

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
1993

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

Effective April 15, 1994, unless otherwise indicated.

CHAPTER 708

H.P. 1431 - L.D. 1956

An Act to Revise the Laws of Maine to Incorporate the Office of Rehabilitation Services within the Department of Education

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

Whereas, certain obligations and expenses will become due and payable on or before July 1, 1994; and

Whereas, it is essential that services to people who are clients of the Office of Rehabilitation Services continue uninterrupted; and

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

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

PART A

Sec. A-1. 20-A MRSA c. 701 is enacted to read:

CHAPTER 701

REHABILITATION ACT

§18001. Short title

This chapter may be known and cited as the "Rehabilitation Act."

§18002. Definitions

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

1. Community rehabilitation program. "Community rehabilitation program" means a facility

operated for the primary purpose of providing rehabilitation services to or gainful employment for people with disabilities, or evaluation and vocational services for disadvantaged individuals, that provides one or more of the following services for people with disabilities:

A. Comprehensive rehabilitation services, which must include under one management medical, psychological, social and vocational services;

B. Testing, fitting or training in the use of prosthetic or orthotic devices;

C. Prevocational conditioning or recreational therapy;

D. Physical and occupational therapy;

E. Speech and hearing therapy;

F. Psychological and social services;

G. Vocational evaluation;

H. Personal and work adjustment;

I. Vocational training, in combination with other rehabilitation services;

J. Placement;

K. Transitional and supported employment; and

L. Extended employment for people with severe disabilities who can not be readily absorbed in the competitive labor market.

2. Disadvantaged individuals. "Disadvantaged individuals" means:

A. Persons with disabilities as defined in this section;

B. Individuals disadvantaged by reason of youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records or other conditions; and

C. Other members of their families when the provision of rehabilitation services to family members is necessary for the rehabilitation of individuals described in paragraph A or B.

3. Evaluation and vocational services. "Evaluation and vocational services" includes, as appropriate in each case, such services as:

A. A preliminary diagnostic study to determine that the individual is disadvantaged or has a disability-related barrier to employment and that services are needed;

B. A diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social and environmental factors that bear on the individual's barrier to employment and rehabilitation potential, including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities and other pertinent data helpful in determining the nature and scope of services needed;

C. Services to appraise the individual's patterns of work behavior and ability to acquire occupational skills and to develop work attitudes, work habits, work tolerances and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

D. Any other goods or services provided to a disadvantaged individual that are determined in accordance with federal regulations to be necessary for, and are provided for the purpose of, ascertaining the nature of the barrier to employment and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services or other services available to disadvantaged individuals;

E. Outreach, referral and advocacy; and

F. The administration of these evaluation and vocational services.

4. Gainful employment. "Gainful employment" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking; farm or family work, including work for which payment is in kind rather than in cash; supported employment; sheltered employment; and home industries or other gainful homebound work.

5. Person with disability. "Person with a disability" means an individual who has a physical or mental disability that constitutes a substantial barrier to employment but is of such a nature that vocational rehabilitation services may reasonably be expected to render the individual fit to engage in gainful employment that is consistent with the individual's capacities and abilities. "Person with a disability" also means an individual who has a physical or mental disability that constitutes a substantial barrier to employment and for whom vocational rehabilitation services are necessary to determine rehabilitation potential. An individual who is under a physical or

mental disability means an individual who has a physical or mental condition that materially limits, contributes to limiting or, if not corrected, results in limiting that individual's activities or functions.

6. Rehabilitation services. "Rehabilitation services," which may be provided directly or through public or private resources, means goods and services necessary to assist a person with a disability to engage in a gainful occupation or to determine the individual's rehabilitation potential, including but not limited to vocational rehabilitation services. Vocational rehabilitation services to people with disabilities must include:

A. Evaluation, including diagnostic and related services, incidental to the determination of eligibility for and the nature and scope of services to be provided;

B. Counseling, guidance and placement services for people with disabilities, including follow-up services to assist those individuals to maintain employment;

C. Training services for people with disabilities, which must include personal and vocational adjustment, on-the-job training and books and other training materials;

D. Interpreting and other specific services necessary to meet the unique needs of those persons who are deaf or who have impaired hearing. These services must include the aid of qualified personnel and interpreters who can relate to and communicate on an effective and meaningful basis with persons who are deaf or have impaired hearing;

E. Recruitment and training services for people with disabilities to provide them with suitable employment opportunities;

F. Physical restoration services, including but not limited to:

(1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and constitutes a substantial barrier to employment but is of such a nature that correction or modification may reasonably be expected to eliminate or substantially reduce the barrier within a reasonable length of time;

(2) Necessary hospitalization in connection with surgery or treatment;

(3) Prosthetic and orthotic devices; and

(4) Eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist;

G. Maintenance as necessary during rehabilitation, as established by the rules of the department;

H. Occupational licenses, tools, equipment and initial stocks and supplies;

I. In the case of a small business operated by people with severe disabilities, the operation of which can be improved by management services and supervision provided by the department, the provision of those services and that supervision, alone or together with the acquisition by the department of vending stands or other equipment and initial stocks and supplies;

J. The construction or establishment, in accordance with federal regulations, of public or other nonprofit community rehabilitation programs and the provision of other facilities and services that may contribute substantially to the rehabilitation of a group of individuals but are not related directly to the rehabilitation plan of any one person with a disability;

K. Transportation in connection with the rendering of any other rehabilitation service;

L. Any other goods and services necessary to render a person with a disability employable; and

M. Services to the families of people with disabilities when the services will contribute substantially to the rehabilitation of the individuals.

