

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

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THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

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J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

move by cutting trees located within the public right-of-way of a public way and may trim or cut portions of trees encroaching upon the public right-of-way when necessary to ensure safe and reliable service if:

1. Notice to applicable licensing authority. Notice is provided by the utility to the applicable licensing authority, as defined in section 2502, at least 30 days before the trimming, cutting or removal of trees;

2. Consultation with applicable licensing authority. Upon request of the applicable licensing authority, the utility consults with the applicable licensing authority before the trimming, cutting or removal of trees. Notice must be sent to each municipality in which trimming, cutting or removal of trees is to be conducted and the utility shall consult with the applicable municipal licensing authority or, if none, the municipal officers before commencing operations. The municipal licensing authority or, if none, the municipal officers may elect to hold a public hearing on the utility's proposal and, if so, the utility may not commence operations until after the public hearing has been held;

3. Public notice. Public notice is placed in at least 2 newspapers with circulation in the area where trimming, cutting or removal of trees is scheduled to occur at least 30 days before the trimming, cutting or removal of those trees. The notice must state that customers may request to be placed on the list, required under subsection 4, of persons who have requested to be personally consulted before the trimming, cutting or removal of trees;

4. Customer notice list. Before the trimming, cutting or removal of trees, the utility confers with any person who requests personal consultation concerning the trimming, cutting or removal of trees on property in which the person has a legal interest. The utility shall keep a list of persons who have requested personal consultation under this subsection. The utility shall notify annually, in the form of a bill insert, all of the utility's customers of the opportunity to be on the list required under this subsection; and

5. Shade and ornamental trees. Before removing a shade or ornamental tree, the utility consults with the owner of the land upon which the tree is located. For purposes of this subsection, "owner" includes a person who owns the underlying fee interest in land encumbered with a public easement.

This section does not apply to trimming, cutting or removal of trees undertaken in emergency situations.

See title page for effective date.

CHAPTER 400

H.P. 1141 - L.D. 1541

An Act Authorizing a Referendum to Ratify the Texas Low-Level Radioactive Waste Disposal Compact with Maine and Vermont and Approving the Compact's Terms

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

Whereas, the Governor has negotiated an interstate compact agreement with the states of Texas and Vermont for the disposal of low-level radioactive waste generated in this State over a 30-year period at a proposed disposal facility in West Texas; and

Whereas, existing law requires legislative ratification of any compact or agreement with any other state or states for low-level radioactive waste disposal; and

Whereas, the Secretary of State must undertake the preparation of ballots prior to the 90th day following adjournment of the First Regular Session of the 116th Legislature; and

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

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

Sec. 1. 38 MRSA §1494, as amended by PL 1987, c. 769, Pt. B, §10, is further amended to read:

§1494. Low-level radioactive waste compact referendum

The State of Maine ~~shall~~ may not enter into any compact or agreement with any other state or states or with the Federal Government concerning the disposal or storage of low-level radioactive waste either within or without the State unless the compact or agreement has been approved by a majority of the voters voting ~~thereon~~ on the compact or agreement in a statewide election. ~~Such~~ The election shall ~~must~~ be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures ~~set forth under in~~ Title 35-A, section 4302. The voters shall ~~be asked to~~ vote on the acceptance or rejection of the compact or agreement by voting on the following question:

"Do you approve of the (insert compact or agreement) to be made with (insert name of state or states or "the Federal Government") for the (insert disposal or stor-

age) of the State's low-level radioactive waste ~~proposed to be made with (insert name of state or states or "the Federal Government")~~ at a proposed facility in (insert name of state or other location)?"

This question ~~shall~~ must be submitted to the legal voters of the State at the next following statewide election after any such compact or agreement is recommended by the Governor pursuant to section 1474 or any other provision of law.

Sec. 2. 38 MRSA c. 14-B, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

§1517. Policy and findings

The Legislature declares and finds that there are numerous facilities in the State that generate low-level radioactive waste for commercial, research, medical, educational and defense purposes and that these facilities currently do not have access to a commercial low-level radioactive waste disposal facility. The Legislature further finds that loss of disposal capacity will present economic, environmental and public health and safety risks when existing generators of low-level radioactive waste exhaust on-site storage capacity. It is the purpose of this subchapter to:

1. Comply with federal law. Comply with the federal Low-Level Radioactive Waste Policy Amendments Act of 1985, authorizing states to combine in the formation of an interstate compact to provide for the disposal of low-level radioactive waste generated within their borders;

2. Comply with legislative intent. Fulfill the intent of section 1474;

3. Enact an interstate compact. Enact an interstate compact for the disposal of all low-level radioactive waste generated in the State that is not a federal responsibility under the federal Low-Level Radioactive Waste Policy Amendments Act of 1985; and

4. Ensure equitable funding. Ensure that the funding of the compact enacted by this Act is borne by the generators of this waste.

