

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

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

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Twin City Printery  
Lewiston, Maine  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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3. Reimbursement. Nothing in this chapter may limit the authority of the department to adjust the reimbursement due facilities for residents as stated in the departmental regulations governing reimbursement.

§7945. Incentives for high quality care

By January 1, 1989, the department shall establish programs to reward long-term care facilities that provide the highest quality care to residents, including, but not limited to, programs of public recognition.

§7946. Enforcement and appeal

1. Procedure. The department may impose any sanction in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, providing the long-term care facility the opportunity for an administrative hearing, or file a complaint with the Superior Court requesting the imposition of any sanction authorized by this chapter.

2. Collection of penalties; interest. Long-term care facilities that are fined pursuant to this chapter are required to pay the department the amount of the penalties. Penalties may be collected by the department by the offset of any reimbursement due the facility, or by any other method authorized by law. An appeal of the department's decision to penalize a long-term care facility shall stay the collection of any penalties. Interest will accrue on penalties that remain unpaid after any appeal period has passed at the rate described in Title 14, section 1602-A, subject to subsection 3.

3. Reduction or delay of penalties. The department may reduce the amount or delay the payment of a penalty when a facility is able to show that payment of the total amount due would result in inadequate funds to provide necessary services to residents. In making this determination, the department may consider, among other factors, the amount of any savings as calculated pursuant to the principles of reimbursement, overall profits or cash reserves and any extraordinary expenses experienced by the facility, as well as the necessity of providing an incentive to correct violations of this chapter.

4. Income from penalties. Any income from penalties shall be placed in a special revenue account and be used if needed and available when a receiver is appointed pursuant to section 7933, or for other costs associated with the protection of health or property of residents of long-term care facilities which are fined or sanctioned pursuant to this chapter.

5. No limitation on right of action. Nothing in this chapter may limit the right of a resident to bring an action arising out of events which constitute a violation of this chapter.

§7947. Rules

The department shall adopt rules for intermediate sanctions in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Effective August 4, 1988.

## CHAPTER 775

S.P. 946 — L.D. 2494

### AN ACT to Establish the Strategic Training for Accelerated Reemployment Program.

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

Whereas, the Strategic Training for Accelerated Reemployment Program is created to go into effect on January 1, 1988, and to begin training Maine residents on July 1, 1988; and

Whereas, employers are notified in March of their unemployment insurance contribution rate amounts which are due by April 30, 1988; and

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

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

Sec. 1. 26 MRSA §2011, as enacted by PL 1987, c. 466, §3, is amended to read:

#### §2011. Funds

All funds under this subchapter shall be distributed among the State's 2 Job Training Partnership Act service delivery areas. Funds will be allocated to the State's 2 private industry councils serving all counties. The Department of Labor shall distribute these funds to the private industry councils, in the 2 service delivery areas, on a county-based formula determined by the Department of Labor.

Sec. 2. 26 MRSA §2012, sub-§1, as enacted by PL 1987, c. 466, §3, is amended to read:

1. Submission of plan to Governor and Legislature. Each private industry council shall submit its annual plan to the Governor and to the Legislature according to the requirements of section 1004, "Job Training Plan" and section 105, "Review and Approval of Plan" of the United States Job Training Partnership Act, Public Law 97-300, before funds may be provided to the private industry council under this subchapter.

A. The Commissioner of Labor shall adopt rules to implement the provisions of this subchapter in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

B. The commissioner shall provide for public notice and comment with respect to the plan to be submitted to the Governor. The public notice and comment procedures shall be consistent with those procedures established in the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 3. 26 MRSA §2015-A is enacted to read:

§2015-A. Strategic Training for Accelerated Reemployment Program

1. Program title. The program established in this section shall be known and may be cited as "STAR."

2. Program goals. The purpose of this section is to establish an employment training program to provide unemployed or displaced workers with skills training and support which lead to jobs in stable and expanding industries, as well as support services so that individuals are able to take advantage of educational and training opportunities. A further purpose of the STAR program is to provide employers with trained workers by ensuring that the training provided is consistent with the needs of employers.

3. Administration. The Department of Labor shall administer the STAR program. The commissioner shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the STAR program.

4. Funding. STAR shall be funded by General Fund appropriations. Grant funds shall be distributed in the following manner.

A. During the first year of the STAR program, up to 14% of the funds may be used for grant administration. In the 2nd and subsequent years of the STAR program, up to 10% of the funds may be used for grant administration.

