the duties assigned to the division among such persons as he deems necessary for economy and efficiency of administration. Professional employees shall be hired as unclassified employees. All other employees shall be subject to the Personnel Civil Service Law.

Sec. 31. 5 MRSA §1742, sub-§20, ¶C, as enacted by PL 1983, c. 824, Pt. Y, is amended to read:

C. To review and comment to the Legislature and the Department of Personnel Bureau of Human Resources on positions for telecommunications related personnel requested by state agencies;

Sec. 32. 5 MRSA §1852, sub-§4, as enacted by PL 1975, c. 322, §3, is amended to read:

4. Data processing personnel. To review and comment to the Legislature and to the Department of

~~Personnel~~ Bureau of Human Resources on positions for data processing personnel requested by state agencies;

Sec. 33. 5 MRSA §1903, 3rd ¶, as amended by PL 1983, c. 580, §1, is further amended to read:

Appropriate department, agency or institution heads may request the employment of cooperative education students on a form provided by the ~~Department of Personnel~~ Bureau of Human Resources. Approval by the ~~State Personnel Commissioner~~ Director of Human Resources and the State Budget Officer will constitute approval for a student to be employed. Only cooperative education programs that require full-time employment for a period of not less than 10 weeks shall be included. Cooperative education students will be classified as project employees and will be governed by all policies and entitled to all rights and privileges afforded such employees, except that they shall be paid at the prevailing minimum wage.

Sec. 34. 5 MRSA §3353, as enacted by PL 1969, c. 465, is amended to read:

§3353. Executive director, staff

The directors shall employ a full-time executive director who shall employ such additional staff as necessary with the approval of the directors. The professional staff shall be unclassified. Clerical staff shall be employed subject to the ~~Personnel~~ Civil Service Law.

Sec. 35. 5 MRSA §3515, sub-§2, ¶B, as enacted by PL 1983, c. 176, Pt. A, §3, is amended to read:

B. Appoint and remove the staff of the office and prescribe their duties as may be necessary to implement the purposes of this chapter. Professional employees shall be hired as unclassified employees. All other employees shall be subject to the ~~Personnel~~ Civil Service Law;

Sec. 36. 5 MRSA §4566, sub-§3, as amended by PL 1983, c. 550, §1, is further amended to read:

3. Personnel. To appoint a full-time executive secretary and counsel to the commission, not subject to the ~~Personnel~~ Civil Service Law, and determine their remuneration; and to appoint, subject to the ~~Personnel~~ Civil Service Law, other personnel including, but not limited to, investigators, attorneys,

compliance personnel and secretaries, as it shall deem necessary to effectuate the purposes of this Act;

Sec. 37. 5 MRSA §5004, sub-§3, ¶B, as repealed and replaced by PL 1975, c. 587, §1, is amended to read:

B. Appoint and remove the staff of the office and prescribe their duties as may be necessary to implement the purposes of this chapter. Professional employees shall be hired as unclassified employees. All other employees shall be subject to the ~~Personnel~~ Civil Service Law.

Sec. 38. 5 MRSA c. 372 is enacted to read:

CHAPTER 372

STATE CIVIL SERVICE SYSTEM

SUBCHAPTER I

STRUCTURE AND AUTHORITY

ARTICLE I

BUREAU OF HUMAN RESOURCES

§7031. Purpose and mission

The Legislature finds that State Government is the largest single employer in the State and has a substantial impact, not only upon the growth and development of the State, but also with respect to policies that directly affect Maine citizens. The Legislature further finds that state employees are a valuable human resource who possess valuable skills and knowledge necessary to the effective operation of State Government and to the general health, safety and welfare of Maine citizens.

The Legislature further finds that it is essential to the welfare of all Maine citizens for state employees to undertake their duties and responsibilities in a conscientious and dependable manner. It is also of vast importance to the efficient and effective operation of State Government that all qualified Maine citizens have fair and equal opportunity to enter the service of State Government on the basis of merit and to work free from the forces of favoritism, nepotism and political patronage. Further, it is essential that individuals possessing the knowledge and

skills necessary for the effective operation of State Government are hired and retained.

To achieve these goals, it is vital that the personnel administrative organization of State Government recognize and develop the talents, contributions and potential of state employees and applicants for employment.

It is the intent of the Legislature to establish the Bureau of Human Resources as the civil service administrative organization of State Government which shall act as a service organization to respond quickly and effectively to the needs of state employees and state agencies. It is also the intent of the Legislature that the Bureau of Human Resources operate flexibly to expedite the duties and responsibilities of state employees and state agencies. The primary goal of the Bureau of Human Resources shall be service to state employees and state agencies.

Every employee of the Bureau of Human Resources and any other affected state agency shall act to assure that the provisions of the Civil Service Law are carried out in an open, fair and expeditious manner, with the objective of hiring and retaining the best person for a position as quickly as possible. To this end, all state agencies shall take steps to speed up handling of matters to and to reduce and simplify the procedures and paperwork required by the Civil Service Law.

It is not the intent of the Legislature in this chapter or any part of it to limit or restrict the rights of state employees to bargain collectively as provided in Title 26.

#### §7032. Definitions

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

1. Appeals board. "Appeals board" means the State Civil Service Appeals Board.

2. Appointing authority. "Appointing authority" means the officer, board, commission, person or group of persons having the power by virtue of the Constitution of Maine, a statute or lawfully delegated authority to make appointments.

3. Classified service. "Classified service" means all offices and positions of trust and employ-

ment in state service, except those placed in the unclassified service by chapter 71.

4. Director. "Director" means the Director of Human Resources.

5. Eligible register. "Eligible register" means any book or other type of record or list on which the names of persons are placed who are qualified for the specific job classification for which the register is created.

6. Employee. "Employee" means any person holding a position subject to appointment by an appointing authority.

7. Policy Review Board. "Policy Review Board" means the Policy Review Board, Bureau of Human Resources.

8. Resident. "Resident" means a person who is domiciled in this State.

§7033. Bureau of Human Resources; established

1. Goals and objectives. The Bureau of Human Resources is established within the Department of Administration as the administrative agency for state civil service matters and as a service agency to state agencies and departments. In addition to any other goals and objectives established in this chapter, the Bureau of Human Resources shall strive to:

A. Establish within State Government a high concern for state employees as people;

B. Provide managers with the skills and knowledge needed to manage people effectively with particular emphasis on "people soundness;"

C. Establish a civil service system that provides State Government with highly qualified and motivated employees;

D. Encourage state employees to realize their potential and thereby increase the quality of service;

E. Establish itself as a service agency to assist other agencies and departments of State Government to perform their duties in an efficient and quality manner;



F. Preserve the integrity of the civil service system; and

G. Establish a civil service system with sufficient flexibility to adopt new technologies, procedures and policies in order to respond quickly and effectively to the needs of state agencies and employees.

§7034. Bureau of Human Resources; duties

The Bureau of Human Resources shall be responsible for the administration of the civil service system of State Government. The bureau shall:

1. Act in a professional, courteous manner. Perform its duties in a highly professional and helpful manner;

2. Cooperate with agencies. Cooperate with the Policy Review Board and work closely with all state agencies with respect to the personnel needs and matters of each agency. The bureau shall strive to assure that personnel policies are understood and carried out by the agencies;

3. Respond quickly to requests. Act expeditiously upon requests of state agencies and state employees with respect to civil service matters;

4. Provide managerial training. Provide training in management and supervision to all persons who enter into management and supervisory positions in State Government and provide management and supervisory training on a periodic basis to ensure that managerial and supervisory personnel are knowledgeable of the most current management theories and practices.

Managerial and supervisory training shall include, among other factors, training in employee evaluation. This training at a minimum shall include at least one day of training for every supervisor during their first probationary period as a supervisor;

5. Update registers. Update, at least annually, all registers of eligibility in the classified service, upon implementation of necessary automated procedures;

6. Review applications. Review applications for positions in State Government and determine the eligibility of the applicants in an expeditious manner; and

7. Implementation. Implement, in a conscientious manner, the tasks and duties assigned by the director.

§7035. Director of Human Resources

The Director of Human Resources shall be qualified by education and experience in the administration of personnel systems and in human resource management. The commissioner, following consultation with the Policy Review Board, shall appoint the Director of Human Resources who shall serve at the pleasure of the commissioner and shall serve until his successor has been appointed and qualified. Specifically, the director shall meet the following qualifications:

1. Education and experience in personnel systems. An educational background and experience in personnel systems, public or private, to include, among other factors, the following:

A. Training, knowledge and experience in the design of job classification systems;

B. Knowledge, training and experience in the design of job performance evaluation systems;

C. Knowledge, training and experience in the design of job compensation systems; and

D. Knowledge, training and experience in the design of career training programs for employees and the design of management and supervisory training programs;

2. Restricted political activity. The provisions in section 7056, as they relate to the political activities of employees in the classified service; and

3. Record of achievement. An outstanding record of achievement of at least 5 years in the administration of a personnel or human resource system.

§7036. Duties of the director

The Director of Human Resources shall be responsible for the administration of this chapter. In carrying out his duties and responsibilities, the director shall:

1. Develop administrative procedures. Develop administrative procedures which are not subject to

the Maine Administrative Procedure Act, chapter 375, with respect to the internal management of the office and the interaction of the office with other state agencies;

2. Develop training programs. Develop and implement training programs for managerial and supervisory personnel to ensure that managers and supervisors have the skills and knowledge needed to manage people effectively.

The costs of the training programs shall be borne by the individual departments in accordance with a formula devised by the director and the Policy Review Board;

3. Provide information. Provide information to Bureau of Employee Relations, work with the Policy Review Board and assure that the needs of the departments, agencies and state employees and the policies developed pursuant to these needs are provided to the Bureau of Employee Relations;

4. Develop career information. Develop and distribute brochures to provide periodic seminars to state employees that provide information regarding:

A. Careers available in State Government;

B. Job descriptions of the different careers or job classifications;

C. Basic qualifications for and requirements of the careers or job classifications; and

D. The process by which a person obtains additional information about and applies for different positions in the classified service;

5. Be responsible for the development and implementation of the system of registers of eligibles. Be responsible for the development and use of registers of eligibles and the updating of these registers in accordance with policies and procedures approved by the Policy Review Board.

The director shall implement the procedures authorized by this subsection with the goal to establish an efficient hiring process that meets the satisfaction of the agencies that the office serves;

6. Develop and oversee the job application process. Develop and oversee the administration of the job application process in accordance with policies

and procedures approved by the Policy Review Board with the goal to establish a very efficient process that meets the needs established in subsection 4;

7. Work closely with state agencies. Work closely and cooperate with state agencies with respect to personnel matters and personnel needs of state agencies and state employees. Personnel matters and personnel needs include, but are not limited to, the following:

A. Requests of state agencies' lists of eligible persons to fill vacant or new positions;

B. Requests of state agencies for reclassifications and reallocations of positions;

C. Requests of state employees for information about job opportunities in State Government; and

D. Requests of state employees for job reclassifications and reallocations.

The director shall, at least once a year, meet with the commissioners and directors of other state agencies to discuss, individually, the personnel needs and problems of each state agency and proposed solutions that may be offered by the various agencies. The director shall also discuss with each agency any future changes to the civil service system that the director or the Policy Review Board intend to propose;

8. Establish and implement a job performance evaluation process. Establish and implement, in accordance with policies and procedures approved by the Policy Review Board, an employee job performance evaluation process to be used by all agencies with employees in the classified service. The job performance evaluation procedure shall be consistent in its use and application among all classified service employees;

9. Respond to requests of applicants for information concerning their qualifications for positions in State Government. Respond to requests of applicants and provide information to the applicants with respect to their qualifications, including their test scores, strengths of the applicants, weaknesses of the applicants, areas in need of improvement and the means by which the applicants may improve qualifications;

10. Undertake long-term and short-term planning. Undertake long-term and short-term planning with respect to the needs of the civil service system within the ensuing year and in the next 5 years. The director shall focus on the types of positions, qualifications and requirements for these positions, technologies and types of procedures necessary to maintain an efficient, modern, comprehensive, conscientious and effective state employee labor force;

11. Investigate complaints. Investigate complaints and problems relating to the administration and operation of the civil service system and inform the joint standing committee of the Legislature having jurisdiction over State Government of any legislation necessary to resolve the problems;

12. Coordinate and use State Government services. Coordinate and use the services available to State Government to create an effective, motivated state employee labor force, including the services of the Maine Job Service; the Welfare Employment, Education and Training, WEET, program of the Department of Human Services; and any other services that are appropriate to the purpose of the Bureau of Human Resources;

13. Evaluate the operation of the civil service system. Evaluate the operation of the civil service system and report its findings to the joint standing committee of the Legislature having jurisdiction over State Government by October 15th of each year. This report shall include, at a minimum, the following:

A. The turnover rate in the state employee labor force for the classified and the unclassified services for the previous fiscal year;

B. The turnover rate for each job classification for the previous fiscal year;

C. The total number and disposition of job reclassification requests, which shall also indicate the period of time for a final decision for each request;

D. The number of vacancies, occurring in the previous fiscal year, which required recruitment of personnel and the length of time required to fill each vacancy. The time period shall be measured from the time of notice of departure, transfer or promotion of the previous incumbent to the successor's assumption of the position;

E. The reason for the occurrence of each vacancy that occurred in the previous fiscal year to include job promotion, problems with management and any other causes for the vacancies; and

F. The training programs instituted by the bureau and the number of persons completing these programs in the previous fiscal year;

14. Employ staff and other assistance. Employ staff who shall be employed in the classified service in accordance with the Civil Service Law. Persons appointed to major policy-influencing positions shall be unclassified and shall serve at the pleasure of the director. The classified and unclassified employees in the Bureau of Human Resources shall comply with section 7056, defining the political activities in which the employees may engage. All managerial, policy-influencing and professional employees in the bureau shall be qualified by education, training and experience in the administration of personnel systems;

15. Prepare a budget. Prepare a budget for the administration and operation of the Bureau of Human Resources in accordance with the provisions of law that apply to departments of State Government;

16. Meet with Policy Review Board. Meet with the Policy Review Board and provide any information and assistance necessary for the operation of the board;

17. Adopt rules. Adopt rules in accordance with the Maine Administrative Procedure Act, chapter 375, with respect to:

A. Provisional, emergency, exceptional and temporary appointments;

B. Leave of absence, resignation, hours of service, vacation and sick leave;

C. Personnel records;

D. Suspension, lay off, dismissal and demotion;

E. Promotion in the classified service;

F. Probationary periods;

G. Certification of payrolls;

H. Eligible registers;

I. Classification of positions in the classified service;

J. Compensation plan;

K. Examination for admission to the classified service;

L. Transfer;

M. In-service training;

N. Service ratings; and

O. Alternative work hours;

18. Records. Keep a full and complete record of adjudicatory proceedings, including hearings on matters of classification, reclassification or allocation, in accordance with the Maine Administrative Procedure Act, sections 9059 and 9061, and to keep a record of votes taken in rule-making proceedings in accordance with the Maine Administrative Procedure Act, section 8056 and to keep full and complete minutes of investigatory hearings. These records and minutes shall be open to public inspection unless otherwise provided by law;

19. Hearings. In the course of any investigations under chapters 56, 60, 65, 67, 71 and this chapter, hold hearings for the purpose of gathering information. The hearings are not adjudicatory proceedings under the Maine Administrative Procedure Act, chapter 375. In conjunction with the hearings, he may administer oaths and subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to the investigation.

In case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in any county on application of the commissioner may issue an order requiring that person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt of the court;

20. Contract and enter into agreements. Enter into contracts and agreements to achieve the purposes of this chapter;

21. Enforcement. To enforce the observance of the Civil Service Law and the rules made under it;

22. Records. To keep a full and complete record of adjudicatory proceedings, including hearings on matters of classification, reclassification or allocation, in accordance with the Maine Administrative Procedure Act, chapter 375, sections 9059 and 9061, and to keep a record of votes taken in rule-making proceedings in accordance with the Maine Administrative Procedure Act, section 8056, and to keep full and complete minutes of investigatory hearings. These records and minutes shall be open to public inspection unless otherwise provided by law; and

23. Organization and decentralization. To organize the bureau as the director may deem most efficient and to decentralize personnel management among the various departments and agencies of the State consistent with the requirements of section 7031 and deemed in the best interest of efficient administration.

§7037. Limitations on collective bargaining activity

The director, only to the extent necessary to achieve the purpose and duties of the bureau as provided in subchapter I and subchapter II, article II, may assign any official or employee of the Bureau of Human Resources to participate as resource staff in collective bargaining negotiations.

§7038. Communications between management and employees

The director in consultation with the Policy Review Board shall be responsible for the development and monitoring of a communications' process between management and subordinate employees in each agency of State Government.

