

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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

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J.S. McCarthy Company  
Augusta, Maine  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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**Whereas**, this decline will by current law require the Dislocated Worker Benefits Program to end January 2, 1993; and

**Whereas**, this would displace approximately 400 dislocated workers from retraining efforts; and

**Whereas**, this would be detrimental to those retraining efforts and would cause severe economic and personal hardship affecting hundreds of citizens in the State if this provision were not amended; 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 §1196, sub-§4**, as enacted by PL 1991, c. 472, §1, is amended to read:

**4. Suspension of provisions due to the reserve multiple.** This section; section 1043, subsection 5, paragraph B; and section 1191, subsection 4, paragraph A are not in effect if the reserve multiple determined under section 1221, subsection 4, paragraph C is .245 or below, and remain ineffective until the reserve multiple is determined to be above .245. This subsection is not in effect from January 1, 1993 to June 26, 1993.

**Sec. 2. Retroactivity.** This Act applies retroactively to January 1, 1993.

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

Effective January 29, 1993.

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## CHAPTER 4

### S.P. 68 - L.D. 129

#### An Act to Amend the Defense Finance and Accounting Service Financial Assistance Laws

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

**Sec. 1. 30-A MRSA §5271, sub-§10**, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended by amending the first paragraph to read:

**10. Project costs.** "Project costs" means any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by a

municipality that are listed in a DFAS development program as costs of improvements, including public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to, or use by, commercial or industrial users, or the United States Government or any agency or instrumentality of the United States Government, within a DFAS project area, plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than DFAS revenues, received or reasonably expected to be received by the municipality in connection with the implementation of this plan.

**Sec. 2. 30-A MRSA §5272, sub-§4**, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**4. Assistance.** The DFAS financial assistance program provides for a municipality to receive a portion of the increased sales and personal income taxes generated as a result of implementing the DFAS development program to pay for the cost of implementing the program. In addition, the DFAS financial assistance program vests a municipality with the same authority as is set forth in section 5275, subsection 4.

**Sec. 3. 30-A §5272, sub-§6**, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**6. Cap on DFAS revenues.** The maximum amount of DFAS revenues available to a municipality may not exceed the amount necessary to finance costs specified in the municipality's response on or before ~~June 1, 1992~~ January 4, 1993 to the Defense Finance and Accounting Service's Opportunity for Economic Growth announcement issued March 2, 1992.

**Sec. 4. 30-A MRSA §5272, sub-§7**, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**7. Calculation of DFAS revenues.** Annually, the State Tax Assessor shall determine the DFAS revenues generated from the implementation of the DFAS development program, based upon the method set forth in section 5272, subsection 10, and on or before April 15th, forward a statement of the amount of DFAS revenues to be received by the municipality to the Commissioner of Administrative and Financial Services.

**Sec. 5. 30-A MRSA §5272, sub-§8**, as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**8. DFAS program fund.** To manage properly the DFAS revenues received pursuant to subsection 5, the municipality:

A. Shall establish a DFAS program fund that consists of the following:

(1) A development sinking fund account that is pledged to and charged with the payment of the interest, premium, if any, and principal as the interest, premium, if any, and principal fall due, and the necessary charges of paying interest on, principal of and redemption price of any notes, bonds or other evidences of indebtedness that were issued to fund or refund the cost of the DFAS program fund project costs; and

(2) A project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and are paid in a manner other than described in subparagraph (1);

B. Shall annually set aside all DFAS revenues payable paid to the municipality for public purposes and deposit all those revenues to the appropriate DFAS program fund account in the following priority:

(1) To the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on that amount, to satisfy all annual debt service on interest on, premium, if any, and principal of any and all bonds and notes issued to implement the DFAS development program due within the 12 months following the date of receipt of such funds; and

(2) To the project cost account, an amount sufficient, together with the estimated future revenues to be deposited to the account and earnings on that amount, to satisfy all annual project costs to be paid from the account;

C. May make transfers between DFAS program fund accounts as required in paragraphs A and B, as long as the transfers do not result in a balance in the development sinking fund account that is insufficient to cover pay the annual obligations of that account as and when due; and

D. Shall annually return to the State's General Fund any DFAS revenues in excess of those estimated to be required to satisfy the obligations of the DFAS program fund.