§18003. Rehabilitation services unit created

There is created within the department a functional unit of rehabilitation services, which is equal in administrative level and status with the other major administrative units within the department.

§18004. Authority

The department is designated and established as the sole state agency to provide rehabilitation services, including but not limited to vocational rehabilitation services, and to provide evaluation and vocational services for purposes of the Federal Rehabilitation Act and acts amendatory and additional to the Federal Rehabilitation Act. The commissioner shall make those rules that the commissioner finds necessary and appropriate for the administration of a program of rehabilitation services and shall organize such a program within the depart-

ment in a manner that is consistent with existing federal and state laws, rules and regulations.

§18005. Powers and duties of department

In carrying out this chapter, the commissioner:

1. Cooperates with other departments. Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the rehabilitation of people with disabilities and the evaluation and vocational services of disadvantaged individuals, in studying the problems involved and in establishing, developing and providing, in conformity with the purposes of this chapter, programs, facilities and services necessary or desirable;

2. Reciprocal agreements with other states. May enter into reciprocal agreements with other states to provide for the rehabilitation of people with disabilities and disadvantaged individuals who are residents of the states concerned;

3. Community rehabilitation programs. May establish, construct and operate community rehabilitation programs and make grants to public or other nonprofit organizations for those purposes;

4. Vending stands and other businesses. May supervise the operation of vending stands and other small businesses established pursuant to this chapter to be conducted by people with severe disabilities;

5. Research fellowships and traineeships. May make studies, investigations, demonstrations and reports and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships, with stipends and allowances as may be determined necessary, in matters relating to rehabilitation;

6. Joint project. May share funding and administrative responsibility with another state agency in order to carry out a joint project to provide services to people with disabilities;

7. Joint undertakings. May enter into joint undertakings with public and private agencies to further the effectiveness of services for disadvantaged individuals;

8. Eligibility and priority. Shall determine the eligibility of individuals for rehabilitation services or evaluation and vocational services and the priority for those services in accordance with rules established by the department; and

9. Transitional services coordination projects. Shall participate in the coordination of rehabilitation services with local transitional services coordination projects for youth with disabilities, as

established in chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

§18006. Acceptance of federal provisions

The department shall cooperate with the Federal Government in carrying out the purposes of federal statutes pertaining to vocational rehabilitation and is authorized to adopt methods of administration found by the Federal Government to be necessary for the proper and efficient operation of agreements or other conditions as may be necessary to secure the full benefits of the federal statutes to the State and its residents.

The department is authorized, subject to the approval of the Governor, to:

1. Apply for assistance. Apply for federal assistance under the Federal Rehabilitation Act, and acts amendatory and additional to the Federal Rehabilitation Act, and to comply with conditions, not inconsistent with this chapter, that may be required for such assistance; and

2. Perform for Federal Government. Perform functions and services for the Federal Government in addition to those provided for in this section.

§18007. Receipt and disbursement of funds

The Treasurer of State is the appropriate officer of the State to receive and administer federal grants for rehabilitation programs, as contemplated by the Federal Rehabilitation Act and acts amendatory and additional to the Federal Rehabilitation Act, and the State Controller shall authorize expenditures as approved by the department.

§18008. Gifts

The commissioner, with the approval of the Governor, may accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under conditions that in the judgment of the department are proper and consistent with this chapter may be accepted, with the approval of the Governor, and must be held, invested, reinvested and used in accordance with the conditions of the gift. All money received as gifts or donations must be deposited in the State Treasury and constitutes a permanent fund to be called the Special Fund for Rehabilitation of People with Disabilities, to be used by the department to defray the expenses of rehabilitation in special cases, as determined by the commissioner, including the payment of necessary expenses of persons undergoing training.

§18009. Maintenance not assignable

The right of a handicapped or disadvantaged individual to maintenance under this chapter is not transferable or assignable at law or in equity and none of the money paid or payable or rights existing under this chapter are subject to execution, levy, attachment, garnishment or other legal process or to the operation of bankruptcy or insolvency law.

§18010. Hearings and judicial review

An individual applying for or receiving rehabilitation under this chapter who is aggrieved by an action or inaction of the department is entitled to a fair hearing by the commissioner or the commissioner's designated representative. An individual aggrieved because of the decision made on the basis of the fair hearing may appeal to the Superior Court.

§18011. Misuse of lists and records

It is unlawful, except for purposes directly connected with the administration of the rehabilitation program and in accordance with its rules, for a person or individual to solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of, a list of names of, or information concerning, individuals applying for or receiving rehabilitation when that list or information is directly or indirectly derived from the records, papers, files or communications of the State or subdivisions of the State or acquired in the course of the performance of official duties. A person who violates a provision of this section is subject to a fine of not less than \$50 nor more than \$300 or by imprisonment for not more than 60 days, or both.

§18012. Employees not to engage in political activities

An officer or employee engaged in the administration of the rehabilitation program may not use that officer or employee's official authority to influence or permit the use of the rehabilitation program for the purpose of interfering with an election or affecting the results of an election or for a partisan political purpose. An officer or employee may not solicit or receive or be obliged to contribute or render a service, assistance, subscription, assessment or contribution for a political purpose. An officer or employee violating this provision is subject to appropriate disciplinary action.