1. Factors to be considered. In the development of a communications' process for each agency, the director shall:

A. Consider the uniqueness and the responsibilities of each agency;

B. Consider the valuable information that nonsupervisory employees may contribute to the operation of each agency;

C. Consider the means, including confidentiality of identity, by which nonsupervisory employees



may communicate information about department policies, procedures and practices to the management without intimidation or fear of reprisal from management;

D. Consider the need for communication between supervisory personnel and policy-influencing persons which is necessary for the efficient and effective implementation of department policies and procedures;

E. Consider employee evaluation of supervisors as a means of improving supervisory skills and management-employee relations;

F. Consider the means by which professional and nonprofessional employees discuss issues of mutual concern on a regular basis;

G. Emphasize an approach that promotes cooperation between management and nonsupervisory personnel; and

H. Any other variable considered by the director to be important to the process.

2. Prohibitions. Any department policy, practice or procedure that any agency of State Government adopts or implements and which discriminates against persons for reasons other than merit, special skills or job qualifications or reasons authorized under collective bargaining agreements is void.

3. Communication on a regular basis. Any communications' process established pursuant to this section shall function on a regular basis.

4. Penalty for failure to comply. The Commissioner of Finance shall not authorize payment of any debts or liabilities of a department or salaries of persons in policy-influencing positions in a department or agency which, upon written notification by the director, is not in compliance with this section.

#### §7039. Civil Service Law

The Civil Service Law shall consist of chapters 56, 60, 65, 67, 69, 71 and this chapter. Whenever reference is made in statute or rule to the Civil Service Law, the chapters delineated in this section shall apply.

ARTICLE II

POLICY REVIEW BOARD

§7041. Policy Review Board; establishment; membership; compensation

1. Establishment. The Policy Review Board, as authorized by chapter 379, is established to advise and assist the Commissioner of Administration and the Director of Human Resources and to participate in specific policy-making activities.

2. Appointment and membership. The Policy Review Board shall consist of the Commissioner of Administration as an ex-officio nonvoting member and the following persons. For the purpose of this subsection, the term "designee" means a person in a major-policy influencing position as defined in chapter 71.

A. The Commissioner of Transportation or his designee;

B. The Commissioner of Human Services or his designee;

C. The Commissioner of Mental Health and Mental Retardation or his designee;

D. The Commissioner of Conservation or his designee;

E. The Commissioner of Labor or his designee;

F. A representative from the Office of the Governor; and

G. Two persons who are not state employees and who are well qualified by experience, training and education in personnel systems in the private sector with firms which have implemented progressive personnel systems.

3. Term of office. The term of office of the private sector members shall be for 2 years, except for the first appointed members. Of the first appointed members, one member representing the private sector shall serve a term of one year and the other member shall serve an initial term of 2 years. Thereafter, these members shall be appointed for 2-year terms.

Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. Any vacancy shall be filled by appointment for the unexpired term. Any member may be removed for cause which shall include excessive absences from meetings of the board. Excessive absence shall be defined by the board.

4. Meetings. The board shall meet at least once a month. Additional meetings shall be held as necessary to conduct the business of the board and may be convened at the call of the chairman or at the call of 2 members. The board shall annually elect a chairman who may not be the Commissioner of Administration.

5. Compensation. Private sector members and the public sector member shall be compensated in accordance with chapter 379.

6. Quorum. A majority of the voting members of the board shall constitute a quorum. No action may be taken by the board except by affirmative vote of the majority of those present and voting.

§7042. Duties and responsibilities of the Policy Review Board

The Policy Review Board shall advise the commissioner and the Director of the Bureau of Human Resources and the Director of the Bureau of Employee Relations of the development and monitoring of policies and procedures affecting personnel. The Policy Review Board, through the Director of the Bureau of Human Resources, shall inform the Bureau of Employee Relations of policies that the board develops or has evaluated to be implemented by the Bureau of Human Resources or which may be submitted to collective bargaining negotiations. The board in conjunction with the director shall undertake the following policy-making tasks:

1. Longevity incentives. A study of longevity incentives, including the establishment of senior nonsupervisory positions and other positions into which dependable hardworking and productive state employees may be promoted after a number of years following attainment of the highest pay step in the pay range to which their job classifications are assigned. Other incentives for study include:

A. Expanded pay ranges with more steps and greater intervals between pay steps;

B. Increased differentials between pay ranges;  
and

C. Expanded pay ranges with the same number of  
steps spread out over more time;

2. Review job classifications with recruitment  
and retention problems. A review and analysis of job  
classifications for which the recruitment or reten-  
tion of employees is difficult. The Policy Review  
Board shall delineate the job classifications with  
recruitment and retention problems on an annual basis  
and:

A. Develop policies and procedures by which  
these classifications are made subject to direct  
hire by appointing authorities; and

B. Develop policies and procedures for removal  
of positions made subject to direct hire authori-  
ty by this section when the reasons for the re-  
cruitment and retention problems have been re-  
solved and the problems no longer exist;

3. Examine training and educational policies of  
agencies. Examine educational leave and training po-  
licies and procedures of each department and make  
recommendations that will further career incentives  
and employee motivation in each department.

The recommendations pursuant to this subsection shall  
include an evaluation of a policy requiring each de-  
partment to budget in its Part I budget sufficient  
money for educational and training purposes that meet  
the objectives in this subsection;

4. Examine the job reclassification and reallo-  
cation process. Examine the job reclassification and  
reallocation policies and procedures with the purpose  
of proposing recommendations that will motivate state  
employees to be conscientious and enterprising.

The recommendations pursuant to this subsection shall  
include an evaluation of a policy requiring each de-  
partment to budget sufficient money for job  
reclassifications and reallocations to pay department  
employees immediately following a decision that  
upgrades their wages or salaries. This evaluation  
shall include a procedure by which each department  
shall budget sufficient money to fund job  
reclassifications and reallocations;

5. Examine the job performance evaluation pro-  
cess. Examine the job performance evaluation process

with the purpose of proposing recommendations that will make job performance evaluation meaningful and effective. The recommendations pursuant to this subsection shall include an evaluation of a policy that:

A. Establishes a standard nonnumeric rating procedure that is minimally dependent upon subjective evaluation;

B. Establishes a simple, uncomplicated performance evaluation form and procedure that applies to all state employees;

C. Requires managers and supervisors on a regular basis to mutually discuss the job tasks and responsibilities of each job classification with each person performing the job with the purpose of creating mutual agreement about the job tasks and goals to be achieved;

D. Requires managers and supervisors to discuss with their subordinates the subordinates' strengths, weaknesses and areas in need of improvement; and

E. Provides for evaluation of managers and supervisors by their subordinates to improve the quality of management and supervision in each department. Any procedure recommended for the evaluation of managers and supervisors provides confidentiality to the evaluators;

6. Examine confidential and supervisory pay ranges. Examine the pay ranges of confidential and supervisory state employees with the purpose of proposing recommendations that will:

A. Establish proper pay ranges for these positions consistent with the duties and responsibilities of these positions compared with the duties and responsibilities of other job classifications, particularly those classifications for which persons in confidential and supervisory positions act as supervisors or managers; and

B. Establish a mechanism by which the pay range of a confidential or supervisory classification will be adjusted whenever a job reclassification, job reallocation or a pay increase occurs which creates an inconsistency in the pay range of a confidential or supervisory position or classification;

7. Study acting capacity positions. Study acting capacity positions with the purpose of proposing recommendations that provide status, including, but not limited to, experience, pay step increases, application for the position upon the termination of the acting capacity status of the position, fringe benefits and any other factors deemed relevant by the Policy Review Board;

8. Rules. Advise the director with respect to rules adopted pursuant to section 7036, subsection 16, and provide the director with written recommendations concerning the proposed rules. The written recommendations shall also be sent to the joint standing committee of the Legislature having jurisdiction over State Government with an explanation of the reasons for the recommendations;

9. Report to the Legislature. Report to the joint standing committee of the Legislature having jurisdiction over State Government, on December 15th of each year with respect to:

A. The activities and accomplishments of the Policy Review Board. The report shall include a list of all meetings of the board and those who failed to attend each meeting;

B. The problems and needs of the civil service system;

C. Proposed solutions to these problems and needs; and

D. Findings and policies that have been pursued through collective bargaining to implement subsections 1 to 7 and the extent that current law prevents accomplishing these goals. The report shall include legislation necessary for recommended changes in state laws; and

10. Transition. It is the intent of the legislature that the matters relating to subsections 1 to 7 be dealt with expeditiously and that, to the extent possible, these issues be dealt with when appropriate in current bargaining with state employees, or where necessary, that the current bargaining explore means to resolve these issues during the new contract period through reopener clause, labor-management committees or other appropriate means.

SUBCHAPTER IIEMPLOYMENT POLICIES, PRACTICES AND RESTRICTIONSARTICLE ICITIZENSHIP, RESIDENCY, HIRING PRACTICES  
AND VETERANS' PREFERENCE§7051. General provisions

The following provisions apply to the classified and unclassified services or to the specific services as specified in this section.

1. Citizenship. In making appointments to or recruiting for any position on an open competitive basis in the classified service, preference shall be given to citizens of the United States. This requirement may be waived by the director on an individual basis when there exists compelling reasons for the waiver.

2. Discrimination prohibited. In carrying out this chapter, no discrimination may be made on account of political or religious opinions or affiliations or because of race or national origin, sex or marital status or age or physical disability, unless based upon a bona fide occupational qualification.

3. Hiring and promoting neutrality. The final decision of whether a person will be hired or promoted by the State may not be made in part or wholly by a person related to the job candidate by consanguinity or affinity within the 4th degree. The director by rules shall insure that this section will not deprive any applicant or employee of full consideration for hiring or promotion.

4. Employees in military service; substitutes. Whenever any employee, regularly employed in other than a temporary position for a period of at least 6 months by the State or by any department, bureau, commission or office of the State, or by the University of Maine, vocational-technical institutes, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency, or by any county, municipality, township or school district within the State shall in time of war, contemplated war, emergency or limited emergency, enlist, enroll, be called or ordered or be drafted into the Armed Forces of the United States or any branch or unit thereof, or shall be regularly

drafted under federal manpower regulations, he shall not be deemed or held to have thereby resigned from or abandoned his employment, nor shall he be removable during the period of his service. "Temporary," for the purpose of this section means employment based on a seasonal or on-call basis or employment based on a contract of less than 6 months' duration.

A. An employee subject to this section, while in the Armed Forces of the United States or still employed after draft under federal manpower regulations, shall be considered as on leave of absence without pay and, for the purpose of computing time in regard to pension rights, annual and sick leave accumulation and seniority, shall be considered during the period of his federal service as in the service of the governmental agency by which he was employed at the time of his entry into federal service. The employee, if he reports for duty within a 90-day period from the date of separation under conditions other than dishonorable from the Armed Forces of the United States or if receiving treatment in a hospital at the time of his separation, he reports for duty within 90 days from his discharge from the hospital, shall:

(1) If still qualified to perform the duties of that position, be restored to that position or to a position of like seniority, status and pay; or

(2) If not qualified to perform that position by reason of disability sustained during service, but qualified to perform duties of any other position in the employ of his preservice employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status and pay, or the nearest approximation consistent with the circumstances in his case.

B. Any employee restored to a position under this section shall not be discharged from that position without cause within one year after restoration to that position.

C. This section shall apply to any such employee entering the Armed Forces of the United States under Public Law 759 80th Congress (Selective Service Act of 1948) or while said Public Law 759 or any amendment thereto or extension thereof shall be in effect.



D. Rights to reemployment, credits toward retirement under the Maine State Retirement System and vacation or sick leave accumulation shall not be allowed beyond the period of the first enlistment or induction, but in no event beyond 4 years from the date of his original call to active duty in the Armed Forces of the United States, except if his return to active duty in the Armed Forces or the extension of his period of service beyond 4 years is required by some mandatory provision and he shall present proof satisfactory to the agency concerned.

E. When a permanent classified employee is on extended leave, a substitute may be employed, subject to personnel rules, until return or separation of the incumbent.

5. Probationary period; permanent appointments. All original appointments to the classified service and all subsequent promotional appointments within the classified service shall be for a probationary period. The duration of the probationary period shall be determined by the director in consultation with the director or commissioner of the agency, but in no case may it be for less than 6 months.

6. Temporary and provisional appointments. Whenever it is impossible to certify eligible persons for appointment to a vacancy in the classified service, the appointing authority may nominate a person to be the director. If the nominee is found by the director to have had experience and training which appear to qualify him for the position, he may be temporarily appointed to fill the vacancy in accordance with policies and procedures developed by the director and the Policy Review Board.

A. The director may make a provisional appointment to fill a technical or professional position which requires a specialized knowledge or training to carry out the duties of the position, and which cannot be filled from the eligible register.

B. The director and Policy Review Board shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time, not to exceed one year, as determined by the board.

C. The director may authorize, without requiring competitive tests, the appointment of unskilled

laborers or persons engaged in custodial and domestic work in state institutions or departments.

7. Dismissal and disciplinary action. An appointing authority may dismiss, suspend or otherwise discipline an employee for cause. This right is subject to the right of appeal and arbitration of grievances set forth in the applicable labor contract, in sections 7081 to 7084 or by civil service rule; and sections 7081 to 7084 shall apply to any employee who has satisfactorily completed an initial probationary period. This subsection does not apply to an employee appointed to a major policy-influencing position listed in sections 932 to 953.

Notwithstanding any other provision of law, the head of any institution under the control of the Department of Mental Health and Mental Retardation as the appointing authority may suspend with pay any employee who is charged by indictment with the commission of a criminal offense involving acts alleged to have been perpetrated upon any resident or residents of any such institution. Any suspension with pay may be authorized by the appointing authority only when to permit the employee to remain on duty at the institution would be against the best interest of any one or more of the residents of the institution, and authorization for suspension with pay shall apply only during the pendency of the criminal proceedings in the trial court, but not longer than 30 working days. Sections 7081 to 7084 shall not apply to suspension with pay ordered by the appointing authority under this paragraph.

#### §7052. Appointments and promotions

Appointments to and promotions in the classified service shall be made according to merit and fitness, from eligible lists developed by the director pursuant to procedures and policies established by the director and the Policy Review Board. No person may be appointed, transferred, promoted or reduced as an officer, clerk or employee or laborer in the classified service in any manner or by any means other than those prescribed by law or rule pursuant to this chapter.

#### §7053. Intermittent employees

It is the policy of the State to permit all employees of the State to participate to the fullest extent possible in the benefits of the civil service system for classified and unclassified employees. This policy shall be extended to full-time, part-

time, intermittent and all other categories of employees.

The Director of Human Resources shall, not later than the effective date of this section, adopt rules to assure the attainment of this policy for intermittent employees. At a minimum, the rules shall:

1. Define intermittent positions. Define intermittent positions and shall in the definition limit the use of any position to employment for not more than 19 hours a week or 25 weeks a year;

2. Eligibility provisions. Provide that a person who has been employed in an intermittent position for more than 1,040 hours shall:

A. Be eligible to accrue and use vacation and sick leave days at the same rate, pro rata, as full-time state employees;

B. Be eligible to receive holiday pay at the same rate, pro rata, at the same rate as full-time state employees, provided that the intermittent employee works on the days before and after the holiday;

C. Be eligible to receive an increase in salary to the next step on the same basis as full-time employees, that is, after completing 2,080 hours of work;

D. Be considered a classified employee for the purposes of:

(1) Eligible registers;

(2) Classification of positions;

(3) The compensation plan;

(4) Promotion in the classified service;

(5) Provisional, emergency, exceptional and temporary appointments;

(6) Probationary period;

(7) Transfer;

(8) Reinstatement;

(9) Demotion;

- (10) Suspension, layoff and dismissal;
- (11) Leave of absence and resignation;
- (12) Personnel records;
- (13) In-service training;
- (14) Service ratings; and
- (15) Certification of payrolls;

E. Be eligible to participate on a pro rata basis in the retirement program for state employees; and

F. Be eligible to participate in health and hospitalization insurance programs at rates of participation reduced to reflect the less than full-time status; and

3. Restricted application. This section shall not apply if provided pursuant to Title 26, chapter 9-B.

#### §7054. Veterans' preference

In making appointments to and retention in any position on an open competitive basis in the classified service, preference shall be given to veterans of the Armed Forces of the United States, who have been honorably separated, or to their wives, husbands, widows, widowers, mothers or fathers as set forth in this section.

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

A. "Armed Forces" means the United States Army, Navy, Air Force, Marine Corps or Coast Guard.

B. "Honorable separation" means discharge or release from a continuous tour of active duty in any of the Armed Forces, the official records of which show the character of service or type of discharge to have been honorable.

C. "Veteran" means a person, male or female, who served on full-time active duty, exclusive of active duty for training, in the Armed Forces of the United States and who does not receive a nondisability retirement pension for Armed Forces service.

D. "War, campaign or expedition" means any of the following periods:

- (1) April 6, 1917, to November 10, 1918;
- (2) December 7, 1941, to September 1, 1945;
- (3) June 27, 1950, to January 31, 1955; and
- (4) August 5, 1964, to May 7, 1975.

2. Examination preference. Preference points shall be added to the earned qualifying rating in examinations, provided that a passing grade is attained, of veterans applying for positions in the state service in accordance with the following, provided that they have not been previously employed in the classified service after obtaining preference points. A veteran who is receiving a disability pension shall be entitled to preference points under this subsection, notwithstanding his previous employment in the classified service after obtaining preference points.