B. The Bureau of Employment and Training Programs shall reserve 5% of the funds for emergency programs to deal with plant closings, mass layoffs or other needs as designated by the commissioner.

C. Each county shall receive an annual allocation, 50% of which shall be based on the number of individuals unemployed during the calendar year preceding the program year and 50% of which shall be based on the unemployment rate during the calendar year preceding the program year.

D. No service delivery area may be allotted less than 90% of its allotment percentage for the preceding program year.

5. Participant eligibility. To be eligible to participate in the STAR program, an individual must not have received STAR services during the preceding 24-month period. In addition, an individual must:

A. Be unemployed and receiving unemployment compensation benefits at the time of application and have registered for the STAR program prior to the end of the 8th week of collecting unemployment compensation benefits, except that an individual may register after that time, if that individual reasonably expected to return to that person's prior employment or occupation or for other good cause as determined by rules adopted by the commissioner, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. An exception to the time limitation may be granted for good cause shown. The commissioner shall establish standards to determine good cause. The commissioner's decision is final agency action under Title 5, section 11002, for purposes of judicial review;

B. Have received notice of pending job displacement due to either a reduction in overall employment within a business or a substantial change, due to technological or other reasons, in the skills required of an ongoing job; or

C. Have received unemployment compensation benefits between January 1, 1988, and July 1, 1988, and register for the STAR program by August 31, 1988.

6. Participant certification. Participants in the STAR program shall be certified as follows.

A. Claimants shall receive both written and oral notice of the STAR program when they apply for unemployment compensation benefits. The notice shall explain the program's eligibility requirements, the importance of entering training early in a claimant's term of unemployment, the availability of unemployment compensation benefits to claimants in approved training and the availability of extended benefits for dislocated workers in approved training for up to 26 weeks. Interested individuals shall be referred to the Maine Job Service for a determination of eligibility and referral to testing and counseling centers.

B. Service providers under the United States Job Training Partnership Act, Public Law 97-300, shall provide assessment services to eligible STAR participants in accordance with annual contracts negotiated between the service delivery areas and the Bureau of Employment and Training Programs. These services shall include a review of previous employment, education and training. Academic and vocational testing may be provided, as well as occupational counseling.

C. At the end of the assessment process, an individual employment plan shall be developed for each participant based on the results of the assessment, the participant's occupational preference and the occupational opportunities available as determined under subsec-

tion 9, including opportunities in nontraditional occupations. Participants may choose among training opportunities provided under subsection 7, provided that that choice is appropriate for the occupation identified in their employability development plan. The plan shall identify the occupation selected and what additional training and education is necessary. If the occupation is one for which an apprenticeship program may be available, the State Apprenticeship and Training Council shall be notified, and shall determine what additional training or education may be necessary for indenturing in an apprentice program.

D. A STAR participant, who has been assessed and has received an individual employment plan, may be provided with a training voucher of up to \$3,000 under subsection 8. This voucher will enable STAR participants to enter into training for occupations approved under subsection 9, paragraph A, to be conducted by training agents certified pursuant to subsection 9, paragraph D. The STAR voucher is valid for 12 weeks for STAR participants to enter training initially, unless an extension for cause is approved by the United States Job Training Partnership Act service providers.

7. Training opportunities. The following training options are available to STAR participants provided that occupational and skill training takes place in occupations approved under subsection 9:

A. Training in skills found in a traditional occupation that is in general demand throughout an area of industry. The training shall be conducted in a classroom setting;

B. Individualized skill training for a person who is hired and trained by a private or public employer. The employer shall provide the training through a contractual arrangement which specifies the length of training and skills to be acquired. STAR shall reimburse the employer for up to 50% of the training costs incurred;

C. Customized occupational training in skills specific to an employer or group of employers. This training shall be developed around employment opportunities for which a demand is clearly demonstrated, for which opportunities exist for promotion or for which skills transferability is probable. Each participating employer must supply a formal commitment to hire the trained individuals upon completion of training. The employer shall participate in the design of the curriculum and the selection of the training. The employer shall pay 50% of the training costs and the STAR program shall pay the remaining 50%;

D. Employment competency training in preemployment skills. This component consists of structured activities designed to assess basic employment competency and to provide remedial training in such areas as job-seeking skills, interviewing and resume

writing. Employment competency training may only be used if it leads to vocational skills training;

E. Training in academic and learning skills. This component consists of training aimed at correcting deficiencies in language and in computational skills or providing needed credentials that are recognized by employers and the educational community. Educational training shall be structured to provide the individual with the prerequisite level of education of the occupation identified on the individual's STAR certification. The duration of educational training shall be determined by the needs of the individual claimant; and

F. Enrollment in one or a combination of training opportunities is limited to 52 weeks duration except under the following conditions:

(1) An employer guarantees placement and contributes a minimum of 50% of the training costs; or

(2) A participant contributes a minimum of 50% of the training costs. For purposes of this paragraph, any financial assistance received by a participant for educational purposes shall be counted towards that participant's contribution.