§18013. Continuing study of rehabilitation needs

The department shall make continuing study of the needs of people with disabilities and disadvantaged individuals in the State and how these needs may be met most effectively. The study and planning must include appraisal of community rehabilitation

programs in the State and their effectiveness and adequacy in meeting the overall needs of people with disabilities and disadvantaged. The continuing study and recommendations are to be reflected in the biennial reports of the commissioner.

§18014. Office of Rehabilitation Services

The commissioner shall establish within the department the Office of Rehabilitation Services, which shall administer that group of rehabilitation services specifically related to the federal vocational rehabilitation programs.

§18015. Provision of rehabilitation services

Rehabilitation services may be provided directly or through public or private resources to people with disabilities, including those who are eligible for rehabilitation services under the terms of an agreement with another state or with the Federal Government.

§18016. Rules

The department is authorized to establish rules required for the proper administration of a vocational rehabilitation program under the Federal Rehabilitation Act and acts amendatory and additional to the Federal Rehabilitation Act. These rules must include procedures for ensuring access to records by the protection and advocacy agencies designated under Title 5, Part 24 pursuant to an investigation of alleged rights violations.

Sec. A-2. 22 MRSA §3051, as enacted by PL 1969, c. 457, §1, is repealed.

Sec. A-3. 22 MRSA §§3052 to 3054, as amended by PL 1975, c. 293, §4, are repealed.

Sec. A-4. 22 MRSA §3055, as amended by PL 1985, c. 768, §§2 and 3, is repealed.

Sec. A-5. 22 MRSA §3056, as amended by PL 1981, c. 470, Pt. A, §96, is repealed.

Sec. A-6. 22 MRSA §3057, as enacted by PL 1969, c. 457, §1, is repealed.

Sec. A-7. 22 MRSA §3058, as amended by PL 1975, c. 771, §221, is repealed.

Sec. A-8. 22 MRSA §3060, as enacted by PL 1969, c. 457, §1, is repealed.

Sec. A-9. 22 MRSA §3061, as amended by PL 1977, c. 694, §367, is repealed.

Sec. A-10. 22 MRSA §§3062 to 3066, as enacted by PL 1969, c. 457, §1, are repealed.

Sec. A-11. 22 MRSA §3067, as amended by PL 1979, c. 553, §1, is repealed.

Sec. A-12. 34-B MRSA §5609, sub-§1, as amended by PL 1993, c. 410, Pt. CCC, §43, is further amended by amending the first paragraph to read:

1. Habilitation services. The Department of Mental Health and Mental Retardation, through the Division of Mental Retardation, and the Department of ~~Human Services~~ Education, through the ~~Bureau~~ Office of Rehabilitation Services, shall provide, to the extent of the resources available, for those habilitation and vocational rehabilitation services, defined in Title 22 20-A, section ~~3054~~ 18002, subsection 8 6, and any other service, including, but not limited to, supported employment including work in rehabilitation facilities and work centers, as defined in Title 5, chapter 155, subchapter II; job coaching; transportation, recreational and leisure services; and respite or day programs designed in consultation with an interdisciplinary team in order to make available to persons receiving services those services that are otherwise not obtainable, in the following order of priority:

PART B

Sec. B-1. 20-A MRSA c. 703 is enacted to read:

CHAPTER 703

DIVISION OF DEAFNESS

§18021. Division of Deafness

There is established the Division of Deafness within the Department of Education, Office of Rehabilitation Services.

§18022. Definitions

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

1. Advisory committee. "Advisory committee" means the advisory committee for the Division of Deafness.

2. Deaf or deafness. "Deaf" or "deafness" means that the sense of hearing is nonfunctional for the purpose of ordinary communication.

3. Deaf or hearing impaired persons. "Deaf or hearing impaired persons" means the sense of hearing is defective but still functional, with or without amplification.

4. Statewide registry. "Statewide registry" means a current listing, developed in cooperation with various registries throughout the State, of those persons in the State who are deaf or hearing impaired persons.

§18023. Powers and duties

To provide the following services and information to deaf and hearing impaired persons, the Division of Deafness shall:

1. Provide advocacy. Provide cooperative agreements or coordinate with agencies or community resources to provide advocacy for the rights of deaf and hearing impaired persons in the areas of employment, education, legal aid, health care, social services, finance, housing and other personal assistance while avoiding duplication of effort in these areas;

2. Statewide registry. Maintain, coordinate and update a voluntary statewide registry of deaf and hearing impaired persons developed in cooperation with various registries throughout the State. Use of this list is restricted by the provisions of section 18011.

3. Information and referral. Provide information and referral services to deaf and hearing impaired persons and their families on questions related to their disorder;

4. Develop objectives. Develop a plan with goals and objectives for development, planning and implementation within a framework for greater cooperation and coordination among agencies and organizations now serving or having the potential to serve deaf and hearing impaired persons;

5. Community service center. Continue to study the need to establish, maintain and fund at least one community service center where deaf and hearing impaired persons and their families can receive pertinent information relating to the coordination of services that each requires;

6. Promote accessibility. Promote accessibility to all governmental services for residents of the State who are deaf or hearing impaired persons; and

7. Recommendations. Make recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters with respect to modifications in existing services or establishment of additional services for deaf and hearing impaired persons and their families.