A. A veteran who served on active duty in any of the Armed Forces for at least 90 days consecutively during a war, campaign or expedition and who was honorably separated shall be accorded a 5-point preference.

B. The widow or widower of a veteran, as defined in paragraph A, who has never remarried, shall be granted a 5-point preference.

C. A veteran who served on active duty in any of the Armed Forces for at least 90 consecutive days, at any time, was honorably separated, and who has a service-connected disability of 10% or more and receives compensation, pension or disability retirement under public laws administered by the Veterans Administration or by a branch of the Armed Forces shall be accorded a 10-point preference.

D. The spouse of a disabled veteran as defined in paragraph C, is entitled to a 10-point preference in lieu of the veteran when his or her service-connected disability disqualifies him or her for appointment in the classified service along the general lines of his or her usual occupation.

E. The widow or widower, who has never remarried, of a veteran who lost his or her life under

honorable conditions while serving on active duty in any of the Armed Forces during the war, campaign or expedition, or who died as the result of service-connected disability shall be accorded a 10-point preference.

F. The natural mother or father of a deceased veteran who lost his or her life under honorable conditions while serving on active duty in any of the Armed Forces during a war, campaign or expedition, and who is or was married to the father or mother of the veteran on whose service he or she bases his or her claim; and who is widowed, divorced or separated; or who lives with him or her totally and permanently disabled husband or wife, either the veteran's father or mother or the husband or wife of his or her remarriage, is entitled to a 10-point preference.

3. Certification preference. Names of preference veterans shall be entered on appropriate registers as follows.

A. The names of 5-point preference veterans shall be entered on appropriate registers in accordance with their respective augmented ratings, but they shall be entered ahead of all nonveterans having the same rating.

B. The names of qualified 10-point preference veterans, who have a compensable service-connected disability of 10% or more, shall be placed at the top of the appropriate register in accordance with their respective augmented ratings, in nonprofessional and nonscientific classes below range 12 of the compensation plan.

4. Retention preference. In any reduction in personnel in the state service, veteran preference employees shall be retained in preference to all other competing employees in the same classification with equal seniority, status and service ratings.

In determining qualifications for examination and appointment with respect to veteran preference eligibles under this section, the director or other examining agency may waive requirements as to age, height and weight, provided that any such requirement is not essential to the performance of the duties of the position for which examination is given. The director or other examining agency, after giving due consideration to the recommendation of any accredited physician, may waive the physical requirements in the case

of any veteran, provided that the veteran is, in the opinion of the director or other examining agency, physically able to discharge efficiently the duties of the position for which the examination is given.

This section applies to all examinations for original positions in the State Police, Department of Inland Fisheries and Wildlife, Department of Marine Resources, University of Maine, vocational-technical institutes, Maine School Building Authority, Maine Turnpike Authority, Finance Authority of Maine or any other state or quasi-state agency.

#### §7055. Reopening of examinations

Veterans with the present existence of a service-connected disability to a compensable degree, wives and husbands of disabled veterans who qualify for 10-point preference under section 7054, subsection 2, paragraph B, unmarried widows or widowers of deceased veterans who qualify for 10-point preference under section 7054, subsection 2, paragraph C, mothers and fathers, who are widowed, divorced, separated or whose wives or husbands are permanently and totally disabled, of veterans who died while in the active service of the Armed Forces during any war or who died as a result of service-connected disabilities, may file an application for and reopen an open competitive examination during the life of an eligible register resulting from a published announcement.

1. No eligible register resulting from published announcement. If no eligible register resulted from a published announcement, applicants qualified according to this section may file an application for and reopen an open competitive examination within 3 years of the closing date of the published announcement, provided that in all instances the applicant had not previously made application for the examination under conditions of the published announcement.

2. Positions held by other than permanent or probationary employees. In the event positions in the classified service are held other than by permanent or probationary employees, applicants qualified according to this section may file application for an examination to be announced and opened. Examinations shall be conducted for those applicants not later than the quarterly period succeeding that in which the application has been filed with the director.

#### §7056. Political activity

1. Use of official authority. No officer or employee in the classified service of this State may

use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

2. Coercion of contributions. No officer or employee in the classified service of this State may directly or indirectly coerce, attempt to coerce, command or advise a state officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

3. Candidacy for elective office. No officer or employee in the classified service of this State may be a candidate for elective office in a partisan public election. This subsection shall not be construed as to prohibit any such officer or employee of the State from being a candidate in any election if none of the candidates is to be nominated or elected at that election as representing a party, any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected.

4. Right of voting and free expression. An officer or employee in the classified service of this State shall retain the right to vote as he chooses and to express his opinions on political subjects and candidates.

5. Bureau of Human Resources. Every employee of the Bureau of Human Resources, including the director, shall be subject to this section.

## ARTICLE II

### JOB CLASSIFICATION, COMPENSATION AND QUALIFICATIONS

#### §7061. Classification plan

The director, in accordance with policies and procedures established by the director and the Policy Review Board, shall record the duties and responsibilities of all positions in state service and establish classes for these positions. The titles of the positions and classes shall be used in all personnel, accounting, budget, appropriation and financial records of all state departments, commissions and institutions.

1. Involvement of commissioners and directors. In recording the duties and responsibilities of each position, the commissioners and directors of the de-



partments and agencies of State Government shall be involved to the greatest extent possible.

2. Development of job classifications. Job classifications created pursuant to this section shall be developed to meet the needs of each department in the most efficient and pertinent manner.

The provisions of this section are subject to the requirements of Title 26, section 979-D, subsection 1, paragraph E.

#### §7062. Registers of eligibility

The director, in accordance with policies and procedures established by the director and the board, shall prepare for each class of positions in the classified service registers of persons eligible for appointment to positions in each class. Each eligible register shall consist of a list of all the persons who have shown by competitive tests, as provided in section 7063, that they possess the qualifications which entitle them to be considered eligible for appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register in accordance with this chapter.

1. Placement of names on register. In establishing registers of eligible persons pursuant to this section, the names of all persons attaining the minimum final earned ratings established by the director shall be placed on the register in order of their ratings.

2. Establishment of direct hire procedures. The director in consultation with the Policy Review Board shall, based on recruitment and retention needs and the provision of section 7036, subsection 22, establish where practicable direct hire procedures.

3. Removal from list prohibited under certain circumstances. No person may be removed from a register of eligibles for:

A. Specifying the conditions under which the applicant will accept employment in a classification;

B. Specifying a department, bureau or division in which the applicant will accept employment in a classification;

C. Specifying a department, bureau or division in which the applicant will not accept employment in a classification;

D. Failure to respond in less than 3 months' time to a written inquiry of the director or some other appointing authority relative to availability for appointment, except as provided by section 7034, subsection 5, with respect to the annual update of registers of eligibility. In this case, the register may be closed in the event that the person does not respond expeditiously, but the person's name shall not be removed from the register except in accordance with this paragraph; or

E. Failure to be appointed to a position following certification regardless of the number of certifications an applicant has received.

#### §7063. Examinations

Any examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment for which they apply. For the purpose of sections 7062 and 7063, "competitive test" means any written examination, evaluation of training and experience, service rating, oral board or other device used to measure an applicant's knowledge, skills and abilities or to provide a relative ranking for certification purposes.

The director, with the advice of the board, shall determine the character, type and content of examination for admission to the classified service; the time and place for holding examinations; the form of application blanks for admission to the examination to be filed by applicants; the minimum requirements for admission to the examination; and the value of each phase of the tests used in determining the average rating of the applicant. The director may adjust initial test results only to eliminate questions that are proven not relevant to the purposes of the test or which have a bias that is prohibited by state or federal law. Once a minimum final earned rating is established for a particular test, it shall not be changed.

Public notice of every examination or test shall be given in the manner prescribed by rules drawn up by the director.

1. Examination content. In developing examinations for classifications, the examinations shall be constructed to test the most current knowledge, skills and use of equipment required in each classification.

2. Administration of tests. The director may establish policies and procedures to allow departments and agencies of State Government to administer the tests and to interview persons taking the tests.

3. Applicant and examination results. Any applicant, upon the applicant's request, shall be provided with the applicant's strengths, weaknesses and areas in need of improvement as determined from a test score or interview.

4. Objectives of testing. In addition to determining the merit of applicants for positions in the classified service on a fair and just basis, it shall also be an objective to administer tests as often as possible to establish registers of eligible persons with sufficient numbers of names of persons who are currently interested in employment in each classification and thereby reduce to a minimum the length of time to fill positions.

5. Educational requirements; experience. No application for a position in State Government may be rejected solely because the applicant lacks educational qualifications. Acceptable equivalent combinations of appropriate experience, including verifiable uncompensated experience, or education may be substituted for formal educational qualifications, except where the educational qualifications are reflected in necessary registrations, such as to practice law, medicine or engineering or where the educational requirements are set as standards by federal agencies making grants-in-aid or otherwise contributing to state programs.

#### §7064. Filling of positions

Positions in the classified service shall be filled by original appointment, promotion, transfer, reinstatement or demotion in accordance with policies and procedures developed by the director, with advice from the board. These policies and procedures shall provide for the direct hire of positions in the classified service where appropriate.

1. Objective. In developing policies and procedures for filling positions, the director and board

shall be guided by the principle of filling each position as efficiently and expeditiously as possible. The director shall strive to fill each position in 30 days and no later than 45 days from the date a request to fill a position has been received from a state agency.

2. Eligibility of unclassified employees for classified service. In addition to any other provisions in this chapter, unclassified employees listed in section 931, subsection 1, paragraph H, and other unclassified employees, except those cited in section 931, subsection 1, paragraphs A to G, and paragraphs I and J, and in sections 931 to 953, shall be eligible for appointment to the classified service on the same basis as other members of the classified service.

#### §7065. Compensation plan

The director shall, as soon as practicable after the adoption of the classification plan, submit to the Legislature a proposed plan of compensation developed by the director, with the advice of the board, showing for each class or position in the classified service minimum and maximum salary rates and such intermediate rates as he deems desirable.

1. Salary reductions. When the compensation plan has become effective through its adoption by the Legislature, it shall constitute the official schedule of salaries for all classes or positions in the classified service, except that, if the adoption of a compensation plan results in the reduction of salary of an employee, the director shall certify to the proper fiscal officer of the State that the employee's salary shall not be subject to any reduction for a period of one year from the effective date of adoption of the plan.

2. Salary limits. No position may be assigned a salary greater than the maximum or less than the minimum rates fixed in the compensation plan.

3. Salary increases based on merit. Salary advancements within an established range shall not be automatic, but shall be dependent upon specific recommendation of the appointing officer and approval of the commissioner. The recommendation shall be based upon standards of performance as indicated by merit ratings or other pertinent data. No advancements in salary may be made until the employee has completed the probationary period.

4. Compensation above the minimum step. In hiring any employee, the director or appointing authority may employ a person who is new to a state job classification above the minimum level established for that classification in order to compensate that person for the experience or outstanding qualifications that the person may possess. The director, with the advice of the board, shall establish a policy to reflect the intent of this subsection.

### ARTICLE III

#### EMPLOYEE BENEFITS, RECORDS AND TRAINING

##### §7068. Obligation to inform employee

1. Orientation session. The director shall provide that during the first 6 months of state employment each employee shall attend an employee orientation workshop which shall be work time for the employee. Such training shall describe the nature and costs of benefits available to state employees generally, the nature and costs of benefits available to the employee and the circumstances under which the employee's benefit eligibility or cost may be changed. These benefits include, but are not limited to, vacation, holiday and sick leave, insurance programs and retirement programs.

A. In carrying out these programs, the director shall invite and include, to the extent they wish to participate, representatives of the Bureau of Employee Health, the Maine State Retirement System and employee representatives who are bargaining agents for any or all of the state employees attending the conference. Such employee representatives shall participate as the director provides in the program, but shall at least be given the chance to address employees in represented bargaining units on the rights and obligations of employees under the contract for their bargaining unit and as to insurance programs and other benefits that are available from the employee representative.

2. Information provided to employees. The appointing authority shall be responsible for attendance of new employees at the orientation session, and shall provide every new employee with written information as to the employee's rate of pay and circumstances under which the rate may be changed, including merit increases.

A. The appointing authority shall also be responsible for distributing to new employees such written information as deemed appropriate by the director to carry out the spirit of this law and such information as provided in applicable labor agreements.

§7069. Director to develop brochure or publication

The director shall develop a brochure or publication by which the information in section 7068 is clearly and simply presented. The brochure or publication shall be made available to new employees upon arrival at their jobs and to other state employees upon request.

§7070. Personnel records

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments shall be reported to the director at such time, in such form and together with such supportive or pertinent information as he shall by rule prescribe.

The director shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data as he and the board deem pertinent.

Records of the Bureau of Human Resources shall be public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the director may provide.

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3:

1. Papers relating to examinations or evaluations of applicants. Working papers, research material, records and the examinations prepared for and used specifically in the examination or evaluation of applicants for positions within the classified service of State Government;

2. Personal information. Records containing the following, except they may be examined by the employ-

ee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

B. Performance evaluations and personal references submitted in confidence;

C. Information pertaining to the credit worthiness of a named employee;

D. Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and

E. Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action shall no longer be confidential after it is completed; and

3. Other information. Other information to which access by the general public is prohibited by law.

#### §7071. Employee right to review personnel file

The director shall, upon written request from an employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file. These reviews shall take place in the Bureau of Human Resources and during its normal office hours. Time spent by an employee in reviewing his personnel file shall not be considered as time worked. For the purposes of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the director has in his possession.

#### §7072. Training and apprenticeship programs

The director shall devise plans for and cooperate with appointing authorities and other supervising officials in the development and conduct of employee training and registered apprenticeship programs to recruit and develop well qualified employees, to aid in meeting affirmative action requirements and to

otherwise carry out the State's role as a responsible and effective employer.

The Bureau of Labor Standards shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of apprenticeship programs or other training programs.

Consistent with the Code of Fair Practices and other merit system and affirmative action requirements, the State, through the Bureau of Human Resources, the Bureau of Labor Standards and its other departments and agencies, shall support the policies of the United States Job Opportunity Act of 1981. The State shall seek to meet a target of filling 10% of registered state apprenticeships established with qualified candidates who are recipients of Aid to Families with Dependent Children. The State shall make a good faith effort to expeditiously establish as many of these apprenticeships as possible.

1. Listing of apprenticeable classifications. With the assistance of the Bureau of Labor Standards and other state agencies, the director shall develop a list of apprenticeable classifications. The list shall be revised annually.

2. Agency review. The Bureau of Labor Standards and each agency utilizing apprenticeable classifications shall determine where apprenticeships should be established subject to the authorization of the Director of the Bureau of Human Resources and the State Apprenticeship and Training Council.

3. Annual report. The director shall include in the annual report of the Bureau of Human Resources the following information:

A. A review of the development and operation of training and apprenticeship programs;

B. The list of apprenticeable classifications pursuant to subsection 1;

C. A summary of the agencies and types of positions involved;

D. A summary of registered apprenticeships;

E. The number of persons who applied for apprenticeship positions under this chapter;



F. The number of persons who were accepted into the apprenticeship program under this chapter;

G. The number of persons, under this chapter, who successfully completed and the number of persons who failed to complete the program established under this chapter;

H. The number of persons who, following the successful completion of the program, remain employed;

I. A summary of other training programs established; and

J. A breakdown of the total number of persons, defined in paragraphs E, F and G, by sex, race and any other characteristics deemed by the director to be pertinent to the intent of this chapter.

4. Bargaining agreements. Nothing in this section may operate to invalidate or supersede the provisions of a collective bargaining agreement between an employee organization and the State.

### SUBCHAPTER III

#### STATE CIVIL SERVICE APPEALS BOARD

##### §7081. Membership; term; compensation

The State Civil Service Appeals Board, established by section 12004, subsection 3, shall be composed of 5 members with experience in personnel management or labor relations. No more than 3 members of the board may be of the same political party. No member may be a state employee.

Each member shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature.

One member of the appeals board shall be designated by the Governor as chairman. Except as otherwise provided by law, each member shall be appointed for a term of 4 years and until his successor has been appointed and qualified. Any vacancy shall be filled for the unexpired portion of the term by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over State Government and to confirmation by the Legislature.

The members of the board shall be compensated as provided by chapter 379.

§7082. Powers and duties of the State Civil Service Appeals Board

The State Civil Service Appeals Board shall be an impartial board and:

1. Administer subchapter. Shall administer this subchapter. In exercising its authority, the board may adopt policies and procedures to administer this subchapter. The appeals board shall employ, subject to the Civil Service Law, assistants as may be necessary to carry out this subchapter;

2. Adopt rules. Shall adopt rules necessary to effectuate the purposes of this subchapter;

3. Report. Shall report biennially to the Governor and Legislature facts and recommendations relating to the administration and needs of the board;

4. Mediate grievances and disputes. May mediate the final settlement of all grievances and disputes between individual state employees, both classified and unclassified, and their respective state agencies. All complaints between a state employee and the state agency by which he is employed shall be made and heard in the manner provided by this chapter for the mediation and settlement of the complaints. During the procedure for settlement, an employee may be represented at each step by his designated representative. The decision of the appeals board shall be final and binding upon the state agency and state employees involved in the dispute, and shall supersede any prior action taken by the state agency with reference to the employment and working conditions of the employees.