§1518. Member of commission

The Governor shall appoint a person to represent the State on the commission established by Article III of the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The Governor may appoint an alternate for the commission member appointed under this section.

§1519. Term of commission member

The commission member serves for a term of 6 years and until a successor is appointed and qualified. If there is a vacancy in the commission member's office, the Governor shall appoint a replacement to fill the unexpired term.

§1520. Compensation of commission member

The commission member is entitled to compensation at the rate established for legislative per diem in Title 5, section 12002 and for reimbursement for actual and necessary expenses incurred in the performance of the commission member's duties. If a state employee is appointed as a commission member, that state employee is not entitled to the legislative per diem.

§1520-A. Assessment for compact costs

The Maine Low-level Radioactive Waste Authority, as established by this chapter, shall assess any nuclear plant within the State for the full costs of membership and participation in the Texas Low-Level Radioactive Waste Disposal Compact, subject to the provisions of Articles IV and V of that agreement. The assessments charged to the nuclear power plant and passed on through wholesale rates to retail utilities are deemed just and reasonable operating costs for retail utilities in this State and may be deferred for recovery in future rate proceedings, except that refunds received by the nuclear power plant under subsection 6 must be credited against costs recoverable under this paragraph. Assessments billed pursuant to this section must be forwarded to the Texas Low-Level Radioactive Waste Disposal Authority.

1. Initial assessments. The Maine Low-level Radioactive Waste Authority shall bill an initial assessment in the amount of \$12,500,000 within 30 days following ratification of the compact agreement by the Congress of the United States. The amount assessed must be paid within 15 days of assessment.

The Maine Low-level Radioactive Waste Authority shall bill a 2nd assessment in the amount of \$12,500,000 within 30 days following the date of the opening of the compact facility in Texas. The amount assessed must be paid within 15 days of assessment.

2. Host county assessments. The Maine Low-level Radioactive Waste Authority shall bill an initial host county assessment in accordance with section 4.05, subsection (5) of the compact in the amount of \$1,250,000 no later than 3 working days following ratification of the compact agreement by the Congress of the United States. The amount assessed must be paid within 10 days of assessment.

The Maine Low-level Radioactive Waste Authority shall bill a 2nd host county assessment in the amount of \$1,250,000 no later than 3 working days following the

approval of a facility operating license by the Texas Water Commission.

3. Pro rata shares of compact commission's operating budget. On an annual basis or on any other schedule established by the Texas Low-Level Radioactive Waste Disposal Compact Commission, the State's share of the administrative, legal and other expenses budgeted for the operation of the compact commission must be assessed by the Maine Low-level Radioactive Waste Authority. Amounts assessed under this section must be paid within 30 days of assessment.

4. Limitation. Any payment under the compact established by this Act must be paid from funds available as a result of assessments levied pursuant to this section. In the event that sufficient funds are not available from those assessments, payments may not be made for this purpose from the General Fund or any other state account without specific legislative approval. A fee may not be charged for an indirect cost rate or as a handling charge by any agency of the State during the time that the funds are in the possession of the Maine Low-level Radioactive Waste Authority.

5. Alternative payment schedule. In accordance with section 5.02 of the compact agreement and if so designated by the Texas Low-Level Radioactive Waste Disposal Compact Commission, the schedule for assessments by the Maine Low-level Radioactive Waste Authority to be forwarded to the Texas Low-Level Radioactive Waste Disposal Authority under subsection 1 must be revised to conform to the payment schedule for the repayment of debt incurred for the construction of the Texas disposal facility. An amount may not be assessed pursuant to this subsection on less than 30 days notice and a payment may not be required in less than 15 days from the date of assessment.

6. Surcharge. Beginning on June 30 of the first year following commencement of operations at the compact facility, the Maine Low-level Radioactive Waste Authority shall assess a surcharge for waste disposed of by any generator who has not been assessed for compact cost pursuant to subsections 1 and 2. The surcharge must be refunded to any generator who was assessed and made payments pursuant to subsections 1 and 2. The surcharge must be assessed based on a 30-year facility life and be based on the amount of waste disposed of at the compact facility in the previous calendar year. The Maine Low-level Radioactive Waste Authority shall adopt rules to govern the calculation of the surcharge so that each generator is assessed pro rata shares of the cost of the assessment under subsections 1 and 2.

§1520-B. Unspent balances

If the Maine Low-level Radioactive Waste Authority retains in its Low-level Radioactive Waste Facility Fund an unspent balance of assessments previously paid

by any nuclear plant within the State, the unspent balance must be used in order to reduce, offset or eliminate any portion of the costs assessed under section 1520-A, subsection 1, 2 or 3, except that this section does not apply to the assessment and disbursement of administrative costs under section 1534-A.