§18024. Advisory committee

There is established within the Department of Education, Office of Rehabilitation Services, Division of Deafness, an advisory committee consisting of 23 members and 3 nonvoting members-at-large to be appointed by the Director of the Office of Rehabilitation Services in conjunction with the Director of the Division of Deafness and representing equally consumers, professionals and the public. Members are entitled to compensation in accordance with Title 5, chapter 379.

The Director of the Office of Rehabilitation Services, in conjunction with the Director of the Division of Deafness, shall appoint, from the advisory committee, a chair and vice-chair to serve 2-year terms. The committee shall meet at the call of the chair but not less than 4 times during a calendar year. The chair may delegate duties to members to carry out the functions of the committee.

§18025. Advisory committee; powers and duties

The advisory committee shall advise the Director of the Office of Rehabilitation Services and shall prepare an annual report, which is a public document to the extent that it complies with section 18011. The report must include, but is not limited to:

1. Review. Review of the status of services to deaf and hearing impaired persons;

2. Recommendations. Recommendations for priorities for the development and coordination of services to deaf and hearing impaired persons;

3. Evaluation. An evaluation of the progress made as the result of recommendations made in the preceding report of the chair;

4. Statement of goals. A statement of goals for activities of the division during the subsequent fiscal year; and

5. Implementation of functions. The steps to be taken by the division to implement the functions listed in section 18023.

§18026. Director of the Division of Deafness

1. Director. The Director of the Office of Rehabilitation Services shall appoint the Director of the Division of Deafness, who is responsible for administering the Division of Deafness and its programs and policies, including generating and seeking out financial aid, grants and money.

2. Director of the Division of Deafness; staff; qualifications. The Director of the Division of Deafness and the staff must be knowledgeable of the needs

of the deaf and hearing impaired and possess the ability to communicate on a meaningful basis with those persons.

Sec. B-2. 22 MRSA c. 714, as amended, is repealed.

PART C

Sec. C-1. 20-A MRSA c. 705 is enacted to read:

CHAPTER 705

INDEPENDENT LIVING SERVICES FOR PEOPLE WITH DISABILITIES

§18031. Definitions

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

1. Independent living services. "Independent living services" means services that promote or train people with severe disabilities in managing their personal affairs, participating in day-to-day life in the community, fulfilling a range of social roles and making decisions that lead to self-determination and the minimization of physical or psychological dependence on others.

§18032. Grants

The department may make grants to establish independent living services. Funds must be disbursed and audited in accordance with departmental grant policies and procedures. The department shall submit an annual accounting of the program to the joint standing committee of the Legislature having jurisdiction over education matters.

Sec. C-2. 22 MRSA c. 715, as amended, is repealed.

PART D

Sec. D-1. 20-A MRSA c. 707 is enacted to read:

CHAPTER 707

ASSISTANCE TO PEOPLE WITH SEVERE PHYSICAL DISABILITIES TO ENABLE THEM TO WORK

§18041. Definitions

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

1. Employed. "Employed" means engaged in activity of 20 or more hours per week for remuneration.

2. Office. "Office" means the Office of Rehabilitation Services in the Department of Education.

3. Personal care assistance services. "Personal care assistance services" means services required by an individual with a severe physical disability for that individual to become physically independent in connection with that individual's capability for or actual employment. These services include, but are not limited to:

A. Routine bodily functions, such as bowel or bladder care;

B. Dressing;

C. Preparation and consumption of food;

D. Moving in and out of bed;

E. Routine bathing;

F. Ambulation; and

G. Any other similar function of daily living.

4. Severe physical disability. "Severe physical disability" means a functional loss of 3 extremities when it is anticipated that the loss is permanent.

§18042. Subsidy

The office shall subsidize, in whole or in part, personal care assistance services for individuals eligible under section 18043. The amount of the subsidy for each hour of personal care assistance services is determined by the director of the office. The director of the office shall establish a sliding scale for financial participation by individuals who receive subsidies for personal care assistance services under this chapter.

The sliding scale must be based on the net income of individuals who apply for or receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual. Information needed to determine net income must be furnished through the self-declaration of individuals who apply for or receive subsidies, or their representatives.

§18043. Eligibility

An individual is eligible for a subsidy under section 18042 if that individual:

1. Severe physical disability. Has a severe physical disability:

2. Employed. Is employed or ready for employment:

3. Need for services. Has a need documented under section 18044 for no fewer than 14 nor more than 35 hours a week of personal care assistance services, which services are necessary to enable the individual to be employed. The limitation of 35 hours may be exceeded as provided in section 18044:

4. Not otherwise eligible. Is not otherwise eligible for personal care assistance services under other state or federal programs;

5. Agrees to reevaluation. Agrees to a periodic reevaluation of the individual's need for personal care assistance services and of the extent of that need; and

6. Income and support. Has no or insufficient personal income or other support from public services, family members or neighbors.

§18044. Evaluation team report

1. Team designation. The director of the office shall designate one or more evaluation teams, which shall consist of at least 2 persons, one of whom must be a registered nurse, licensed under Title 32, chapter 31, subchapter III, and one of whom must be a registered occupational therapist.

2. Duties. An individual who applies to the office for a personal care assistance services subsidy must be evaluated by an evaluation team, which shall determine the need of that individual for personal care assistance services and the extent of that need. If the team determines that the individual needs more than 35 hours a week of personal care assistance services, that recommendation must be part of the report to the director.