A. In the course of any investigation under this chapter, any member of the appeals board may subpoena and require the attendance of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to that investigation. In the case of the refusal of any person to comply with any subpoena issued under this subsection or to testify to any matter regarding which he may be lawfully interrogated, the Superior Court in any county on application of any one of the members of the board may issue an order requiring that person to comply with the subpoena and to testify. Any failure

to obey the order of the court may be punished by the court as a contempt of the court; and

5. Hear appeals. May hear appeals in accordance with this subchapter. Except where otherwise provided by a governing bargaining agreement, any employee or appointing authority aggrieved by the determination of the Director of Human Resources concerning the classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service may appeal from the determination to the State Civil Service Appeals Board. The appeal must be made within 30 days after receipt of written notice of the determination from the director. The employee or appointing authority, or his representative, shall be afforded a public hearing before the appeals board. The appeals board shall examine and review the appeal and, upon the vote of at least 3 of its members, make changes in such classification, allocation or reallocation as may be just and equitable. Determinations of the appeals board shall be transmitted to the State Budget Officer, the Director of Human Resources, and the employees and department heads affected by the determinations.

A. Any classification of a position and any allocation or reallocation of a position made by the director or the appeals board pursuant to this section shall become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation of funds for the classification, except that the State Budget Officer may, if he determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year.

B. Any request for classification of positions, the allocation of new positions or the reallocation of existing positions in the classified service or the unclassified service shall be processed by the director and the director's determination made within 25 days from the date of filing the request with the Bureau of Human Resources. Any employee or appointing authority that is a party to the request may appeal to the appeals board within 10 days after the expiration of the 25 days allotted for the process of the requests for hearing and review. The appeals board shall examine and review the appeal and make such changes as provided in this section. The appeals board's decision in the appeal shall be given within 30 days after the hearing on the appeal has been concluded.

C. A hearing before the appeals board is an adjudicatory proceeding under the Maine Administrative Procedure Act, chapter 375, and shall be held in accordance with chapter 375, subchapter IV.

§7083. Procedure for settlement

A grievance or dispute between a state employee and the agency of the State by whom he is employed shall be entertained by the board upon the application of the employee, provided that there shall have been compliance with the following requirements:

1. Adjust dispute. That the employee aggrieved or his representative, or both, shall have attempted to adjust the dispute through oral communication with the employee's immediate supervisor within 7 working days of the time that the employee is aware of the grievable incident. The immediate supervisor is then required to render an oral decision to the employee within 3 working days;

2. Grievance in writing. If the employee is dissatisfied with the oral decision of his immediate supervisor, he or his representative, or both, may, before the end of the 10th working day following the day of the oral decision, present the grievance to his supervisor again, this time in written form. The supervisor is then required to make his decision in writing and present it to the employee within 10 working days;

3. Appeal to the department head. If the employee is dissatisfied with the supervisor's written decision, he or his representative, or both, then may, before the end of the 20th working day following receipt of the decision, appeal in writing to the department head. The department head shall meet with the employee or his designated representative, or both, within 20 working days of receipt of the employee's notice of dissatisfaction and attempt to adjust the dispute. Within 5 working days, the department head shall render a decision in writing to the aggrieved employee and his representative;

4. Appeal to Director of Human Resources. If the classified employee is dissatisfied with the written decision following the meeting with the department head, he may appeal in writing to the Director of Human Resources within 7 working days of meeting with the department head. The director shall within 10 working days reply in writing to the ag-

grieved employee, his representative and the department head involved stating his decision, based on the Civil Service Law and rules;

5. Submission to board. In the event the grievance shall not have been satisfactorily adjusted under subsections 1 to 4, within the time limits in those sections, the dispute may be submitted to the appeals board within 10 working days following receipt of the director's written decision. The appeals board shall investigate the matters in controversy, shall hear all interested persons who come before it and make a written decision, which shall be binding on the parties involved. The appeals board's written decision shall be issued within 30 working days after the hearing on the dispute is concluded, unless both parties agree that an extension of the time limit should be allowed; and

6. Procedure. Any member of the appeals board may administer oaths and subpoena and require the attendance of witnesses and the production of books, papers, public records and other relevant documentary evidence or certified copies of the evidence by the department head pertinent to the dispute and shall do so if requested in writing by any party to the dispute or his representative. A witness summonsed by subpoena shall be entitled to witness fees and travel allowance in the amount allowed for appearance in District Court, the costs of which shall be advanced by the party requesting the subpoena prior to issuance of the subpoena. A state employee subpoenaed under this subsection shall not lose pay to which he would otherwise be entitled.

§7084. Extension of time limit

1. Application for extension. The chairman of the appeals board may extend any time limit specified in section 7083, subsections 1 to 4, upon written application of either party on condition the application is submitted within time provided for in the applicable step. Failure of an employee to pursue a grievance within prescribed time limits shall constitute an acceptance of the last response by the department. Failure of the department to respond within stipulated time limits provided for in the applicable step shall constitute an automatic waiver of that step and the employee may proceed to the next step as outlined in this section.

A. At least one day prior to the presentation of the employee's grievance to his supervisor, the

employee's representative, if any, shall have access to the work location of the employee involved during the working hours for the purpose of investigating the grievance.

B. The department head may designate a representative, with authority to take appropriate action, who shall be at the deputy or assistant department head or labor specialist level to represent him in section 7083, subsections 2 and 3.

§7085. Applications of sections 7081 to 7084

This subchapter applies to those employees who are excluded from bargaining pursuant to Title 26, sections 979 and 1021 to 1034.

Sec. 39. 5 MRSA §12004, sub-§3, ¶A, sub-¶(3), is repealed and the following enacted in its place:

(3) State Civil Service \$50/Day 5 MRSA §7081  
Appeals Board

Sec. 40. 5 MRSA §12004, sub-§8, ¶A, sub-¶(1-B) is enacted to read:

(1-B) Civil Service Policy Review Expenses 5 MRSA §7041  
Board Only

Sec. 41. 6 MRSA §13, 2nd ¶ from the end, as amended by PL 1979, c. 127, §41, is further amended to read:

The director may employ, subject to the approval of the commissioner and in accordance with the Personnel Civil Service Law, such personnel as may be deemed necessary to aid him in the fulfillment of his duties to administer, supervise, program, plan, coordinate and enforce all aspects of aviation as outlined in this chapter or imposed upon him.

Sec. 42. 7 MRSA §1, as enacted by PL 1983, c. 308, §§1 and 14, is amended to read:

§1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural Resources, as established and in this Title called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry, and shall consist of the Commissioner of Agriculture, Food and Rural Resources, in this Ti-

the called the "commissioner," and the following as created and established: The Board of Pesticide Control, the Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Maine Potato Commission, the Seed Potato Board, the Soil and Water Conservation Commission, the Harness Racing Commission, the Board of Veterinary Medicine and the Animal Welfare Board. The commissioner shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture and to confirmation by the Legislature, and shall hold office during the pleasure of the Governor. He shall receive his actual expenses incurred in the performance of his official duties. He may employ such clerical labor as may be required, subject to the ~~Personnel~~ Civil Service Law, and he may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of his duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. 43. 7 MRSA §402, as repealed and replaced by PL 1979, c. 672, Pt. A, §15, is amended to read:

§402. Advertising of products

The commissioner may enter into agreements or cooperative arrangements with any person, firm or corporation for the purpose of advertising and increasing the sale and consumption of Maine farm products or disseminating information concerning Maine farm products. He may receive, administer and disburse any funds or contributions from these persons, firms or corporations, either independently or in conjunction with state funds allocated to the purpose, provided that funds so contributed shall be used only for the purposes set forth. He may employ such agents and assistants, subject to the ~~Personnel~~ Civil Service Law, and make such purchases as may be necessary in the proper performance of his duties.

Sec. 44. 7 MRSA §1047, sub-§2 is amended to read:

2. Employ qualified persons. To employ qualified persons under the ~~Personnel~~ Civil Service Law and to incur such expenses as may be necessary to carry out this subchapter; and

Sec. 45. 7 MRSA §1701 is amended to read:

§1701. Animal husbandry expert

The commissioner is authorized to employ an animal husbandry expert. He may employ such assistants as he deems necessary, subject to the Personnel Civil Service Law. Such expenses in connection therewith shall be paid as ~~said~~ the commissioner may approve.

Sec. 46. 7 MRSA §1704, as amended by PL 1977, c. 78, §27, is further amended to read:

§1704. Agents

The commissioner may employ skilled veterinarians and such other agents and employees as he may deem necessary to carry into effect chapters 201, 207, 301, 303 and 305, subject to the Personnel Civil Service Law.

Sec. 47. 7 MRSA §2155, sub-§1, as amended by PL 1983, c. 812, §51, is further amended to read:

1. Administration. The Seed Potato Board shall elect a secretary, who need not be a member of the board, and the commissioner shall have authority to employ a managing director and such agents as may be necessary, subject to the Personnel Civil Service Law, to consummate any and all programs which it may institute, as authorized under the terms of this chapter and shall keep a record of all of its proceedings, and all expenses by it incurred shall be paid out of the State Treasury, on certification of the commissioner, upon the audit and warrant of the State Controller and charged against any and all appropriations which may be annually made available for its use as stipulated. The board shall be subject to the provisions of Title 5, chapter 379.

Sec. 48. 7 MRSA §2952, 3rd ¶, as amended by PL 1979, c. 731, §19, is further amended to read:

The members of the commission shall elect a chairman. With the approval of the commission, the Commissioner of Agriculture, Food and Rural Resources may employ, subject to the Personnel Civil Service Law, a secretary and such officers, clerks, assistants and other employees as shall be deemed necessary. The commission may employ such expert, professional or other assistance as the commission deems necessary. Legal services and the services of experts in other lines shall be performed as far as possible by the existing state departments, including the Department of Agriculture, Food and Rural Re-



sources, the Department of Human Services and the Department of the Attorney General.

Sec. 49. 8 MRSA §144, last ¶, as amended by PL 1983, c. 553, §46, is amended to read:

The Commissioner of Business, Occupational and Professional Regulation shall employ, subject to the Personnel Civil Service Law, the personnel that he deems necessary to discharge the duties of the commission, and shall, with the advice of the commission, outline their duties and fix their compensation, subject to the Personnel Civil Service Law.

Sec. 50. 8 MRSA §264, as amended by PL 1979, c. 731, §19, is further amended to read:

§264. Assistants

The ~~Commissioner~~ Commissioner of Agriculture, Food and Rural Resources, subject to the Personnel Civil Service Law, is authorized to employ such personnel as he may deem necessary to provide adequate policing and to carry out the purposes of this chapter. The Commissioner of Agriculture, Food and Rural Resources may fix the compensation of ~~said the~~ employees on a per diem basis, subject to the Personnel Civil Service Law.

Sec. 51. 8 MRSA §323, as amended by PL 1983, c. 553, §46, is further amended to read:

§323. Assistants

The Commissioner of the ~~Department~~ of Business, Occupational and Professional Regulation is authorized to employ such personnel as he may deem necessary to provide adequate policing and to carry out the purposes of this chapter at such compensation on a per diem basis as ~~said the~~ commissioner may prescribe, subject to the Personnel Civil Service Law.

Sec. 52. 8 MRSA §354, sub-§1, ¶B, as repealed and replaced by PL 1977, c. 674, §10, is amended to read:

B. Act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter. The personnel shall be employed with the approval of the commission and subject to the Personnel Civil Service Law, except for the deputy director who

shall be appointed by and serve at the pleasure of the director;

Sec. 53. 9-A MRSA §6-104, sub-§1, ¶G, as amended by PL 1983, c. 553, §46, is further amended to read:

G. With the approval of the Commissioner of the ~~Department~~ of Business, Occupational and Professional Regulation, appoint any necessary hearing examiners, clerks and other employees and agents and fix their compensation, subject to the ~~Personnel~~ Civil Service Law; and

Sec. 54. 9-B MRSA §212-A, sub-§1, as enacted by PL 1985, c. 389, §5, is amended to read:

1. Securities administrator and other personnel. The superintendent may appoint, subject to the ~~Personnel~~ Civil Service Law, an Administrator of the Securities Division and one or more professionals who shall, under the direction of the superintendent, have charge of the enforcement of the Maine Securities Act and make any necessary investigations under that Act. The salaries and expenses of the Administrator of the Securities Division and staff and all expenses of administration and enforcement shall be paid out of such amounts as the Legislature may appropriate.

Sec. 55. 10 MRSA §8003, sub-§§1 and 2, as repealed and replaced by PL 1983, c. 553, §13, are amended to read:

1. Division of Administrative Services. There is created a Division of Administrative Services, which shall constitute a division within the department, to provide assistance to the commissioner and to the agencies within the department in personnel civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform such other duties as the commissioner may designate. The commissioner may employ a Director of Administrative Services and such clerical and technical assistants as are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the ~~Personnel~~ Civil Service Law.

2. Division of Licensing and Enforcement. There is created a Division of Licensing and Enforcement, which shall constitute a division within the department, to provide assistance to the commissioner and to the agencies within the department in complaint investigation, disciplinary actions and enforcement,

and in licensing examinations, and to perform such other duties as the commissioner may designate. The commissioner may employ a Director of Licensing and Enforcement and such clerical and technical assistants as are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the ~~Personnel~~ Civil Service Law.

A. Within the Division of Licensing and Enforcement there shall be a computer services section. It shall be the responsibility of the computer services section to process and issue original and renewal licenses for the department and for those bureaus, boards and commissions within the department as the commissioner may direct. The licenses shall be processed and issued only upon authorization of the appropriate bureau, board or commission, or upon the authorization of the commissioner in the case of those licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner may direct.

Sec. 56. 10 MRSA §9004, sub-§2, as amended by PL 1983, c. 553, §46, is further amended to read:

2. Employees. The executive director, with the advice of the board and the commissioner, may employ, subject to the ~~Personnel~~ Civil Service Law, persons necessary to carry out this chapter. Any person so employed shall be an employee of the Department of Business, Occupational and Professional Regulation, except that they shall be under the direction and supervision of the executive director of the board.

Sec. 57. 12 MRSA §212, sub-§2, as amended by PL 1979, c. 541, Pt. A, §116, is further amended to read:

2. Professional soil scientists. The commission may employ professional soil scientists, subject to the ~~Personnel~~ Civil Service Law, to perform soils

mapping in Maine. The commission may contract with other state or federal agencies as appropriate to accomplish necessary soils mapping within this State.

Sec. 58. 12 MRSA §542, sub-§3, as enacted by PL 1977, c. 360, §6, is amended to read:

3. Employees. The survey may employ or retain such professional and other employees, subject to the ~~Personnel~~ Civil Service Law, as are necessary to carry out the purposes of this chapter, within the limits of the funds available.

Sec. 59. 12 MRSA §543, sub-§2, ¶B, as enacted by PL 1977, c. 360, §6, is amended to read:

B. The director shall appoint and remove the staff of the survey, subject to the ~~Personnel~~ Civil Service Law, and prescribe their duties as may be necessary to implement the purposes of this chapter.

Sec. 60. 12 MRSA §553, sub-§3, ¶B, as enacted by PL 1975, c. 339, §6, is amended to read:

B. Appoint and remove the staff of the bureau, subject to the ~~Personnel~~ Civil Service Law, and prescribe their duties as may be necessary to implement the purposes of this chapter;

Sec. 61. 12 MRSA §602, sub-§10, as amended by PL 1973, c. 460, §19, is further amended to read:

10. Employees. To fix the duties of and to employ permanently or part time such employees and other personnel, subject to the ~~Personnel~~ Civil Service Law, as the bureau may from time to time deem necessary in the discharge of its duties under this chapter; and to accept gifts and bequests of money or other personal property to be used in advancing the recreational and conservation interests in state parks.

Sec. 62. 12 MRSA §677, as amended by PL 1973, c. 460, §17, is further amended to read:

§677. Employees

The bureau shall fix the duties of and employ permanently or part-time such employees and other personnel, subject to the ~~Personnel~~ Civil Service Law, as the bureau may from time to time deem necessary in the discharge of its duties under this chapter.

Sec. 63. 12 MRSA §904, as amended by PL 1965, c. 226, §19, is further amended to read:

§904. Agents and representatives

The Baxter State Park Authority shall appoint agents or representatives to carry out this subchapter. All appointed agents or representatives shall hold office under the rules of the ~~Personnel~~ Civil Service Law. They shall be sworn to the faithful discharge of their duties and a certificate thereof shall be returned and filed in the office of the chairman of the authority. They shall be appointed by the authority in accordance with the ~~Personnel~~ Civil Service Law and may be allowed actual necessary expenses of travel.

