

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

network operations, network planning and installation and plant management. All other funds primarily provide consulting services, interest and rentals related to central network restructuring and upgrade. Positions include: customer support section: one Telecommunication Service Coordinator; network operations section: one Network Supervisor, 2 Data Communications Specialists, and one Data Communications Technician; installation and plant section: one Network Manager, one Telecommunications Coordinator, and one Electrician Lineman; network planning section: one Network Planning Manager, 2 Senior Technical Support Specialists, and one Technical Support Specialist; and administrative unit: one Secretary.

Intergovernmental Telecommunications Fund

Positions	(10)	(10)
Personal Services	\$338,513	\$355,069
All Other	258,620	180,058
TOTAL	<u>\$597,133</u>	<u>\$535,127</u>

Authorizes funds for 10 positions to support the state network of some 100 deployed systems and to provide basic maintenance capability. All Other funds primarily reflect interest associated with the systematic replacement and upgrade of existing network components. Positions include: network operations section: one Computer Operation Specialist, and 2 Data Communications Specialists; installation and plant section: 4 Data Communications Technicians, and one Electrician Lineman; network planning section: one Senior Technical Support Specialist, and one Technical Support Specialist.

Intergovernmental Telecommunications Fund

All Other	(\$1,100,000)	(\$1,100,000)
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Deletes funds in section 4 no longer necessary for contracted network planning and maintenance upon approval of Personal Services and All Other in this section.

**DEPARTMENT OF ADMINISTRATION
TOTAL ALLOCATION**

<u>\$2,526,245</u>	<u>\$1,701,608</u>
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Sec. 6. Exclusion. Exclusive of the provisions of sections 4 and 5 of this Act, up to \$750,000 for Capital Expenditures may be expended in each fiscal year of the biennium, exclusive of capital items obtained through lease-purchases or other similar agreements consistent with the Maine Revised Statutes, Title 5, section 1587, and other applicable laws.

Sec. 7. Encumbered balance at year end. At the end of each fiscal year, all encumbered balances shall not be carried more than once.

Sec. 8. Report. The Deputy Commissioner of Administration shall report annually on or before January 15th to the joint standing committee having jurisdiction over appropriations and financial affairs. The report shall include, but not be limited to, the following:

1. A review of the total cost of telecommunications services for State Government;
2. A discussion of the implications of any regulatory changes on the cost of telecommunication services for State Government; and
3. An account of the savings in total telecommunication costs for State Government resulting from specific actions of the Office of Information Services, including the savings resulting from the supplemental allocations authorized in section 5 of this Act.

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

Effective June 6, 1989.

CHAPTER 238

H.P. 548 - L.D. 745

An Act to Clarify the Provisions of the Act to Protect Elderly, Infirm Persons from Improvident Transfers of Title to Property

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

Sec. 1. 33 MRSA §1021, sub-§6 is enacted to read:

6. Transfer. "Transfer" does not include testamentary transfers, which are outside the scope of this chapter.

Sec. 2. 33 MRSA §1023, sub-§§1 and 2, as enacted by PL 1987, c. 699, §1, are amended to read:

1. **Civil action.** A civil action may be brought to obtain relief under this chapter by an elderly dependent person or that person's legal representative.

2. **Relief available; protected transfers.** When a court finds that a transfer of property was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property, the court shall refuse to enforce the transfer.

No relief obtained or granted under this section may in any way affect or limit the ~~rights~~ right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

Sec. 3. 33 MRSA §1025 is enacted to read:

§1025. Title practices

This chapter does not require that language showing compliance with this chapter be included in a deed and does not require that evidence of compliance with this chapter be recorded in the registry of deeds. Any attempt to record such evidence is void and has no effect on title.

Sec. 4. **Application.** This Act applies only to transfers of property that occur on or after the effective date of this Act.

See title page for effective date.

CHAPTER 239

S.P. 299 - L.D. 797

An Act to Impose Civil Penalties for Intentional Violations of the Maine Unfair Trade Practices Act

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

5 MRSA §209, last ¶, as enacted by PL 1987, c. 307, §2, is amended to read:

In any action by the Attorney General brought against the defendant for violating the terms of an injunction issued under this section, the court may make such orders or judgments as may be necessary to restore to any persons who have suffered any ascertainable loss by reason of such conduct found to be in violation of an injunction, any money or property, real or personal, which may have been acquired by means of such conduct. Each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is either unfair or deceptive is a violation for which a civil penalty of not more than \$10,000 shall be adjudged. The Attorney General may seek to recover civil penalties for violations of section 207 which are intentional and are unfair or deceptive. The Attorney General in seeking civil penalties has the burden of proving that the conduct was intentional and was unfair or deceptive notwithstanding any other statute which declares a violation of that statute an unfair trade practice. These penalties shall be applied in the carrying out of this chapter.

See title page for effective date.

CHAPTER 240

H.P. 669 - L.D. 917

An Act to Require Periodic Reports on the Percentage of the Gasoline Tax That Is Due to Boating Use

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

Sec. 1. 36 MRSA §2903-A, as amended by PL 1987, c. 793, Pt. A, §10, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than 2.00% of the total "gasoline tax" revenue. Based on this legislative "finding of fact" there is set aside 2.00% of the total excise tax, not to exceed \$2,000,000, on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft. From this 2.00% allocation shall be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of 2.00% after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation activities by the department, and it is the responsibility of the Commissioner of