3. Redetermination. An individual receiving a personal care assistance services subsidy under section 18042 must be periodically reevaluated by an evaluation team to determine the individual's continuing need for personal care assistance services and the extent of that need.

§18045. Rules

The director of the office may adopt rules necessary to carry out the director's duties under this chapter.

Sec. D-2. 22 MRSA c. 717-A, as amended, is repealed.

PART E

Sec. E-1. 5 MRSA §12004-I, sub-§11-A is enacted to read:

11-A.	<u>Advisory</u>	<u>As</u>	<u>20-A</u>
<u>Education:</u>	<u>Committee on</u>	<u>Authorized</u>	<u>MRSA</u>
<u>Office of</u>	<u>Improving</u>	<u>by Com-</u>	<u>§18052</u>
<u>Rehabilitation</u>	<u>Outdoor Rec-</u>	<u>mittee</u>	
<u>Services</u>	<u>reational Op-</u>		
	<u>portunities for</u>		
	<u>Persons with</u>		
	<u>Disabilities,</u>		
	<u>commonly</u>		
	<u>known as</u>		
	<u>Maine Outdoor</u>		
	<u>Recreation for</u>		
	<u>Everyone,</u>		
	<u>M.O.R.E.</u>		

Sec. E-2. 5 MRSA §12004-I, sub-§40-A, as enacted by PL 1991, c. 370, §1, is repealed.

Sec. E-3. 20-A MRSA c. 709 is enacted to read:

CHAPTER 709**ADVISORY COMMITTEE ON IMPROVING OUTDOOR RECREATIONAL OPPORTUNITIES FOR PERSONS WITH DISABILITIES****§18051. Definitions**

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

1. Committee. "Committee" means the Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities, commonly known as "Maine Outdoor Recreation for Everyone" or M.O.R.E.

§18052. Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities

The Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities, as established in Title 5, section 12004-I, subsection 11-A, is within the Office of Rehabilitation Services. The following provisions apply to the committee.

1. Membership. The committee consists of the following 19 members:

A. One person or that person's designee from the Office of Rehabilitation Services, appointed by the commissioner;

B. One person or that person's designee from the Department of Conservation, Bureau of Parks and Recreation, appointed by the Commissioner of Conservation;

C. One person or that person's designee from the Department of Inland Fisheries and Wildlife who is knowledgeable about outdoor recreation, appointed by the Commissioner of Inland Fisheries and Wildlife;

D. One person or that person's designee from the Department of Marine Resources who is knowledgeable about outdoor recreation, appointed by the Commissioner of Marine Resources;

E. One person or that person's designee from the Department of Transportation who is knowledgeable about highway parks and rest areas, appointed by the Commissioner of Transportation;

F. One person or that person's designee from the Department of Economic and Community Development who is knowledgeable about local recreation planning, appointed by the Commissioner of Economic and Community Development;

G. Nine persons with disabilities, appointed by the Governor;

H. Two persons involved in the business of providing recreational opportunities, appointed by the Governor;

I. One person representing an association of municipal recreation and parks officials, appointed by the Governor; and

J. One member of the Legislature, appointed by the Chair of the Legislative Council.

2. Term; vacancy. All members are appointed for a term of 3 years. A vacancy is filled in the same manner as the initial appointment and for the remainder of the vacant term.

3. Compensation. If funds permit, the committee, by majority vote, may set an amount for reimbursement of nonstate employee members, which may not exceed the compensation provided in Title 5, chapter 379.

4. Chair. Annually, the committee shall choose one of its members to serve as chair. The committee may select other officers and designate their duties.

5. Funds. The committee is authorized to accept state and federal funds, private grants and donations. As funding permits, the committee may award grants, enter into contracts and otherwise expend funds to carry out the purposes of this chapter. Expenditures may not be incurred that have an impact on the General Fund.

6. Duties. The committee shall:

A. Advise the commissioner, the Commissioner of Human Services, the Commissioner of Conservation, the Commissioner of Transportation, the Commissioner of Marine Resources, the Commissioner of Economic and Community Development and the Commissioner of Inland Fisheries and Wildlife on ways:

(1) To provide technical assistance to outdoor recreational providers and users with regard to improving access for persons with disabilities;

(2) To promote the expansion of existing, and the creation of new, recreational areas that are accessible to persons with disabilities;

(3) To make the public aware of existing outdoor recreational opportunities that are accessible to persons with disabilities; and

(4) To provide and disseminate information and education to public and private clubs, organizations and civic groups on making outdoor recreation accessible to persons with disabilities; and

B. Conduct, upon request, accessibility evaluations and provide technical assistance to outdoor recreational providers and users with regard to providing access for persons with disabilities.

§18053. Report

By January 15, 1995, the committee shall submit a report to the Governor and to the joint standing committee of the Legislature having jurisdiction over education matters. The report must include a description of the committee's activities, an assessment of the committee's effectiveness and an assessment of whether the committee should remain within the department.

Sec. E-4. 22 MRSA c. 718, as amended, is repealed.

PART F

Sec. F-1. 20-A MRSA c. 711 is enacted to read:

CHAPTER 711**REHABILITATION SERVICES****§18065. Rehabilitation services**

The department, under the direction of the Governor, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance for students with disabilities. That rehabilitation work must be in cooperation with vocational education, as provided by chapter 313.

Funds provided for aid and assistance carried on by the department may be used in providing rehabilitation services.