Sec. 64. 12 MRSA §5013, last ¶, as amended by PL 1977, c. 360, §22, is further amended to read:

Every person appointed as a bureau director, a director of administrative services or of planning and program services, or in another supervisory capacity in the department shall have experience and skill in the field of the functions of such position. So far as is practicable in the judgment of the commissioner, appointments to such positions shall be made by promoting employees of the State serving in positions which are classified and in every instance when a person is promoted from a classified position upon termination of his service in such classified supervisory position, the employee shall, if he shall so request, be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him, provided that if his service in such unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the ~~Personnel~~ State Civil Service Appeals Board.

Sec. 65. 12 MRSA §6022, sub-§3, as amended by PL 1983, c. 489, §8, is further amended to read:

3. Organization and personnel. The commissioner shall organize the department into the administrative units which he decides are necessary to carry out its duties. The commissioner shall hire all necessary employees of the department subject to the ~~Personnel~~

Civil Service Law, except that persons in the following positions shall be appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Chief, Bureau of Marine Patrol; and Assistant to the Commissioner. The Chief of the Bureau of Marine Patrol shall be appointed from among the patrol personnel of the bureau with the rank of sergeant or higher. In the event that the Chief of the Bureau of Marine Patrol is not reappointed, he shall have the right to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him. If his service in the position of Chief of the Bureau of Marine Patrol shall be terminated for cause, his right to be so restored shall be determined by the Personnel State Civil Service Appeals Board.

Sec. 66. 12 MRSA §6022, sub-§4, as amended by PL 1979, c. 541, Pt. B, §73, is further amended to read:

4. Warden code. The commissioner shall prepare a written code governing the operating procedures of the Bureau of Marine Patrol services for submission to the Commissioner of Personnel Director of Human Resources. The code shall become effective when approved by the Commissioner of Personnel Director of Human Resources.

Sec. 67. 12 MRSA §6025, sub-§1, as amended by PL 1979, c. 541, Pt. B, §14, is further amended to read:

1. Appointment. Applicants for the position of a marine patrol officer who qualify under the officer's code and pass the examination administered by the Department of Personnel, Bureau of Human Resources may be appointed by the commissioner to hold office under Title 5, chapters 51 to 67 and under the officer's code.

Sec. 68. 12 MRSA §6251-A, sub-§6, as enacted by PL 1985, c. 481, Pt. A, §39, is amended to read:

6. Staff. Subject to appropriation or allocation and in accordance with the Personnel Civil Service Law, staff may be hired to carry out the work of the commission. Hiring and management of the staff shall be the responsibility of the Commissioner of Inland Fisheries and Wildlife.

Sec. 69. 12 MRSA §7034, sub-§2-A, as amended by PL 1985, c. 369, §2, is further amended to read:

2-A. Employment of personnel. The commissioner shall employ, subject to the ~~Personnel~~ Civil Service Law, such employees as are necessary to carry out the duties of his organization, except that persons in the following positions shall be appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Game Warden Colonel; and Assistant to the Commissioner for Public Information.

The Game Warden Colonel shall be appointed from among the game wardens of the department with the rank of sergeant or higher. In the event that the Game Warden Colonel is not reappointed, he shall have the right to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in an agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him. If his service in that unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the ~~Personnel~~ State Civil Service Appeals Board.

Sec. 70. 12 MRSA §7034, sub-§4, as enacted by PL 1979, c. 420, §1, is amended to read:

4. Code of operating procedure of warden service. The commissioner shall prepare a written code covering the operating procedure of the warden service which becomes effective when approved by the ~~Personnel~~ State Civil Service Appeals Board.

Sec. 71. 12 MRSA §7051, sub-§1, as amended by PL 1983, c. 440, §2, is further amended to read:

1. Qualifications. The commissioner shall appoint as game wardens persons who have qualified under the written code prepared by the commissioner and approved by the ~~Commissioner of Personnel~~ Director of Human Resources.

Sec. 72. 12 MRSA §7052, sub-§2, as enacted by PL 1979, c. 420, §1, is amended to read:

2. Compensation. The compensation of the wardens shall be determined under the ~~Personnel~~ Civil Service Law.

Sec. 73. 12 MRSA §8003, sub-§3, ¶B, as enacted by PL 1979, c. 545, §3, is amended to read:

B. The director is empowered to appoint and remove the staff of the bureau, subject to the ~~Personnel~~ Civil Service Law, and prescribe their duties so as to implement the purposes of this Part.

Sec. 74. 12 MRSA §8429, sub-§1, as amended by PL 1981, c. 278, §11, is further amended to read:

1. Position created. There is established within the Bureau of Forestry the position of Forest Insect Manager, which shall be funded by the General Fund or any other funds available. This position is not subject to the ~~Personnel~~ Civil Service Law. The manager shall be appointed by the director with the approval of the Commissioner of Conservation and may be removed by the director with the approval of the commissioner. The manager shall be directly responsible for the development, coordination and implementation of management programs.

Sec. 75. 12 MRSA §8602, as enacted by PL 1979, c. 545, §3, is amended to read:

§8602. Foresters

The director may appoint foresters, subject to the ~~Personnel~~ Civil Service Law, who shall provide technical guidance and service to small woodland owners, municipalities and wood processors in order to bring about improvement in the growing, harvesting, marketing and utilization of forest products, as well as such other duties as the director prescribes.

Sec. 76. 12 MRSA §8901, sub-§1, as amended by PL 1985, c. 108, §2, is further amended to read:

1. Appointment. The Director of the Bureau of Forestry shall appoint forest rangers and a state supervisor, subject to the ~~Personnel~~ Civil Service Law.

Sec. 77. 17 MRSA §1051-B, as enacted by PL 1983, c. 308, §§7 and 14, is amended to read:

§1051-B. Executive director; other employees

The commissioner may employ with the approval of the board, subject to the ~~Personnel~~ Civil Service Law, an executive director and such other employees as are necessary to assist the board in carrying out its duties and responsibilities. The board shall ap-



point part-time humane agents who shall serve as agents of the board in the enforcement of this chapter and as otherwise provided by law. These part-time agents shall be unclassified employees whose standards of employment, training, compensation and hours of employment will be determined by the board. The jurisdiction of each part-time humane agent shall extend throughout the State. In connection with its enforcement responsibilities, the board shall be entitled to and shall receive the assistance of the Attorney General and of the several district attorneys and may apply to the Commissioner of Agriculture, Food and Rural Resources for the assistance of state veterinarians.

Sec. 78. 20-A MRSA §253, sub-§§2 and 6, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

2. Hiring. The commissioner may hire personnel deemed necessary to fulfill the duties of the department. These personnel shall be subject to the ~~Personnel~~ Civil Service Law, except as provided in section 203.

6. Agricultural education consultant. The commissioner shall appoint, subject to the ~~Personnel~~ Civil Service Law, an Education Specialist II or agricultural education consultant to be responsible for supervision of agricultural technical education, including agribusiness and agriculture's relation to the environment.

Sec. 79. 20-A MRSA §405, sub-§5, ¶G, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

G. It may appoint and employ, under the ~~Personnel~~ Civil Service Law, personnel to carry out the duties imposed on it by this subsection.

(1) It may fix the duties of these employees.

(2) It may make funds available to pay for their salaries and expenses.

(3) It may use other state board employees to carry out this subsection.

Sec. 80. 20-A MRSA §7503, sub-§4, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. May employ officers, teachers and other employees, subject to the ~~Personnel~~ Civil Service Law; and

Sec. 81. 20-A MRSA §13006, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Clerical assistants. The commissioner may employ clerical and other assistants, subject to the ~~Personnel~~ Civil Service Law. They shall perform their duties under the general supervision of the commissioner.

Sec. 82. 22 MRSA §1, 3rd ¶, as amended by PL 1983, c. 729, §5, is further amended to read:

The commissioner may employ any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department shall be under the immediate supervision, direction and control of the commissioner. These personnel shall be employed subject to the ~~Personnel~~ Civil Service Law, except the: Deputy Commissioner; Director, Bureau of Social Services; Director, Bureau of Maine's Elderly; Director, Bureau of Health; Director, Bureau of Rehabilitation; Director, Bureau of Income Maintenance; Director, State Health Planning and Development Agency; Director, Bureau of Medical Services; and Assistant Deputy Commissioners.

Sec. 83. 22 MRSA §7, 2nd ¶, as enacted by PL 1965, c. 425, §14-A, is repealed.

Sec. 84. 22 MRSA §384, as enacted by PL 1983, c. 579, §10, is amended to read:

§384. Executive director and staff

The commission shall appoint an executive director, who shall have had experience in the organization, financing or delivery of health care and who shall perform the duties delegated to him by the commission. The executive director shall serve at the pleasure of the commission and his salary shall be set by the commission within the range established by Title 2, section 6-B. The executive director shall appoint a deputy director, who shall perform the duties delegated to him by the executive director. The deputy director shall serve at the pleasure of the executive director and his salary shall be set by the executive director within the range established by Title 2, section 6-B. The commission may employ such other staff as it deems necessary. The appointment and compensation of such other staff shall be subject to the ~~Personnel~~ Civil Service Law.

Sec. 85. 22 MRSA §1393, as enacted by PL 1985, c. 373, §1, is amended to read:

§1393. Staff

The director of the program may employ personnel to fulfill the purpose of this chapter. All personnel in the program shall be subject to the Personnel Civil Service Law.

Sec. 86. 22 MRSA §1962, as enacted by PL 1977, c. 516, is amended to read:

§1962. Director

The Commissioner of Human Services shall appoint a Director of Public Health Nursing, subject to the Personnel Civil Service Law, who shall be licensed as a registered nurse in the State and shall have education and experience in community health nursing.

Sec. 87. 22 MRSA §2094, last ¶, as enacted by P&SL 1975, c. 90, §A, is amended to read:

The director may employ, subject to the Personnel Civil Service Law and within the limits of available funds, competent professional personnel and other staff necessary to carry out the purposes of this chapter. The director shall prescribe the duties of staff and assign a sufficient number of staff to the office to achieve its powers and duties.

Sec. 88. 22 MRSA §2162, last ¶ is amended to read:

The commissioner may employ such agents and assistants, subject to the Personnel Civil Service Law, and make such purchases as may be necessary in the performance of his duties.

Sec. 89. 22 MRSA §2701, sub-§1, as amended by PL 1975, c. 293, §4, is further amended to read:

1. Registrar. The Commissioner of Human Services shall appoint a State Registrar of Vital Statistics, who shall be qualified in accordance with the standards of education and experience prescribed by the State Department of Personnel Bureau of Human Resources.

Sec. 90. 22 MRSA §3022, first ¶, as amended by PL 1975, c. 771, §219, is further amended to read:

There is created, in the Department of the Attorney General, the Office of Chief Medical Examiner for the State of Maine. The Chief Medical Examiner of the State of Maine shall be appointed by the Governor for a term of 7 years and until his successor is appointed and qualified. The Chief Medical Examiner shall possess a degree of doctor of medicine or doctor of osteopathy, be licensed to practice in the State of Maine and be certified in the specialty of forensic pathology by either the American Board of Pathology or the American Osteopathic Board of Pathology. Any vacancy in the Office of the Chief Medical Examiner shall be filled by appointment by the Governor for a full term of 7 years. The Chief Medical Examiner is authorized to hire, subject to the ~~Personnel~~ Civil Service Law, necessary office and laboratory personnel in order to carry out the proper functioning of his office.

Sec. 91. 22 MRSA §3173, first ¶, as repealed and replaced by PL 1979, c. 127, §144, is amended to read:

The department is authorized to administer programs of aid, medical or remedial care and services for medically indigent persons. It is empowered to employ, subject to the ~~Personnel~~ Civil Service Law, such assistants as may be necessary to carry out this program and to coordinate their work with that of the other work of the department.

Sec. 92. 22 MRSA §3500, as amended by PL 1975, c. 293, §4, is further amended to read:

§3500. Division of Eye Care

The Division of Eye Care, as heretofore established within the Department of Human Services and hereafter in this chapter called the "division," shall be under the jurisdiction of the Director of the Division of Eye Care, hereafter in this chapter called the "director." The commissioner shall appoint the director, subject to the ~~Personnel~~ Civil Service Law.

Sec. 93. 22 MRSA §4084, sub-§10, as enacted by PL 1985, c. 441, §3, is amended to read:

10. Staff. The board may employ, pursuant to the ~~Personnel~~ Civil Service Law, an executive secretary and a clerical assistant as necessary full or part time.

Sec. 94. 22 MRSA §5105, last ¶, as repealed and

replaced by PL 1973, c. 793, §6, is amended to read:

The director may employ, subject to the ~~Personnel~~ Civil Service Law and within the limits of available funds, competent professional personnel and other staff necessary to carry out the purposes of this Part. He shall prescribe the duties of staff and assign a sufficient number of staff full time to the bureau to achieve its powers and duties. He may arrange to house staff or assign staff who are responsible to him to an area agency designated pursuant to section 5116, subsection 1, paragraph B. Such staff shall report solely and directly to the director. Staff shall not be housed in or assigned to any other organizational unit of the department, except as provided by sections 5104-A and 5111.

Sec. 95. 22 MRSA §5111, 2nd ¶, as repealed and replaced by PL 1973, c. 793, §11, is amended to read:

The committee is authorized to employ, subject to the ~~Personnel~~ Civil Service Law, such staff as is necessary to carry out its objectives. The committee is authorized to employ consultants and contract for such projects as it deems necessary. The commissioner and the director, to the extent feasible and reasonable, shall make available to the committee such staff, facilities, equipment, supplies, information and other assistance as it may reasonably require to carry out its activities.

Sec. 96. 22 MRSA §5308, 2nd ¶, as enacted by PL 1973, c. 793, §12, is amended to read:

It is the intent of this Part that the bureau shall function as a central office administrative unit of the department with the advice of the council and that the powers, duties, authority and responsibility of the bureau shall not be delegated, decentralized or assigned to regional, local or other units of the department, except as provided in this section, section 5316 and section 6108. Regarding any portion of this Part and Part 2 which relate to provision of services directly to eligible people through staff employed subject to the ~~Personnel~~ Civil Service Law by the department or other organizational units of State Government, the bureau may carry out its powers and duties through regional or other administrative units of the department or State Government.

Sec. 97. 22 MRSA §5309, last ¶, as enacted by PL 1973, c. 793, §12, is amended to read:

The director may employ, subject to the ~~Personnel~~ Civil Service Law and within the limits of available funds, competent professional personnel and other staff necessary to carry out the purposes of this Part and Part 2. He shall prescribe the duties of the staff and assign a sufficient number of staff full time to the bureau to achieve its powers and duties. Regarding the provision of human services by the bureau directly to eligible people, the director may arrange to house staff or assign staff who are responsible to him to regional or other units of the department or State Government. Regarding the development, execution and monitoring of agreements, the director shall not house nor assign staff to any other unit of the department or State Government. Such staff shall report solely and directly to him. The director shall assign staff to the council as provided in sections 5305 and 5315.

Sec. 98. 22 MRSA §5315, 2nd ¶, as amended by PL 1983, c. 409, §5, is further amended to read:

The council may employ, subject to the ~~Personnel~~ Civil Service Law, such staff as is necessary to carry out its objectives. The council may employ consultants and contract for such projects as it deems necessary. State agencies, to the extent feasible and reasonable, shall make available to the council such staff, facilities, equipment, supplies, information and other assistance as it may reasonably require to carry out its activities.

Sec. 99. 22 MRSA §7105, first and last ¶¶, as amended by PL 1983, c. 464, §6, are further amended to read:

The Office of Alcoholism and Drug Abuse Prevention shall be administered by a director, who shall be appointed, subject to the ~~Personnel~~ Civil Service Law, under the classified service by the commissioner. The director shall be a person qualified by training and experience with drug abuse, or alcoholism and intoxication, or who has had satisfactory experience of a comparable nature in the direction, organization and administration of prevention or treatment programs for persons affected by drug abuse or drug dependency.

The director may employ, subject to the ~~Personnel~~ Civil Service Law and within the limits of funds available, competent professional personnel and other staff necessary to carry out the purposes of this chapter. He shall prescribe the duties of staff and assign a sufficient number of staff full time to the

office to achieve its powers and duties. He may arrange to house staff or assign staff who are responsible to him and who are to provide direct service to individuals or small groups of individuals needing drug abuse treatment, to operating units of the department, which are responsible for similar functions.

Sec. 100. 22 MRSA §7133, last ¶, as enacted by PL 1983, c. 464, §19, is amended to read:

The planning director may employ, subject to the ~~Personnel~~ Civil Service Law and within the limits of funds available, competent professional personnel and other staff necessary to carry out the purposes of this chapter. He shall prescribe the duties of staff and assign sufficient staff to the planning committee to perform its powers and duties.