**Sec. 6. 30-A MRSA §5272, sub-§10,** as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**10. Program administration.** The commissioner shall administer the DFAS financial assistance program ~~and shall adopt rules pursuant to the Maine Administra-~~

~~tive Procedure Act for implementation of that program.~~ The State Tax Assessor shall establish the method for determining DFAS revenues as part of the program; ~~subject to section 5273, subsection 5, paragraph D.~~ That method must provide for calculation of revenues as a factor or percentage of wages paid to persons employed within the DFAS project area, based on the State Tax Assessor's determination of the relationship between those wages and the State's income tax revenue and sales tax revenue.

**Sec. 7. 30-A MRSA §5273, sub-§1, ¶L,** as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

L. The duration of the program, which may not exceed ~~30~~ 33 years from the date of designation of the project area.

**Sec. 8. 30-A MRSA §5273, sub-§2,** as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**2. Local approval.** Before adopting a DFAS development program, the municipal legislative body or the municipal legislative body's designee shall hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation within the municipality.

If the municipality has a charter, the same local approval as is required for the issuance of general obligation debt must be obtained in accordance with the provisions of the charter. Once approved, the DFAS development program may be altered or amended only after meeting the requirements for adoption under this subsection.

**Sec. 9. 30-A MRSA §5273, sub-§5, ¶D,** as enacted by PL 1991, c. 886, §1 and affected by §2, is repealed.

**Sec. 10. 30-A MRSA §5273, sub-§5, ¶E** is enacted to read:

E. The applicant municipality has successfully negotiated an agreement with the Federal Government that insures a revenue stream sufficient to retire the debt incurred in implementing the DFAS development program. Forms that this agreement may take include, but are not limited to, the following:

(1) A lease arrangement from the date of initiation of a DFAS operation. The annual lease payment must be sufficient to cover annual development program costs and be adjusted annually for changes in an indicator of economic performance such as the federal "Consumer Price Index-Urban." The lease must provide that the payment will be

waived for any year in which DFAS or other federal employment in the DFAS project area averages 3,500 full-time equivalent positions. These positions must be new jobs within the region in which the DFAS facility is located and be compensated on a salary structure that meets or exceeds that of the proposed DFAS employees. The lease must provide that, in years in which the number of full-time equivalent positions falls below 3,500, a varied percentage of lease payments will be made as follows:

| <u>EMPLOYMENT LEVEL</u> | <u>PERCENTAGE OF ANNUAL LEASE PAYMENT</u> |
|-------------------------|---|
| 3,000 to 3,499          | 25%                                       |
| 2,500 to 2,999          | 50%                                       |
| 2,000 to 2,499          | 75%                                       |
| Below 2,000             | 100%                                      |

(2) A credit enhancement arrangement on the part of the Federal Government. A credit enhancement may be a letter of credit, a performance bond, pledges of assets or securities or a guarantee of the project's debt from an appropriate federal agency such as the Small Business Administration, the Farmers Home Administration or other agency that is authorized to guarantee debt repayment, or another arrangement determined acceptable by the commissioner; or

(3) Any other form of assurance that revenues will be available for the repayment of the debt incurred in implementing the DFAS development program, either in lump sum or payments applied over time, should the facility close or employment levels fall below an acceptable level.

**Sec. 11. 30-A MRSA §5273, sub-§6,** as enacted by PL 1991, c. 886, §1 and affected by §2, is amended to read:

**6. Certificate of approval.** Upon approval of the DFAS development program, the commissioner shall issue a certificate of approval. For a period of 30 days following the issuance of the certificate of approval, any interested or aggrieved parties have the right to challenge or appeal the issuance of the certificate of approval, or any infirmities in connection with the application for, or proceedings relating to the issuance of the certificate of approval. After the expiration of the 30-day period, the issuance of the certificate of approval and the results of all proceedings relating to it are final, binding and unappealable, and no party has any right to appeal, challenge or otherwise seek judicial or administrative review

of the issuance of the certificate of approval or seek to obtain any injunctive or declaratory relief with respect to it.

See title page for effective date.

**CHAPTER 5**

**S.P. 154 - L.D. 485**

**An Act to Make Supplemental Appropriations in Fiscal Year 1992-93 for the Purpose of Meeting Certain State Payrolls**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses will become due and payable on or before June 30, 1993; 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. Supplemental appropriations from General Fund.** There are appropriated from the General Fund for the fiscal year ending June 30, 1993, to the department listed, the following sums.

**1992-93**

**MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF**

**Augusta Mental Health Institute**

Personal Services \$120,000

Provides for the appropriation of funds, when used in conjunction with available resources, to cover the February 17, 1993 payroll due to the delays in closing nursing home wards.

**Bangor Mental Health Institute**

Personal Services \$110,000