§1520-C. Nondiscrimination in access

A generator of low-level radioactive waste in this State that existed on the effective date of this subchapter, including any nuclear plant, may not be discriminated against with respect to access to disposal capacity at the compact facility.

Sec. 3. Texas Low-Level Radioactive Waste Disposal Compact ratified. The Legislature ratifies, endorses and recommends for approval by a majority of the voters in accordance with the Maine Revised Statutes, Title 38, section 1494, the Texas Low-Level Radioactive Waste Disposal Compact to provide access to facilities in the State of Texas for the disposal of all low-level radioactive waste generated in this State over a 30-year period.

Sec. 4. Text of Texas Low-Level Radioactive Waste Disposal Compact. The text of the Texas Low-Level Radioactive Waste Disposal Compact, referred to in the Maine Revised Statutes, Title 38, section 1520-A is as follows.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

ARTICLE I. POLICY AND PURPOSE

Sec. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

ARTICLE II. DEFINITIONS

Sec. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Act" means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b-2021j).

(2) "Commission" means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

(3) "Compact facility" or "facility" means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

(4) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

(5) "Generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(6) "Generator" means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

(7) "Host county" means a county in the host state in which a disposal facility is located or is being developed.

(8) "Host state" means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

(9) "Institutional control period" means that period of time following closure of the facility and transfer of the facility license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

(10) "Low-Level radioactive waste" has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. Sec. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

(11) "Management" means collection, consolidation, storage, packaging, or treatment.

(12) "Operator" means a person who operates a disposal facility.

(13) "Party state" means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

(14) "Person" means an individual, corporation, partnership or other legal entity, whether public or private.

(15) "Transporter" means a person who transports low-level radioactive waste.

ARTICLE III. THE COMMISSION

Sec. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

Sec. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

Sec. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

Sec. 3.04. The commission shall:

(1) Compensate its members according to the host state's law.

(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

(3) Be located in the capital city of the host state.

(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.

(7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995-2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

Sec. 3.05. The commission may:

(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing em-

ployees of the party states. Compensation shall be as determined by the commission.

(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

Sec. 6.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND
OBLIGATIONS OF PARTY STATES

Sec. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

Sec. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

Sec. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

Sec. 4.04. The host state shall do the following:

(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide a written explanation to the commission of the closure, and implement any adopted contingency plan.

(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the commission.

(5) Submit an annual report to the commission on the status of the facility, including projections of

the facility's anticipated future capacity, and on the related funds.

(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and commission vote, at noncompact facilities.

(7) Promptly notify the other party states of any legal action involving the facility.

(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

Sec. 4.05. Each party state shall do the following:

(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

(4) Provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state's regulatory body.

(6) Provide financial support for the commission's activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for annual payments

equalling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

(8) Provide on a regular basis to the commission and host state:

(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

(B) proposed transportation methods and routes; and

(C) proposed shipment schedules.

(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

Sec. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

ARTICLE V. PARTY STATE CONTRIBUTIONS

Sec. 5.01. Each party state, except the host state, shall contribute a total of \$25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state \$12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional \$12.5 million.

Sec. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-

closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

ARTICLE VI. PROHIBITED ACTS AND PENALTIES

Sec. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

Sec. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Part 20.302.

Sec. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL CONSENT; WITHDRAWAL; EXCLUSION

Sec. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

Sec. 7.02. Upon compliance with the other provisions of this compact, a state made eligible under Section 7.01 of this article may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to

be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

Sec. 7.03. Any party state may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the non-host party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission.

Sec. 7.04. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party states may continue to use the facility during that time. The financial obligation of the non-host party states under Article V shall cease immediately upon enactment of the repealing legislation. If the host state withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party state payment under Sections 4.05(5) and (6) of Article IV or Article V, the non-host party states are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the non-host party states if the host state withdraws from the compact or is unable to develop and operate a compact facility.

Sec. 7.05. A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party state will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

Sec. 7.06. Any party state that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), except that a party state may appeal the commission's revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such party state receives written notice from the commission of a final action. Written notice of revoca-

tion shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party state, all other governors of party states, and to the United States Congress.

Sec. 7.07. This compact shall take effect following its enactment under the laws of the host state and any other party state and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying state, and this compact shall be interpreted as follows:

(1) Texas and the other ratifying state are the initial party states.

(2) The commission shall consist of two voting members from the other ratifying state and six from Texas.

(3) Each party state is responsible for its pro-rata share of the commission's expenses.

Sec. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of congress every five years after its effective date, pursuant to federal law.