Sec. 101. 23 MRSA §152, 5th ¶, as amended by PL 1983, c. 553, §23, is further amended to read:

The board shall maintain an office in Kennebec County. The Commissioner of Finance and Administration shall appoint, subject to the ~~Personnel~~ Civil Service Law, a clerk of the board to keep its records and to perform such other duties as the board shall prescribe. The clerk shall have authority to certify to all official acts of the board, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the board.

Sec. 102. 23 MRSA §152, 6th ¶, as amended by PL 1983, c. 553, §24, is further amended to read:

The Commissioner of Finance and Administration shall appoint and fix the compensation of a reporter to the board, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the board. The Commissioner of Finance and Administration may appoint, subject to the ~~Personnel~~ Civil Service Law, such clerical assistants for the board as he may deem necessary.

Sec. 103. 23 MRSA §201, as amended by PL 1981, c. 45, §1, is further amended to read:

#### §201. Appointment

The commissioner shall, subject to the ~~Personnel~~ Civil Service Law, appoint a civil engineer as chief engineer.

Sec. 104. 23 MRSA §1925, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

§1925. Administration of chapter

The commissioner shall administer this chapter with the advice of the Travel Information Advisory Council. The commissioner may employ, subject to the ~~Personnel~~ Civil Service Law, clerical and other assistants required for the administration of this chapter. The commissioner may delegate to personnel of the Department of Transportation the authority to administer this chapter. The commissioner may promulgate rules to administer the various provisions of this chapter that are consistent with the provisions thereof. The commissioner may execute contracts and other agreements to carry out the purposes of this chapter.

Sec. 105. 23 MRSA §4206, sub-§4, as amended by PL 1983, c. 489, §11, is further amended to read:

4. Personnel. The commissioner may appoint such deputies, directors, assistants, general counsel and other officers and employees as may be needed for the performance of his duties. These appointments shall be subject to the ~~Personnel~~ Civil Service Law, except for the following who shall serve at the pleasure of the commissioner: Deputy Commissioners of Transportation; Chief Counsel, Bureau of Legal Services; Assistant to the Commissioner; and Assistant to the Commissioner for Public Information.

Sec. 106. 24-A MRSA §206, sub-§1, as amended by PL 1983, c. 553, §46, is further amended to read:

1. The superintendent, with the approval of the Commissioner of the Department of Business, Occupational and Professional Regulation, may employ, subject to the ~~Personnel~~ Civil Service Law, a first deputy superintendent and may employ one or more additional deputies.

Sec. 107. 24-A MRSA §207, as amended by PL 1973, c. 585, §12, is further amended to read:

§207. Staff

Subject to the ~~Personnel~~ Civil Service Law, the superintendent may appoint and dismiss for cause such personnel as conduct of his office may require.

Sec. 108. 25 MRSA §1501, 3rd ¶, as amended by PL 1983, c. 489, §12, is further amended to read:



Subject to the approval of the Commissioner of Public Safety, the chief may appoint 2 commissioned officers of the State Police to act as his deputies and serve at his pleasure. Subject to the ~~Personnel~~ Civil Service Law, the Chief of the State Police may enlist suitable persons as members of the State Police to enforce the law and employ such other employees as may be necessary. The Chief of the State Police shall make rules, subject to the approval of the ~~Personnel~~ State Civil Service Appeals Board, for the discipline and control of the State Police. If a deputy chief is removed or fails to be reappointed for any reason other than malfeasance of office and, at that time, does not have at least 20 years of service with the State Police, he shall be reinstated at the commissioned rank held at the time of the appointment with all the rights and privileges as provided by law and personnel rules.

Sec. 109. 25 MRSA §1504, first ¶, as amended by PL 1975, c. 771, §263, is further amended to read:

The Governor shall determine the salary of the chief and deputy chief. The compensation of the other members of the State Police shall be determined under the ~~Personnel~~ Civil Service Law.

Sec. 110. 25 MRSA §1541, sub-§2, as enacted by PL 1975, c. 763, §4, is amended to read:

2. Personnel. The Chief of the State Police may delegate members of the State Police to serve in the bureau upon request of the commanding officer. The commanding officer shall have the authority to hire such civilian personnel, subject to the ~~Personnel~~ Civil Service Law and the approval of the Chief of the State Police, as he may deem necessary.

Sec. 111. 25 MRSA §2396, first ¶, as amended by PL 1975, c. 579, §4, is further amended to read:

The office of State Fire Marshal is hereby established as a bureau within the Department of Public Safety. The Commissioner of Public Safety shall appoint, as State Fire Marshal, a person experienced in fire prevention work, who may be removed for cause by the commissioner. The State Fire Marshal shall appoint, subject to the ~~Personnel~~ Civil Service Law, such inspectors and other employees as may be necessary to carry out the duties assigned to his office. The State Fire Marshal shall carry out all of the duties and responsibilities assigned to his office and such other duties as may be prescribed or delegated

by the Commissioner of Public Safety and he shall devote his full time to the duties of his office.

Sec. 112. 25 MRSA §2804-A, last ¶, as enacted by PL 1975, c. 579, §9, is amended to read:

The director shall employ, within the limits of funds available, with the approval of the board and the commissioner and subject to the Personnel Civil Service Law, such personnel as may be reasonably necessary to carry out the purposes of the academy.

Sec. 113. 25 MRSA §2902, last ¶, as enacted by PL 1983, c. 489, §13, is amended to read:

Unless specified otherwise by statute, department personnel shall be appointed subject to the Personnel Civil Service Law. Persons holding major policy-influencing positions under Title 5, section 711, subsection 2, paragraph A, shall be appointed by and serve at the pleasure of the commissioner, except as otherwise provided by law.

Sec. 114. 25 MRSA §2908, first ¶, as enacted by PL 1977, c. 138, §3, is amended to read:

The Commissioner of Public Safety is authorized and empowered to appoint and employ, subject to the Personnel Civil Service Law, security officers who shall have the powers of arrest of a sheriff in the Capitol Area, parks, grounds, buildings and appurtenances owned or leased by the State at the seat of government.

Sec. 115. 26 MRSA §41, as amended by PL 1981, c. 168, §§5 and 26, is further amended to read:

§41. Director; personnel; salaries; expenses

A Bureau of Labor Standards within the Department of Labor, as heretofore established and hereinafter in this Title called the "bureau," shall be maintained under the direction of an officer whose title shall be Director of ~~the Bureau of~~ Labor Standards and state factory inspector, hereinafter in this Title, except in chapter 13, called the "director." He shall be appointed by the Commissioner of Labor and shall hold office at the pleasure of the commissioner. He shall have an office in the State Capitol. He shall appoint, subject to the Personnel Civil Service Law, such employees as may be necessary and a deputy who shall be clerk of the bureau and deputy state factory inspector.

Sec. 116. 26 MRSA §802, 3rd ¶, as enacted by PL 1983, c. 176, Pt. A, §9, is amended to read:

The committee may employ, subject to the ~~Personnel~~ Civil Service Law, such staff as is necessary to carry out its objectives. The committee may employ consultants and contract for such projects as it deems necessary. To the extent feasible and reasonable, the committee shall have such staff, facilities, equipment, supplies, information and other assistance as it may reasonably require to carry out its activities.

Sec. 117. 26 MRSA §979-D, sub-§1, ¶E, as amended by PL 1985, c. 289, is further amended to read:

E. To confer and negotiate in good faith:

(1) 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. All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining, except those matters which are prescribed or controlled by public law. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by public law include but are not limited to:

(a) Wage and salary schedules to the extent they are inconsistent with rates prevailing in commerce and industry for comparable work within the State;

(b) Work schedules relating to assigned hours and days of the week;

(c) Use of vacation or sick leave, or both;

(d) General working conditions;

(e) Overtime practices;

(f) Rules and regulations for personnel administration, except the following: Rules and regulations relating to applicants for employment in state service and classified employees in an

initial probationary status, including any extensions thereof, provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex or national origin;

(g) Compensation system for state employees, which is defined as:

(i) Guide charts, if any, and job evaluation factors, including factor language and factor weights, used to evaluate jobs for pay purposes;

(ii) Job point to pay grade conversion tables;

(iii) The number of and spread between pay steps within pay grades;

(iv) The number of and spread between pay grades within the system; and

(v) Temporary payment of recruitment and retention stipends, provided the stipends are allowed under Personnel Civil Service Law;

(h) The nature of and procedures governing appeals of the allocation or re-allocation of job classifications to pay grades resulting from any revisions to the compensation system; and

(i) Implementation of any revisions to the compensation system.

(2) Subparagraph (1), shall not be construed to be in derogation of or contravene the spirit and intent of the merit system principles and personnel laws.

(3) Cost items 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.

(4) Collective bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), is subject to the following.

(a) Subparagraph (1), division (g), shall not be construed to authorize any more than one system for evaluating jobs of state employees in bargaining units recognized under this chapter.

(b) Either the public employer or the bargaining agents may compel the other party to bargain collectively over the subjects described in subparagraph (1), divisions (g), (h) and (i), provided that bargaining over those subjects may not be compelled by either the public employer or the bargaining agents sooner than 10 years after the parties' last agreement to revise the compensation system made pursuant to a demand to bargain.

(c) During the periods of time described in division (b), when the subjects described in subparagraph (1), divisions (g), (h) and (i), are not mandatory subjects of bargaining, they shall be permissive subjects of bargaining.

(d) Bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be conducted separately and apart from bargaining with individual bargaining agents over all other negotiable subjects and shall be conducted within a committee composed of representatives of management and of the bargaining units recognized under this chapter.

(e) The labor representatives on the committee shall consist of equal numbers of representatives from each of the bargaining units recognized under this chapter. Each bargaining unit shall have one vote, regardless of the number of representatives, on any matter addressed by the committee. The labor position on any matter addressed by the committee shall be established

by majority vote of the units recognized under this chapter. A majority vote of the units is necessary to initiate bargaining over the matters described in subparagraph (1), divisions (g), (h) and (i).

(f) Notwithstanding the time frame provided in subparagraph (3), cost items resulting from revisions to the compensation system may only be submitted to the Legislature for funding after all appeals from the allocation or reallocation of job classifications under the revised system have been finally decided. The cost items relating to an individual bargaining unit shall be submitted to the Legislature for funding as part of the next legislation submitted pursuant to subparagraph (3) to fund a collective bargaining agreement between the State and that bargaining unit.

(g) Bargaining over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be subject to the dispute resolution procedures of subsections 2, 3 and 4. For purposes of subsection 4, paragraph D, controversies over the subjects described in subparagraph (1), divisions (g), (h) and (i), shall be deemed "controversies over salaries."

(5) Nothing in this chapter may be construed to exclude from the scope of collective bargaining the subjects described in subparagraph (1), divisions (g), (h) and (i).

Sec. 118. 26 MRSA §979-K, as amended by PL 1981, c. 289, §12, is further amended to read:

§979-K. Grievance arbitration

An agreement between a bargaining agent and the public employer may provide for binding arbitration as the final step of a grievance procedure, provided that any such grievance procedure shall be exclusive and shall supersede any otherwise applicable grievance procedure provided by law. If no such provision is contained in the collective bargaining agreement,

the parties shall submit their differences for resolution by the State ~~Personnel~~ Civil Service Appeals Board.

Sec. 119. 26 MRSA §979-Q is enacted to read:

§979-Q. Separation of roles

1. Officers and employees. No officer or employee of the Bureau of Employee Relations may be an employee or officer of the Bureau of Human Resources. No officer or employee of the Bureau of Human Resources may be an employee or officer of the Bureau of Employee Relations.

Sec. 120. 26 MRSA §1082, sub-§4, as amended by PL 1983, c. 351, §10, is further amended to read:

4. Personnel. Subject to other provisions of this chapter, the Commissioner of Labor is authorized to appoint and prescribe the duties and powers of, and fix the compensation of, such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of his duties, subject to the ~~Personnel~~ Civil Service Law. The commissioner may delegate to any such person so appointed such power and authority as is reasonable and proper for the effective administration of this chapter, and may in his discretion bond any person handling moneys or signing checks under this chapter. On request of the commissioner, the Attorney General shall represent the department, the commission and the State in any court action relating to this chapter or to its administration and enforcement. Special counsel may be retained by the commissioner in accordance with Title 5, section 196, whose service and expenses shall be paid from the funds provided for the administration of this chapter. The commissioner shall not employ or pay any person who is an officer or committee member of any political party organization.

Sec. 121. 26 MRSA §1401, sub-§2, as repealed and replaced by PL 1983, c. 650, §4, is amended to read:

2. Personnel. Appoint to serve at his pleasure:

- A. Assistant to the Commissioner;
- B. Assistant to the Commissioner for Public Affairs;
- C. Director, Planning and Program Services;
- D. Director, Bureau of Labor Standards;

E. Executive Director, Bureau of Employment Security;

F. Director, Maine Job Training Council;

G. Executive Secretary, Maine Occupational Information Coordinating Committee; and

H. Executive Director, Bureau of Employment and Training Programs.

The commissioner may appoint, subject to the Personnel Civil Service Law, such other personnel as may be necessary to carry out the functions of the department. The commissioner may transfer personnel within the department to insure the efficient utilization of department personnel;

Sec. 122. 26 MRSA §1454, first ¶, as enacted by PL 1981, c. 705, Pt. O, §1, is amended to read:

The chairman shall nominate an executive director for appointment by the committee, who shall serve at the committee's pleasure. With the committee's approval, the executive director may appoint, subject to the Personnel Civil Service Law, such personnel as are necessary and who are authorized.

Sec. 123. 27 MRSA §1, 2nd ¶, as amended by PL 1971, c. 610, §13, is further amended to read:

The librarian may employ, subject to the Personnel Civil Service Law and the approval of the Commissioner of Educational and Cultural Services, a deputy state librarian, and such assistants as the business of the office may require.

Sec. 124. 27 MRSA §85, sub-§2, as amended by PL 1971, c. 610, §16, is further amended to read:

2. Administration. To administer the office of Museum Director. In exercising his administration, the Museum Director shall promulgate operating policies, establish organizational and operational procedures, and exercise supervision of museum activities. He shall employ, subject to the Personnel Civil Service Law and the approval of the Commissioner of Educational and Cultural Services, such assistants as may be necessary to carry out the purposes of this chapter. The Museum Director shall adopt a seal for use in the official business of the museum;

Sec. 125. 27 MRSA §505, sub-§1, as enacted by PL 1979, c. 21, is amended to read:



1. Appointment. The Maine Historic Preservation Commission may appoint a director, with the approval of the Commissioner of Educational and Cultural Services, who shall be qualified by special training or experience in the field of historic preservation and who shall also serve as the State Historic Preservation Officer upon appointment by the Governor and shall be subject to removal for cause under the ~~Personnel~~ Civil Service Law.

Sec. 126. 28 MRSA §58, 2nd ¶, as enacted by PL 1975, c. 741, §4, is amended to read:

The Director of the Bureau of Alcoholic Beverages shall have general charge of the office and records and shall employ, with the approval of the Commissioner of Finance and Administration and the State Liquor Commission, subject to the ~~Personnel~~ Civil Service Law, such personnel and make expenditures as may be necessary to fulfill the purposes of this Title.

Sec. 127. 28 MRSA §59, sub-§1, as amended by PL 1985, c. 506, Pt. A, §52, is further amended to read:

1. Bureau of Liquor Enforcement. The enforcement division of the State Liquor Commission shall be the Bureau of Liquor Enforcement within the Department of Public Safety, as heretofore created. The Commissioner of Public Safety shall appoint as Director of the Bureau of Liquor Enforcement a person experienced in law enforcement or enforcement of liquor laws, who may be removed for cause by the commissioner. The director, subject to the ~~Personnel~~ Civil Service Law, may appoint as many liquor enforcement officers as may be found necessary. The liquor enforcement officers shall be under the direct supervision and control of the director.

Notwithstanding any other provisions of law, the Department of Public Safety shall be responsible for the enforcement of the liquor laws and the rules of the commission.

All business and financial records of licensees shall be confidential.

Sec. 128. 29 MRSA §2713, sub-§3, as amended by PL 1985, c. 350, §1, is further amended to read:

3. Use of funds. Subject to the ~~Personnel~~ Civil Service Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the several agencies as follows.

A. There shall be allocated to the Department of Public Safety for State Police up to \$1,100,000 annually from the fund to carry out the statutory duties of the bureau imposed by this chapter and Title 35 and for related activities.

C. Any balance in the fund in excess of that required for the purposes of paragraph A may be allocated in the same manner and for the same purposes as moneys in the Highway Fund, but with special emphasis on matters relating to transportation safety. Any allocation of this balance shall be identified as to source.