Sec. F-2. 22 MRSA §3105, as amended by PL 1989, c. 700, Pt. A, §78, is repealed.

PART G

Sec. G-1. 20-A MRSA c. 713 is enacted to read:

CHAPTER 713**SERVICES FOR BLIND AND VISUALLY IMPAIRED INDIVIDUALS****§18070. Definitions**

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

1. Blind or visually impaired person. "Blind or visually impaired person" means a person having not more than 20/200 central visual acuity in the better eye after correction or an equally disabling loss of the visual field so that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

2. Director. "Director" means the Director of the Division for the Blind and Visually Impaired.

3. Division. "Division" means the Division for the Blind and Visually Impaired in the department.

4. Jurisdiction. "Jurisdiction" means the control of the maintenance, operation and protection of public buildings and property of the State or of a county or a municipality.

5. Licensing agency. "Licensing agency" means the Division for the Blind and Visually Impaired, which is the state agency designated by the Rehabilitation Services Administration in the United States Department of Education to issue licenses to blind persons for the operation of vending facilities.

6. Operator. "Operator" means the blind person, duly licensed by the division, who personally operates the vending facility.

7. Public building or property. "Public building or property" means a building or land owned, leased or occupied by a department, agency or authority of the State or a county or a municipality of the State.

8. Vending facility. "Vending facility" means a restaurant, a cafeteria, including the cafeteria located in the State Office Building in Augusta, a snack bar, a vending machine for food and beverages and goods and services customarily offered in connection with a restaurant, a cafeteria, a snack bar or a vending machine.

§18071. Division for the Blind and Visually Impaired

The Division for the Blind and Visually Impaired is established within the Department of Education under the jurisdiction of the Director of the Division for the Blind and Visually Impaired. The commissioner shall appoint the director, subject to the Civil Service Law.

§18072. Jurisdiction of director, defined

"Jurisdiction of the director" means having direct administrative responsibility for all programs and personnel under this chapter.

§18073. Program established

The division shall provide a program of services for the blind, including prevention of blindness, locating of blind persons, vocational guidance and training of the blind, placement of blind persons in employment, assistance to local schools in meeting the special needs of blind students, instruction of adult blind persons in their homes and other social services to the blind.

§18074. Education of blind children

1. Division services. The division shall provide the following services to blind and visually impaired persons from birth to age 21:

A. Itinerant teacher services;

B. Mobility instruction;

- C. Braille instruction;
- D. Low-vision services;
- E. Special aids and supplies needed to participate in the educational process; and
- F. Advocacy, counseling and guidance services to students and their parents.

2. School administrative units. Nothing in this section relieves school administrative units from fulfilling their responsibilities under Part 4, subpart 1.

§18075. Mandatory report of blindness

Whenever, upon examination at a clinic, hospital or other institution, or elsewhere, by the physician, optometrist, institutional superintendent or other person conducting the examination, the visual acuity of a person is found to be with correction 20/200 or less in the better eye, or the peripheral field of the person's vision is found to have contracted to a 20-degree diameter or less, regardless of visual acuity, the person conducting the examination shall, within 30 days, report to the director the result of the examination and that blindness of the person examined has been established. The report may not be made if the person examined so requests. If blindness of the person examined has been established, the division shall inform and advise that person as to services for the blind provided by the division.

§18076. Business enterprise program

To provide blind persons with remunerative employment, enlarge the economic opportunities of blind persons and encourage blind persons to become self-supporting, the officer, board or other authority in charge of a building or property shall grant to the division authority:

- 1. Vending facility.** To install in a building or property a vending facility whenever a vending facility may be operated by an operator; and
- 2. Vending machines.** To place vending machines operated by the division in a building or property if a vending facility operated by an operator is not warranted. Income from these vending machines must be used for the purposes set forth in this section.

§18077. Preference

The officer, board or other authority in charge of a building or property shall:

- 1. Policies.** Adopt policies and take actions necessary to ensure that operators are given preference in the establishment and the operation of vending facilities on property under its jurisdiction;

2. Surveys. Cooperate with the division in surveys of properties and buildings under its control in order to find suitable locations for the operation of vending facilities by operators, and after a determination that a facility may be operated by an operator, shall cooperate with the division in the installation of a vending facility;

3. Income. To achieve and protect the preference of blind persons in the operation of vending facilities, arrange for the assignment of the income derived from vending machines that are located in proximity to and in direct competition with a vending facility for which authority is granted pursuant to this chapter, to the operator or operators affected. A vending machine that vends articles authorized for vending pursuant to section 18070, subsection 8, and is so located that it attracts customers who would otherwise patronize the vending facility considered to be in proximity to and in direct competition with the vending facility;

4. Licensing. Not less than 30 days prior to the license renewal or licensing for the operation of a vending facility, inform the division;

5. Vending machines. Allow the division to place vending machines in a building where a vending facility operated by an operator would not be feasible. Income from these machines accrues to the division's set-aside account for purposes stated in section 18076; and

6. Locations. Inform the division of locations where vending facilities are planned that might be operated in or near other buildings or properties that may be or may come under the jurisdiction of a department, agency or authority of the State or of a county or a municipality.