Sec. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-host party states.

ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

Sec. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

Sec. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

Sec. 8.03. No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party state shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and

operators of facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by congress of its terms, no party state acquires a potential liability under Section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

Sec. 8.04. If a party state withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to Section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under Section 8.03 of this article.

Sec. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) the United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.); or

(2) an agreement state under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

Sec. 39.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environment hazards from source, by-product, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.

Sec. 5. Transition; activities of authority. The following transition provisions are established for the Maine Low-level Radioactive Waste Authority.

1. Within 90 days after the effective date of this Act and until the date of the statewide voter referendum held pursuant to this Act, the Maine Low-level Radioactive Waste Authority shall suspend all activities for locating a centralized storage or disposal facility in this State. Notwithstanding the previous sentence, during the period of time prior to the statewide voter referendum, the authority shall develop data storage archives.

2. If the voter referendum does not ratify this Act, the siting activities and any other functions of the Maine Low-level Radioactive Waste Authority that have been suspended must be resumed by the authority.

3. If the statewide voter referendum ratifies this Act, then the Maine Low-level Radioactive Waste Authority may address, in compliance with the Maine Revised Statutes, Title 38, chapter 14-B and only to the extent necessary, issues pertaining to the management and interim storage of low-level radioactive waste in this State during the multi-year period prior to the date that the Texas facility commences operations. If the statewide voter referendum ratifies this Act, the State Planning Office shall report to the Joint Standing Committee on Energy and Natural Resources by February 1, 1994 with recommendations for the efficient management of low-level radioactive waste in this State during the multi-year period prior to the date that the Texas low-level radioactive waste storage facility commences operations and for the most appropriate and efficient means to carry out the requirements of the interstate compact.

4. Within 30 days of ratification of this Act by voter referendum, the Maine Low-level Radioactive Waste Authority may not incur any additional expenses from the Low-level Radioactive Waste Facility Fund, except for expenses pursuant to Title 38, section 1534-A.

Sec. 6. Statutory referendum procedure; submission at statewide election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine pursuant to the Maine Revised Statutes, Title 38, section 1494 at a statewide election to be held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

“Do you approve of the interstate compact to be made with Texas, Maine and Vermont for the disposal of the State’s low-level radioactive waste at a proposed facility in the State of Texas?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the word “Yes” or “No.” The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the Act, the Governor shall proclaim that fact without delay, and the Act takes effect 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

Sec. 7. Payment for referendum costs. Notwithstanding any provision of law, the Maine Low-level Radioactive Waste Authority must transfer \$95,000 from the assessment authorized pursuant to the Maine Revised Statutes, Title 38, section 1535 to the Department of the Secretary of State for the referendum costs associated with this Act.

Sec. 8. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1993-94

**SECRETARY OF STATE,
DEPARTMENT OF THE**

Elections and Commissions

All Other	\$95,000
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Provides for the allocation of funds for the referendum costs associated with this Act.

Emergency clause. In view of the emergency cited in the preamble, sections 3, 4, 5 and 6 of this Act take effect when approved. Section 2 of this Act takes effect 30 days after the Governor proclaims that a majority of the legal voters have voted in favor of the contract.

Effective June 21, 1993, unless otherwise indicated.

CHAPTER 401

H.P. 1154 - L.D. 1553

An Act to Expand the Duties of the Judicial Council to Include Implementing the Recommendations of the Commission to Study the Future of Maine’s Courts and to Implement Certain Other Recommendations of the Commission

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

Whereas, the recommendations of the Commission to Study the Future of Maine’s Courts are comprehensive and include incremental changes over a long period of time, necessitating a group interested in putting into place the recommendations to ensure that the changes are implemented; and

Whereas, the Judicial Council is the appropriate body, when augmented by persons who were involved in the commission’s efforts, to oversee the implementation of the recommendations; and

Whereas, the Commission to Study the Future of Maine’s Courts goes out of existence this year, and no other entity has the statutory mandate to continue the work; 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. 4 MRSA §451, as amended by PL 1989, c. 891, Pt. A, §8, is further amended to read:

§451. Establishment

A Judicial Council, as established by Title 5, section 12004-I, subsection 51, shall make a continuous study of the organization, rules and methods of procedure and practice of the judicial system of the State, the work accomplished and the results produced by that system and its various parts. The council is charged with the responsibility to monitor, adapt as necessary and work to implement the recommendations of the Commission to Study the Future of Maine’s Courts. The council must be composed of the Chief Justice of the Supreme Judicial Court, who shall also serve as chair, the Attorney General, the Chief Justice of the Superior Court, the Chief Judge of the District Court, the chairs of the joint standing committee of the Legislature having jurisdic-