Sec. 129. 32 MRSA §63-A, sub-§5, as enacted by PL 1985, c. 233, §6, is amended to read:

5. Employees. With the advice of the board, the commissioner may appoint, subject to the ~~Personnel~~ Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 130. 32 MRSA §351, sub-§3, as amended by PL 1977, c. 604, §9, is further amended to read:

3. Employees. The board shall employ, subject to the ~~Personnel~~ Civil Service Law, an executive secretary. The salary of the executive secretary shall be determined by the ~~State Personnel Board~~ Bureau of Human Resources and shall be paid from funds received under this chapter. The executive secretary of the board shall keep a record of all proceedings, certificates of registration and licenses; issue all notices, except those required to be issued by the Administrative Court Judge under Title 4, chapter 25; attest all such papers and orders as the board shall direct; make sanitary inspections at least twice a year of shops and other establishments subject to license under this chapter as directed by the board, and shall, on or before August 1st of each year, submit a report to the Commissioner of Business, Occupational and Professional Regulation, for the preceding fiscal year ending June 30th, giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with such recommendations as deemed necessary. The board shall employ, subject to the ~~Personnel~~ Civil Service Law, inspectors who may be registered barbers and who shall, under the direction of the executive secretary, make inspections of shops and other

establishments subject to license. The salary of such inspectors shall be determined by the State Personnel Board Bureau of Human Resources and shall be paid from funds received under this chapter. The board shall have the right to dismiss, for cause, the executive secretary or the inspectors.

Sec. 131. 32 MRSA §1152, first ¶, as amended by PL 1983, c. 553, §46, is further amended to read:

The Commissioner of Business, Occupational and Professional Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of Business, Occupational and Professional Regulation and under the administrative and supervisory direction of the Commissioner of Business, Occupational and Professional Regulation.

Sec. 132. 32 MRSA §1601, sub-§3, as amended by PL 1983, c. 553, §46, is further amended to read:

3. Employees. The board shall employ, subject to the Personnel Civil Service Law, an executive secretary. The salary of the executive secretary shall be determined by the State Personnel Board Bureau of Human Resources and shall be paid from funds received under this chapter. The executive secretary of the board shall keep a record of all proceedings, certificates of registration and licenses; issue all notices, except those required to be issued by the Administrative Court Judge under Title 4, chapter 25; attest all papers and orders as the board shall direct; make sanitary inspections at least twice a year of shops and other establishments subject to a license under this chapter as directed by the board, and shall report annually on or before August 1st of each year to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with recommendations as deemed necessary. The board shall employ, subject to the Personnel Civil Service Law, inspectors who may be registered cosmetologists and who shall, under the direction of the executive secretary, make inspections of shops and other establishments subject to license. The salary of such inspectors shall be determined by the State Personnel Board Bureau of Human Resources and shall be paid from funds received under

this chapter. The board shall have the right to dismiss, for cause, the executive secretary or the inspectors.

Sec. 133. 32 MRSA §1660-B, sub-§10, as amended by PL 1983, c. 413, §84, is further amended to read:

10. Appoint employees. To appoint or employ subordinate employees, subject to the ~~Personnel~~ Civil Service Law; and

Sec. 134. 32 MRSA §2275, sub-§2, as enacted by PL 1983, c. 746, §2, is amended to read:

2. Employees. With the advice of the board, the commissioner may appoint, subject to the ~~Personnel~~ Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 135. 32 MRSA §2352, first ¶, as amended by PL 1983, c. 553, §46, is further amended to read:

The Commissioner of Business, Occupational and Professional Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the ~~Personnel~~ Civil Service Law, such employees as may be necessary to carry out this chapter. Any persons so employed shall be located in the Department of Business, Occupational and Professional Regulation and under the administrative and supervisory direction of the Commissioner of Business, Occupational and Professional Regulation. In addition, the board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 136. 32 MRSA §2853, first ¶ is amended to read:

The board shall be empowered to appoint and remove, subject to the ~~Personnel~~ Civil Service Law, a drug inspector to enforce this chapter and Title 22, chapter 551, subchapter II and chapter 557 and the rules and regulations of the board.

Sec. 137. 32 MRSA §3112, sub-§5, ¶J, as amended by PL 1983, c. 553, §46, is further amended to read:

J. To furnish advice and consent to the Commissioner of Business, Occupational and Professional Regulation, who shall be empowered to appoint,

subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of Business, Occupational and Professional Regulation and under the commissioner's supervision; and

Sec. 138. 32 MRSA §3402, first ¶, as amended by PL 1985, c. 389, §18, is further amended to read:

The commissioner, with the advice and consent of the board, may appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 139. 32 MRSA §4051-C, sub-§1, as amended by PL 1983, c. 553, §46, is further amended to read:

1. Appointment. The Commissioner of Business, Occupational and Professional Regulation, with the advice of the Real Estate Commission and subject to the Personnel Civil Service Law, shall appoint a director of the commission.

Sec. 140. 32 MRSA §4053-A, as enacted by PL 1981, c. 359, §9, is amended to read:

§4053-A. Employees

The director may employ a deputy and such clerical assistants, technical assistants and investigators as deemed necessary to discharge the duties imposed by this chapter and shall outline their duties and fix their compensation, subject to the Personnel Civil Service Law.

Sec. 141. 32 MRSA §4855, 3rd ¶, as enacted by PL 1975, c. 477, §4, is amended to read:

The commissioner shall have authority, subject to the Personnel Civil Service Law, to employ such personnel as may be deemed necessary to carry out the purposes of this chapter.

Sec. 142. 32 MRSA §4904, as repealed and replaced by PL 1979, c. 89, §1, is amended to read:

§4904. Corporations, partnerships, associations and government agencies

This chapter does not prohibit one or more geologists or soil scientists from practicing through the medium of a sole proprietorship, partnership, corporation or government agency. In such partnership or corporation whose primary activity consists of geological services, or in a government agency in which geological work is done, at least one partner, officer or employee shall be a certified geologist. In such partnership or corporation whose primary activity consists of soil science services, or in a government agency in which soil science work is done, at least one partner, officer or employee shall be a certified soil scientist. In the case of an agency of State Government, the Department of Personnel Bureau of Human Resources shall classify officers and employees under the Personnel Civil Service Law in a manner that ensures that at least one certified geologist or soil scientist shall work for each agency in which, as the case may be, geological or soil science work is done and that any officer or employee who is engaged in the practice of geology or soil science and who is uncertified works as a subordinate to a certified geologist or soil scientist, as the case may be, and does not have responsible charge of work or evaluation.

Sec. 143. 32 MRSA §4908, sub-§3, as amended by PL 1983, c. 553, §46, is further amended to read:

3. Employees. The Commissioner of Business, Occupational and Professional Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person employed shall be located in the Department of Business, Occupational and Professional Regulation and under the administrative and supervisory direction of the Commissioner of Business, Occupational and Professional Regulation.

Sec. 144. 32 MRSA §5011-C, as amended by PL 1983, c. 553, §46, is further amended to read:

§5011-C. Employees

The Commissioner of Business, Occupational and Professional Regulation, with the advice and consent of the board, shall be empowered to appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of Business, Occupational and Professional Regulation and under the administrative and supervisory direc-

tion of the Commissioner of Business, Occupational and Professional Regulation.

Sec. 145. 32 MRSA §9704, sub-§7, as enacted by PL 1985, c. 288, §3, is amended to read:

7. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 146. 32 MRSA §9905, sub-§1, as enacted by PL 1985, c. 389, §28, is amended to read:

1. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 147. 32 MRSA §10005, sub-§2, as enacted by PL 1985, c. 496, Pt. A, §2, is amended to read:

2. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

Sec. 148. 34 MRSA §1591, 2nd ¶, as amended by PL 1979, c. 217, §1, is further amended to read:

The Division of Probation and Parole shall be under the direction of the Director of Probation and Parole, in this chapter called the "director," who shall be appointed by the commissioner upon the recommendation of the Director of Corrections, subject to the Personnel Civil Service Law.

Sec. 149. 34 MRSA §1592, sub-§2, as amended by PL 1971, c. 528, §5, is further amended to read:

2. Appointees. Appoint, subject to the Personnel Civil Service Law, district probation and parole supervisors, field probation and parole officers and such other employees as may be required to carry out

adequate supervision of all probationers and of all parolees from the penal and correctional institutions, and prescribe their powers and duties;

Sec. 150. 34-A MRSA §1209, sub-§4, ¶C, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

C. The department may employ a full-time juvenile justice specialist, subject to the approval of the group, and such additional staff as necessary.

(1) The professional staff shall be unclassified.

(2) Clerical staff shall be employed subject to the ~~Personnel~~ Civil Service Law.

Sec. 151. 34-A MRSA §1403, sub-§2, ¶A, as enacted by PL 1983, c. 459, §6, is amended to read:

A. The commissioner may appoint, subject to the ~~Personnel~~ Civil Service Law and except as otherwise provided, any employees who may be necessary.

Sec. 152. 34-A MRSA §3005, sub-§2, as enacted by PL 1983, c. 459, §6, is amended to read:

2. Compensation. Any personnel transferred are entitled to receive compensation as required by the ~~Personnel~~ Civil Service Law, rules and contract terms.

Sec. 153. 34-A MRSA §3009, sub-§2, as enacted by PL 1983, c. 459, §6, is amended to read:

2. Special police officers. The chief administrative officers of correctional facilities may appoint and employ, subject to the ~~Personnel~~ Civil Service Law, special police officers for the purpose of enforcing rules promulgated under subsection 1.

A. The special police officers shall:

(1) Patrol all the public ways and parking areas subject to this section;

(2) Enforce rules promulgated under this section; and

(3) Arrest and prosecute violators of the rules.



B. The State Police, sheriffs, deputy sheriffs, police officers and constables who have jurisdiction over the areas in which the correctional facilities are located shall, insofar as possible, cooperate with the special police officers in the enforcement of the rules promulgated under subsection 1.

Sec. 154. 34-A MRSA §3231, sub-§1, ¶A, as enacted by PL 1983, c. 459, §6, is amended to read:

A. The warden's appointment shall be subject to the ~~Personnel~~ Civil Service Law.

Sec. 155. 34-A MRSA §3232, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Appointment. The warden shall appoint deputy wardens subject to the ~~Personnel~~ Civil Service Law.

Sec. 156. 34-A MRSA §3402, sub-§3, ¶A, as enacted by PL 1983, c. 459, §6, is amended to read:

A. The superintendent may appoint 2 assistant superintendents, subject to the ~~Personnel~~ Civil Service Law. An assistant superintendent designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent when the superintendent is absent from the center location or is unable to perform the duties of the office.

Sec. 157. 34-A MRSA §3603, sub-§3, as enacted by PL 1983, c. 459, §6, is amended to read:

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the ~~Personnel~~ Civil Service Law, and the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

Sec. 158. 34-A MRSA §3804-A, first ¶, as enacted by PL 1983, c. 581, §§46 and 59, is amended to read:

The superintendent may appoint 2 assistant superintendents, subject to the ~~Personnel~~ Civil Service Law.

Sec. 159. 34-A MRSA §3903, sub-§3, as enacted by PL 1983, c. 861, §1, is amended to read:

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant

director, subject to the ~~Personnel~~ Civil Service Law, and the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

Sec. 160. 34-A MRSA §5402, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Appointment. The commissioner shall appoint the Director of Probation and Parole, subject to the ~~Personnel~~ Civil Service Law.

Sec. 161. 34-A MRSA §5402, sub-§2, ¶B, as enacted by PL 1983, c. 459, §6, is amended to read:

B. Appoint, subject to the ~~Personnel~~ Civil Service Law, district probation and parole supervisors, field probation and parole officers and such other employees as may be required to carry out adequate supervision of all probationers and of all parolees from the correctional facilities;

Sec. 162. 34-B MRSA §1204, sub-§2, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. The commissioner may appoint, subject to the ~~Personnel~~ Civil Service Law and except as otherwise provided, any employees who may be necessary.

Sec. 163. 34-B MRSA §1405, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Compensation. Any personnel transferred are entitled to receive compensation as required by the ~~Personnel~~ Civil Service Law, rules and contract terms.

Sec. 164. 34-B MRSA §1411, sub-2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Special police officers. The chief administrative officers of state institutions may appoint and employ, subject to the ~~Personnel~~ Civil Service Law, special police officers for the purpose of enforcing rules promulgated under subsection 1.

A. The special police officers shall:

(1) Patrol all the public ways and parking areas subject to this section;

(2) Enforce rules promulgated under this section; and

(3) Arrest and prosecute violators of the rules.

B. The State Police, sheriffs, deputy sheriffs, police officers and constables who have jurisdiction over the areas in which the institutions are located shall, insofar as possible, cooperate with the special police officers in the enforcement of the rules promulgated under subsection 1.

Sec. 165. 35 MRSA §1, as amended by PL 1985, c. 481, Pt. A, §65, is further amended to read:

§1. Members; terms; vacancies; seal; clerks; office and equipment; salary; expenses

The Public Utilities Commission, as heretofore established, shall consist of 3 members appointed by the Governor, subject to review by the legislative committee having jurisdiction over public utilities and to confirmation by the Legislature from time to time upon the expiration of the terms of the several members, for terms of 6 years and all 3 members of the commission shall devote full time to their duties. Each term shall end on March 31st of the 6th year of the term. A commissioner may continue to serve beyond the end of his term until a duly qualified successor is appointed. Any vacancy occurring in said commission shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs. One member of the commission shall be designated by the Governor as chairman. The basic policies of the Public Utilities Commission are to be set by the commission. Each commissioner is entitled to full access to the Public Utilities Commission staff and to any information available at the commission. The chairman shall be the principal executive officer of the commission in carrying out its policies and shall preside at meetings of the commission. The chairman shall be responsible for the expedient organization of the work of the commission. When absent one working day or more, the chairman shall name another commissioner to act as chairman. For any particular hearing or series of hearings before the commission, the chairman may assign a commissioner, including the chairman, to attend. The commission shall adopt and have a seal and be provided with office space. The commission shall appoint an administrative director, a director of finance and a director of technical analysis. It shall appoint, with the approval of the Attorney General, a general counsel. It shall appoint, subject to the Personnel Civil Service Law, an assistant to the administrative di-

rector. The administrative director shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. The assistant director shall assist the director in the performance of his duties, and in the absence of the director shall have the same powers as the director. The administrative director shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission. The commission may delegate to its staff such powers and duties as the commission finds proper. All delegations existing as of the effective date of this section shall remain valid.

The salaries of the other subordinate officials and employees of that commission, other than those of the general counsel, the Administrative Director, the director of finance and the director of technical analysis, staff attorney, financial analyst and chief utility accountant positions, shall be subject to the Personnel Civil Service Law. The general counsel, the Administrative Director, the Director of Finance and the Director of Technical Analysis shall serve at the pleasure of the commission and their salaries shall be set by the commission within the range established by Title 2, section 6-A. After successful completion of a probationary period, the employees occupying the staff attorney, financial analyst and chief utility accountant positions may be dismissed, suspended or otherwise disciplined only for cause. The compensation of staff attorney, financial analyst and chief utility accountant positions shall be fixed by the commission with the approval of the Governor, but the compensations shall not in the aggregate exceed the total amount appropriated or allocated in the commission's budget. The commissioners and all employees shall receive actual expenses when traveling on official business.

Sec. 166. 35 MRSA §1-A, sub-§3, as repealed and replaced by PL 1981, c. 586, is amended to read:

3. Service. The professional employees of the Public Advocate shall serve during the pleasure of the Public Advocate; all other employees of the Public Advocate shall be subject to the Personnel Civil Service Law.

Sec. 167. 35 MRSA §302 is amended to read:

§302. Record of proceedings

A full and complete record shall be kept of all proceedings had before the commission and of any investigation or formal public hearing and all testimony shall be taken by a hearings reporter to be appointed by the commission subject to the Personnel Civil Service Law.

Sec. 168. 36 MRSA §112, sub-§2, as enacted by PL 1981, c. 364, §7, is amended to read:

2. Organization. The State Tax Assessor may employ such deputies, assistants and employees, subject to the Personnel Civil Service Law, as are necessary, and distribute the duties given to him or to the Bureau of Taxation among such persons or divisions in that bureau as he deems necessary for economy and efficiency in administration. An officer within each division of the bureau shall be designated by the State Tax Assessor as director of that division. The State Tax Assessor, for enforcement and administrative purposes, may divide the State into a reasonable number of districts in which branch offices may be maintained.

Sec. 169. 36 MRSA §4379 is amended to read:

§4379. Administration; rulings and regulations

The administration of this chapter is vested in the State Tax Assessor. All forms necessary and proper for the enforcement of this chapter shall be prescribed and furnished by the State Tax Assessor. The State Tax Assessor shall appoint such agents, clerks, stenographers and other assistants as he may deem necessary for effecting the purpose of this chapter, subject to the Personnel Civil Service Law. The State Tax Assessor may prescribe regulations and rulings, not inconsistent with law, to carry into effect this chapter, which regulations and rulings, when reasonably designed to carry out the intent and purpose of this chapter, shall be prima facie evidence of its proper interpretation. The State Tax Assessor shall, at least annually, and oftener in his discretion, publish for distribution all regulations prescribed and such rulings as appear to him to be of general interest.

Sec. 170. 36 MRSA §4503, last ¶, as enacted by PL 1983, c. 573, §5, is amended to read:

The members of the board shall elect a chairman. The commissioner may employ a director and such

clerks and assistants as he may deem necessary and may prescribe their duties and fix their compensation, subject to the Personnel Civil Service Law.