8. Training and supportive services. STAR participants are eligible to receive the following training and supportive services:

A. A training voucher of up to \$3,000 for the following activities:

(1) Tuition for education and training;

(2) Training materials or books necessary for participation in the training;

(3) Payment for dependent care costs, provided those costs do not exceed the prevailing regional rate for such care; and

(4) Travel payments according to the policies established by the United States Job Training Partnership Act service providers;

B. Provided the participant meets the eligibility requirements of sections 1192 and 1193, the participant is entitled to the continuation of unemployment compensation benefits while enrolled in STAR training until the individual's benefits are exhausted under employment security law; and

C. While a participant is collecting unemployment benefits or for the duration of the training program which does not exceed one year, an exception to the limitations set forth in paragraph A shall be granted for supportive services when additional funds for transportation and dependent care are necessary for the participant to complete the training specified in the individual employment plan and the participant is un-

able to purchase those services. The commissioner shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, to determine the requirements for these exceptions.

9. Employment and training review panel. Each private industry council established under the United States Job Training Partnership Act shall establish an employment and training review panel. Each private industry council shall appoint a chairman and membership to the panels which shall each consist of 9 members, including 3 representatives of business, 3 representatives of labor, one representative of economic development, one representative of community-based organizations and one representative of the general public. The panels shall:

A. Annually identify occupations that are stable or subject to growth in their areas and approve them for STAR program eligibility. Approved occupations must meet the performance standards under paragraph C. All occupations included in the department's most recent edition of the publication "Selected Occupational Information for Employment and Training Program Design" for the appropriate county or counties shall be approved occupations. In addition, occupations may be approved as follows:

- (1) The panel may approve occupations identified by the panel following an assessment of local economic factors; or
- (2) STAR participants may petition the panel to approve an occupation;

B. Review the curricula for classroom and customized vocational training in their areas for consistency with employers' needs;

C. Set performance standards in their areas, including placement of participants in jobs, wage levels at placement, retention of employment and career ladder options; and

D. Annually certify the demonstrated effectiveness of training agents in delivering training in their areas according to the performance standards established in this section. At the completion of training, these agents shall provide placement services to the STAR participants and shall report to the panel on placement status and the competency attained.

10. Appeal procedure. Appeals shall be as follows.

A. All determinations under this section shall be made promptly in writing. A claimant who is aggrieved by any decision or action made under this subchapter may appeal to the commissioner pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. This does not apply to subsection 5, paragraph A.

B. A determination is final 15 days after it is mailed or hand delivered, unless the claimant files an appeal. The 15-day appeal period may be extended up to 15 additional days if the claimant can show good cause. The commissioner shall establish standards to determine good cause.

C. A decision of the hearing officer designated by the commissioner is final agency action under Title 5, section 11002, for purposes of judicial review.

11. Monitoring, evaluation and annual report. The program shall be monitored as follows.

A. The Bureau of Employment and Training Programs shall monitor and evaluate the STAR program each year.

B. The Bureau of Employment and Training Programs shall prepare a report for the joint standing committee of the Legislature having jurisdiction over labor by May 1st of each year. This report shall include, but not be limited to:

- (1) A description of the training programs and services provided during the previous program year;
- (2) The results of the training, including the numbers of employees entering nontraditional occupations; and
- (3) A discussion of the training programs and services available in the coming program year based on information supplied by the service delivery areas.

12. Recommendations. The joint standing committee of the Legislature having jurisdiction over labor shall review the report by the Bureau of Employment and Training Programs and recommend to the Legislature by May 1, 1989, whether to continue the STAR program and if so, whether to continue funding the STAR program from the General Fund or through a separate assessment on employers who are liable for contributions to the Unemployment Trust Fund.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 26, 1988.

## CHAPTER 776

H.P. 1866 — L.D. 2551

AN ACT to Make Supplemental Appropriations for Expenditures of the Judicial Department and to Change Certain Provisions of the Law Necessary to the Operation of the Judicial Department for the Fiscal Years Ending June 30, 1988, and June 30, 1989.