§18078. Powers and duties of the division

In carrying out this chapter the division shall:

1. Rules. Prescribe rules governing:

A. The maintenance of a roster of blind persons eligible to become operators and issuance of licenses;

B. A fair hearing. In the case of an operator desiring to appeal a decision that the operator determines to be adverse to the operator the division shall appoint a hearing board consisting of 3 persons, one to be chosen by the operator, one to be chosen by the division and the 3rd person chosen by the other 2 persons. The decision of the board is final;

C. The right to, the title to and the interest in vending facility equipment and stock; and

D. The civil rights of operators;

2. Other. Prescribe rules necessary to carry out the purposes of this chapter;

3. Surveys. Conduct surveys to find locations where vending facilities may be operated by operators and establish vending facilities as it determines appropriate;

4. Management. Provide management and supervisory services determined necessary to ensure that each vending facility is operated in the most effective and productive manner possible;

5. Plans. Provide plans and specifications for proposed vending facilities and equipment to the appropriate officer, board or authority for approval prior to installation; and

6. Other action. Take any other action necessary or appropriate to carry out the purposes of this chapter.

§18079. Construction, remodeling; planning for vending facility

To carry out the purposes of this chapter, when new construction, remodeling, leasing, acquisition or improvement of public buildings or properties is authorized, the agency directing that construction, remodeling, leasing, acquisition or improvement shall, when the size of the building or property warrants, make available suitable space and facilities for vending facilities to be operated in the building or property by operators.

§18080. Construction of buildings

If a suitable location is available for a vending facility that requires the construction of a portable building, the division may construct such a building and may have the use of the land on which to construct the building.

§18081. Exemptions

A license fee, a rental fee or other charge may not be demanded, assessed, exacted, required or received from an operator.

§18082. Correctional, mental and certain educational institutions

This chapter does not apply to or authorize the installation of vending facilities in a building wholly used by a correctional or mental institution or by an educational institution of any type supported in whole or in part from public funds, unless that educational institution is a university, college, junior college or a technical college.

§18083. Application

If a vending facility not under the control of the division exists in a building or on property of the State, a county or a municipality, the person having jurisdiction over that building or property shall give preference to the division to continue operation of the vending facility when an existing lease or contract expires or is terminated.

Sec. G-2. 22 MRSA c. 959, as amended, is repealed.

PART H

Sec. H-1. 20-A MRSA c. 715 is enacted to read:

CHAPTER 715

DEAF AND HARD-OF-HEARING PERSONS

SUBCHAPTER I

GENERAL PROVISIONS

§18091. General provisions

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

A. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ordinary communication.

B. "Hard-of-hearing person" means a person whose sense of hearing is defective, but still functional, with or without amplification.

C. "Speech-impaired person" means a person whose speech is nonfunctional or defective for the purpose of ordinary communication.

D. "Telecommunications device for the deaf" means a teletypewriter or other telecommunication equipment used by deaf, hard-of-hearing or speech-impaired persons to conduct telephone communications.

E. "Telecommunications relay service" means a service transmitting messages and information between a person using standard telephone equipment for spoken communications and a deaf, hard-of-hearing or speech-impaired person using a telecommunications device for the deaf.

2. Teletypewriter system. The department shall consult with appropriate agencies and organizations serving the deaf community concerning the needs of the teletypewriter system. To the extent that

funds are available, the department shall take steps necessary to preserve and maintain a viable teletypewriter system for use by the deaf population in this State, including, but not limited to, providing for repair services and equipment for loaning to persons whose teletypewriter equipment is being repaired.

§18092. Telecommunication equipment for deaf, hard-of-hearing and speech-impaired persons

1. Money for telecommunication equipment.

The Office of Rehabilitation Services within the department, pursuant to appropriation of money to the office for special telecommunication equipment for deaf, hard-of-hearing and speech-impaired persons, shall, upon request, provide up to 50% of the cost of special telecommunication equipment to an organization or municipality that makes available the remaining funds for this equipment in a manner satisfactory to the Director of the Office of Rehabilitation Services.

2. Telecommunications Equipment Fund.

There is established the Telecommunications Equipment Fund to be used by the Division of Deafness within the Office of Rehabilitation Services. The Division of Deafness may accept gifts or grants for the purposes of this section. These gifts and grants and authorized appropriations must be deposited in the Telecommunications Equipment Fund and disbursed in accordance with this section. The Telecommunications Equipment Fund may be used for purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment for deaf, hard-of-hearing or speech-impaired persons. The Division of Deafness may draw on the Telecommunications Equipment Fund in accordance with the telecommunications equipment plan required under subsection 3.

3. Telecommunications equipment plan. The Division of Deafness shall develop a plan to make special telecommunications equipment available to deaf, hard-of-hearing or speech-impaired persons and to distribute money from the Telecommunications Equipment Fund. The plan must be developed by the Division of Deafness annually, not later than January 1st, in accordance with the rule-making procedures in Title 5, chapter 375. The plan must provide for the expenditure of money from the Telecommunications Equipment Fund for the benefit of deaf, hard-of-hearing or speech-impaired persons for the purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment capable of serving their needs. Persons who are profoundly deaf or speech impaired so that they are unable to use the telephone for expressive or receptive communications, as verified by a written report from an otologist, an audiologist or a physician, are eligible for assistance

from the Telecommunications Equipment Fund. The plan must include specific criteria that govern the priorities assigned to various persons who need this equipment. The criteria must take into account household income, degree of impairment, need for emergency communications, living arrangements and other factors determined relevant by the Division of Deafness.