Sec. 171. 36 MRSA §4523, 4th ¶, as enacted by PL 1983, c. 573, §13, is amended to read:

The members of the council shall elect a chairman. The commissioner may employ such personnel for the council as he deems necessary, subject to the Personnel Civil Service Law.

Sec. 172. 36 MRSA §4563, sub-§5, as repealed and replaced by PL 1971, c. 428, §1, is amended to read:

5. Administration. The commission is authorized to select and employ an executive director to administer the policies established by the commission, and to fix his salary and term of employment. The executive director, with the consent of the commission, is authorized to engage sufficient clerical personnel and other employees for the efficient performance of his duties. Neither the employment of the executive director by the commission nor the employment of other employees by the executive director shall be subject to the Personnel Civil Service Law.

Sec. 173. 36 MRSA §4693, 3rd ¶, as amended by PL 1983, c. 812, §281, is further amended to read:

The members of the council shall be compensated according to the provisions of Title 5, chapter 379. They are authorized to select and employ an executive director-advertising and merchandising manager to administer the advertising, merchandising, research and development program, in concurrence with the Commissioner of Marine Resources, and fix his salary. The council is authorized to consult with the Commissioner of Agriculture, Food and Rural Resources consistent with Title 32, chapter 61. The executive director, with the consent of the council, is authorized, subject to the Personnel Civil Service Law, to engage sufficient clerical personnel and other employees for the efficient performance of his duties.

Sec. 174. 37-B MRSA §503, sub-§1, as enacted by PL 1983, c. 460, §3, is amended to read:

1. Employment of personnel. The director may employ, subject to the Personnel Civil Service Law, the personnel necessary to administer this chapter. All full-time permanent employees, except clerical employees, shall be persons who served on active duty

in the United States Armed Forces during any federally recognized period of conflict, as defined in section 504, subsection 4, paragraph A, subparagraph (3).

Sec. 175. 37-B MRSA §704, 2nd ¶, as enacted by PL 1983, c. 460, §3, is amended to read:

The director may employ technical, clerical, stenographic, administrative and operative assistants and other personnel, subject to the Personnel Civil Service Law, and make expenditures, with approval of the Adjutant General, which are necessary to carry out the purposes of this chapter.

Sec. 176. 37-B MRSA §785, as enacted by PL 1983, c. 460, §3, is amended to read:

§785. State Civil Service Appeals Board services

Local civil emergency preparedness agencies organized pursuant to this subchapter may accept the services of the State Personnel Board Bureau of Human Resources and adopt board rules for the purpose of qualifying for federal funds. The State Personnel Board Bureau of Human Resources may enter into agreements with the civil emergency preparedness agencies for the purpose of furnishing merit system coverage for civil emergency preparedness employees or employees of other agencies and departments assigned full time to civil emergency preparedness duties. The State Personnel Board Bureau of Human Resources may charge for services rendered. The fee shall be consistent with the cost of coverage per state employee multiplied by the number of local, interjurisdictional, county or regional employees covered. Fees received by the board shall be credited to the General Fund.

Sec. 177. 38 MRSA §342, sub-§2, as enacted by PL 1971, c. 618, §8, is amended to read:

2. Employment of personnel. He may employ, subject to the Personnel Civil Service Law, such personnel and prescribe the duties of such employees, including bureau directors, as he deems necessary, to fulfill the duties of the department and of the Board of Environmental Protection.

Sec. 178. 38 MRSA §549, as amended by PL 1985, c. 496, Pt. A, §12, is further amended to read:

§549. Personnel and equipment

The department shall establish and maintain at such ports within the State, and other places as it shall determine, such employees and equipment as in its judgment may be necessary to carry out this subchapter. The commissioner, subject to the Personnel Civil Service Law, may employ such personnel as may be necessary to carry out the purposes of this subchapter, and shall prescribe the duties of those employees. The salaries of those employees and the cost of that equipment shall be paid from the Maine Coastal and Inland Surface Oil Clean-up Fund established by this subchapter. The department and the Maine Mining Bureau shall periodically consult with each other relative to procedures for the prevention of oil discharges into the coastal waters of the State from offshore drilling production facilities. Inspection and enforcement employees of the department in their line of duty under this subchapter shall have the powers of a constable.

Sec. 179. 38 MRSA §570-B, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

§570-B. Personnel and equipment

The department shall establish and maintain at such locations as it shall determine to be appropriate, such employees and equipment as in its judgment may be necessary to carry out this subchapter. The commissioner, subject to the Personnel Civil Service Law, may employ such personnel as may be necessary to carry out the purposes of this subchapter and shall prescribe the duties of those employees. The salaries of those employees and the cost of that equipment shall be paid from the Ground Water Oil Clean-up Fund established by this subchapter.

Sec. 180. 39 MRSA §92, sub-§8, as enacted by PL 1985, c. 372, Pt. A, §31, is amended to read:

8. Office of Employment Rehabilitation. The chairman shall provide adequate funding for an Office of Employment Rehabilitation and shall appoint a Rehabilitation Administrator under section 82. The chairman shall, subject to the Personnel Civil Service Law, appoint such personnel as are necessary to carry out the functions of the office.

Sec. 181. 39 MRSA §92, sub-§9, ¶A, as enacted by PL 1985, c. 372, Pt. A, §31, is amended to read:



A. He shall, subject to the Personnel Civil Service Law, appoint at least 2 abuse investigators for this unit. Investigators must be qualified by experience and training to perform their duties.

Sec. 182. Savings clause. Nothing in Part B is intended to conflict or be inconsistent with current retirement law which shall prevail.

## PART C

Sec. 1. 5 MRSA §§954 to 956 are enacted to read:

### §954. Bureau of State Employee Health

The Bureau of State Employee Health is established within the Department of Administration to promote the health and safety of state employees by working with the Office of Employee Relations, other bureaus and departments in the Executive Department, and state employees and their representatives to mutually establish policies and provide programs to minimize the risk of injury to and incidence of illness among state employees and to provide and administer health insurance for state employees and conserve public funds by minimizing the direct and indirect costs associated with injury and illness. The bureau shall be responsible for the administration of the State Employee Assistance Program, Title 22, chapter 254-A.

The bureau shall also administer a first aid and health service in the State House complex for state employees and State House visitors.

### §955. Director of State Employee Health; staff

The Director of State Employee Health shall, after consultation with employee representatives, be appointed by and serve at the pleasure of the Commissioner of Administration. Under the direction of the commissioner, the director shall be responsible for the administration of the bureau and its programs, for developing policies and programs consistent with the bureau's purpose and for coordinating with other state agencies to plan, implement and maintain these policies and programs. The director shall appoint, subject to the Civil Service Law, staff necessary to carry out the bureau's programs.

The director shall provide the commissioner with an annual report detailing the objectives, programming and performance of the bureau.

The director shall work with the Bureau of Employee Relations and with labor-management groups created through the bargaining process to maximize the involvement of state employees and their representatives in the planning and execution of all programs under the charge of the bureau, including, but not limited to, the health insurance issues, the employee assistance program and the planning and use of the State Employee Health Internal Service Fund Account.

§956. Bureau of State Employee Health Internal Service Fund Account

The Bureau of State Employee Health Internal Service Fund Account is established to include appropriations made to the bureau, funds transferred to the bureau from within the department, funds from the administrative allowance provided in section 286, funds from the reserve fund provided in section 1731, funds received for special services provided to state agencies and employees and funds from operational charges levied upon state agencies.

State agency operational charges shall be a per employee fee paid by each agency in the same manner as premiums for state employee health insurance. The Director of State Employee Health shall recommend a fee to the commissioner. The rationale for the recommended fee shall be well documented and shall include the program costs to be met by the fee. The Commissioner of Administration shall provide his final recommended fee to the Governor. The Governor shall determine the per employee fee to be included in the normal budget process.

Sec. 2. 5 MRSA §1731, as amended by PL 1983, c. 349, §12, is repealed and the following enacted in its place:

§1731. Reserve fund for self-insured retention losses

A reserve fund, in this chapter called the "fund," is created to indemnify the State for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the director and approved by the commissioner. With the approval of the commissioner, the fund may be used for loss prevention programs administered by either the Risk Management Division or the Bureau of State Employee Health. The total amount of the fund provided for loss prevention pro-

grams in any given year may not exceed 5% of the fund as of July 1st of that fiscal year. The fund shall be a continuing fund and shall not lapse. Funds provided from the reserve fund to the Bureau of State Employee Health shall be similarly nonlapsing and shall be carried forward through the Bureau of State Employee Health Internal Service Fund Account.

Sec. 3. 22 MRSA §7, 2nd ¶, as enacted by PL 1965, c. 425, §14-A, is repealed.

#### PART D

Sec. 1. Study Commission on Emotionally Stressful Job Classifications in State Government; established. The Study Commission on Emotionally Stressful Job Classifications in State Government, referred to as the "commission," is established to consist of the following 12 members: Six members appointed by the Governor representing management in State Government to include the Department of Corrections, the Department of Human Services and the Department of Mental Health and Mental Retardation; and 6 members representing labor appointed in the following manner: One from the institutional services bargaining unit, 4 from the professional/technical services bargaining unit; and one from the supervisory services bargaining unit. Labor representatives shall be appointed by the respective bargaining agent for each unit.

Sec. 2. Duties of commission. The commission shall conduct a study, including, but not limited to, the following:

1. The job classifications within the Department of Corrections, the Department of Human Services and the Department of Mental Health and Mental Retardation that have significant emotional or mental stress associated with these classifications;

2. The causes for the emotional stress in these various classifications; and

3. Solutions to the problems and remedial measures to reduce emotional stress in these job classifications, including:

- A. An evaluation of diversifying job responsibilities to reduce emotional stress;

B. An evaluation of providing respite time to reduce "burnout;"

C. An evaluation of job sharing or job switching among different job classifications to reduce "burnout;" and

D. Any other alternative deemed feasible by the study commission.

**Sec. 3. Organizational meeting.** The commission shall hold an organizational meeting called by the Chairman of the Legislative Council within 15 days following the effective date of this Act and shall elect a chairman and vice-chairman from any of the members at that meeting.

**Sec. 4. Interagency cooperation.** All agencies and departments of State Government shall cooperate with the commission and shall expeditiously provide the commission with the information and materials that it needs.

**Sec. 5. Report.** The commission shall report its findings, together with implementing legislation, to the joint standing committee of the Legislature having jurisdiction over State Government for consideration at the First Regular Session of the 113th Legislature.

**Sec. 6. Compensation.** The members of the commission shall receive no compensation. Members of the commission representing agencies of State Government shall be reimbursed for all necessary expenses from the budgets of the respective agencies. The employee members representing employee unions or associations shall be reimbursed for expenses from the budgets of the departments in which they are employed.

**Sec. 7. Employee members' compensation and benefits.** For the purpose of Part D, the employee members of the commission representing state employee unions or associations shall continue to receive their regular wages or salaries for time spent in the work of the commission. The time that the employee representatives spend in the work of the commission shall be deemed part of the regular duties of these employee members and shall accrue for the purposes of fringe benefits, including vacation and sick leave, health and life insurance and retirement.

**Sec. 8. Staff.** The Department of Personnel shall provide staff to the management representatives

of the commission as required to assist the commission in all its work.

## PART E

**Sec. 1. Transition.** The Governor shall appoint the Policy Review Board and the Information Services Policy Board prior to June 14, 1986. The boards shall convene and undertake their duties prior to July 19, 1986.

During the transition period, the Policy Review Board shall receive staff assistance from the Department of Personnel and where the Policy Review Board is required by this Act to work with or be assisted by the Bureau of Human Resources, the Department of Personnel shall act in its stead. During the transition period, any responsibilities of the Director of Human Resources required by this Act shall be carried out by the Commissioner of Personnel. Any expenses of the Policy Review Board shall, prior to July 1, 1987, be paid from the Department of Personnel and departments represented on the Policy Review Board, from July 1, 1987, such expenses as have been paid by the Department of Personnel shall be paid by the Department of Administration.

**1. Funds transferred.** Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues or other available funds in any account or subdivision of an account of any unit of State Government, including any department, bureau, division or other subunit of a state agency, affected by this Act shall remain with that unit following transfer to another department.

**2. Restrictions.** Prior to July 1, 1987, the Commissioner of Finance and the Commissioner of Administration shall be subject to the Maine Revised Statutes, Title 5, section 679-A. From July 1, 1987, those commissioners shall be so restricted to the extent that this restriction is required by federal law.

**3. Personnel transferred.** All employees of any unit of State Government, including department, bureau, division or other subunit, shall remain with that unit following their transfer to another department. The accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement of these personnel shall remain with those personnel.

Units affected by this transition include, but are not limited to, the Department of Personnel, the Bureau of Central Computer Services, the Bureau of Public Improvements, the Bureau of Purchases, the Board of Trustees of the Group Accident and Sickness or Health Insurance, the Division of Risk Management, the State Lottery Commission and the Governor's Office of Employee Relations and other Executive Branch agencies. No employee's pay or promotional rights and opportunities will be adversely affected due to this reorganization.

The administrative and support staff in the Department of Finance and Administration assisting in the operation and administration of organizational units may be similarly transferred to the Department of Administration, together with such Personal Services funding, supporting funds and equipment as necessary. The Commissioner of Administration shall consult with the Commissioner of Finance and, together with the review and comment of the Commissioner of Finance, shall request, by Financial Order through the State Budget Officer, the Governor's approval of the positions, funds and equipment transfer.

To comply with this Act, positions and incumbent employees of the Training Division of the Governor's Office of Employee Relations shall be transferred to the Department of Personnel and then to the Bureau of Human Resources when that bureau replaces that department. The transfers to include such Personal Services funding and supporting funds and equipment as is necessary.

4. Provisions of law, rules and agreements contrary to provisions of this Act. Any provisions of laws, rules, agreements and contracts that are in violation of the provisions of this Act shall be deemed null on the effective dates of this Act.

5. Rules and procedures. All rules and procedures currently in effect and operations pertaining to any unit and which are in compliance with the provisions of this Act shall remain in effect until rescinded or amended as provided by state law.

6. Equipment and property transferred. All equipment and property of the State used by employees and officials of any unit of State Government affected by this Act shall remain with that unit upon transfer to another department.

7. Contracts and agreements. All contracts and agreements currently in effect with respect to any

unit of State Government affected by this Act shall remain in effect until rescinded, terminated or modified as provided by state law.

8. **Organization and operation.** Notwithstanding any other provision of law, any appointment required by this Act and preparation work may be made or occur prior to the appropriate effective date of this Act, but shall not become binding until the appropriate effective date.

9. **Members of State Personnel Board.** Members of the State Personnel Board who have been appointed to terms extending beyond the effective date of this Act shall continue to serve in their appointed terms of office under the State Civil Service Appeals Board and shall serve until their successors are appointed and qualified.

10. **Policy Review Board review.** The Policy Review Board shall review the provisions of this Act for the purpose of proposing recommendations relating to the structure and operation of, the number of personnel in and the necessary money for the Bureau of Human Resources. The Policy Review Board shall report any necessary implementing legislation to the First Regular Session of the 113th Legislature to provide for a smooth and expeditious transition when the Department of Personnel is replaced by the Bureau of Human Resources.

11. **Bureau of State Employee Health Allocation; loss prevention programs.** The provisions for use of a portion of the reserve fund for self-insured retention losses provided in this Act shall include an allocation from the fund to the Bureau of State Employee Health for fiscal years 1986 and 1987 to be used for loss prevention programs and any initial personnel, operating and equipment costs of the bureau.

12. **Director of the Bureau of State Employee Health initial duties.** The Director of State Employee Health shall develop a plan for the most effective continuing operation, programming and staffing of the bureau, subject to the approval of the commissioner. The plan, together with any further implementing legislation which may be needed, shall be submitted to the joint standing committee of the Legislature having jurisdiction over State Government by February 20, 1987.

PART F

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

1986-87

ADMINISTRATION, DEPARTMENT OF

Office of the Commissioner	
Positions	(1.0)
Personal Services	\$50,182
Provides funds for the salary and fringe benefits of the commissioner of the newly created department.	

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1986, except: Part A, only that portion of section 47 enacting the Maine Revised Statutes, Title 5, section 947-A, subsection 1, paragraph D, shall take effect on July 1, 1987; Part A, only that portion of section 78 enacting the Maine Revised Statutes, Title 5, section 1875, subsection 1, paragraph C, shall take effect on July 1, 1987; Part B, only that portion of section 38 enacting the Maine Revised Statutes, Title 5, chapter 372, subchapter I, article I, shall take effect on July 1, 1987.

Effective July 1, 1986 unless otherwise indicated.

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**CHAPTER 786**

H.P. 1383 - L.D. 1952

**AN ACT to Provide for a Clean-up Program  
Concerning Natural Die-off of Fish in  
the Coastal Waters of the State.**

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

12 MRSA §6132 is enacted to read:

§6132. Natural Fish Die-off Clean-up Program

Upon the request of any affected municipality,  
the Department of Marine Resources shall assess the