SUBCHAPTER II

**RIGHTS OF DEAF AND
HARD-OF-HEARING PERSONS**

§18101. Policy

It is the policy of this State to encourage and enable deaf and hard-of-hearing persons to participate fully in the social and economic life of this State and to engage in remunerative employment. The provisions of rights and penalties for denial of those rights, as specified in this subchapter, are not intended to abrogate any actions or penalties provided for violation of human rights, as specified in the Maine Human Rights Act, Title 5, chapter 337.

§18102. Rights

The rights, established by this subchapter, of deaf and hard-of-hearing persons are as follows.

1. Streets and public places. Deaf and hard-of-hearing persons have the same rights as able-bodied persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places.

2. Public conveyances. Deaf and hard-of-hearing persons are entitled to full and equal accommodations, advantages, facilities and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation or amusement, or resorts and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

3. Guide dogs. Every deaf or hard-of-hearing person has the right to be accompanied by a guide dog, described and known as a "hearing dog," especially trained for the purpose, and identified by a collar and leash colored hunter orange, as that color is defined in Title 12, section 7001, subsection 16, in a place listed in subsection 2 without being required to pay an extra charge for the guide dog, except that the person is liable for any damage done to the premises or facilities by that dog. When the deaf or hard-of-hearing person is accompanied by a guide dog, the

person must also carry a card, issued by the Office of Rehabilitation Services, that states that the dog is an especially trained guide dog and cites section 18101 and this section that allow for access by the person and the person's dog to streets, public places and public conveyances.

4. Especially trained guide dog trainer; access to public facilities; responsibilities. An especially trained hearing dog trainer, while engaged in the actual training of hearing dogs, has the same rights, privileges and responsibilities with respect to access to public facilities as a deaf or hard-of-hearing person.

5. Housing accommodations; persons with hearing-assistance animals. Every hard-of-hearing person who has a hearing-assistance animal is entitled to full and equal access to all housing accommodations provided for in this section. Hard-of-hearing persons may not be required to pay extra compensation to keep hearing-assistance animals. A hard-of-hearing person is liable for any damage done to the premises by the animal.

6. Housing accommodations; defined. "Housing accommodations," as used in this section, means a real property, or portion of real property, that is used or occupied, or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings, including, but not limited to, public housing projects and all forms of publicly assisted housing, single-family and multifamily rental and sale units, lodging places, condominiums and cooperative apartments. "Housing accommodations" does not include:

A. The rental of a housing accommodation in a building that contains housing accommodations for not more than 2 families living independently of each other, if the owner or members of the owner's family reside in that housing accommodation; or

B. The rental of a room or rooms in a housing accommodation, if the rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in that housing accommodation.

§18103. Motor vehicle drivers

The driver of a vehicle approaching a deaf or hard-of-hearing person using a properly identified guide dog shall take all necessary precautions to avoid injury to that person and the guide dog. A driver who fails to take such precautions is liable in damages for any injury caused to that person or dog. A deaf or hard-of-hearing person not using a guide dog in any

of the places, accommodations or conveyances listed in section 18102 has all of the rights and privileges conferred by law upon other persons. The failure of a deaf or hard-of-hearing person to use a guide dog in those places, accommodations or conveyances does not constitute nor is it evidence of contributory negligence.

§18104. Penalty; misrepresentation of hearing dog

A person or the person's agent who denies or interferes with admittance to or enjoyment of the public facilities described in section 18102 or otherwise interferes with the rights of a deaf or hard-of-hearing person under section 18102 commits a Class E crime.

A person who fits a dog with a collar and leash of the type required by section 18102, subsection 3 in order to represent that the dog is a hearing dog when training of the type that a hearing dog normally receives has not in fact been provided commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Sec. H-2. 22 MRSA c. 963, as amended, is repealed.

PART I

Sec. I-1. 20-A MRSA c. 717 is enacted to read:

CHAPTER 717

PERSONAL CARE ASSISTANCE SERVICES FOR ADULTS WITH SEVERE PHYSICAL DISABILITIES

§18111. Program established

The department shall establish a program of personal care assistance services, including consumer-directed personal care assistance services, for adults with long-term care needs who are eligible under section 18112.

§18112. Eligibility

An adult with long-term care needs is eligible for personal care assistance services under this chapter if the department or its designee determines that the adult:

1. Severe disability. Has a severe disability;

2. Need for services. Needs personal care assistance services or an attendant at night, or both, which services are necessary to prevent, or remove the adult from, inappropriate placement in an institutional setting; and

3. Income and support. Has no or insufficient personal income or other support from public services, family members and neighbors. A sliding scale must be established for services provided under this chapter. The sliding scale must be based on the net income of individuals who receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual.

§18113. Evaluation teams

1. Team designation. The commissioner shall designate evaluation teams in the State to assist the department with evaluations of adults with long-term care needs who apply for personal care assistance services pursuant to this chapter.

2. Membership. Each evaluation team includes at least one registered nurse, one registered occupational therapist and the adult with long-term care needs.

3. Duties. For each adult with long-term care needs evaluated by an evaluation team, the team shall assist the department to:

A. Determine the eligibility of the adult for personal care assistance services;

B. Determine the capability of the adult, at the time of evaluation or after skills training provided pursuant to subsection 4, to hire and direct a personal care assistant;

C. Reevaluate the adult periodically to determine the adult's continuing need for the services; and

D. Consult when possible with the adult's attending physician.

4. Skills training. The commissioner may authorize an evaluation team to arrange for skills training for an adult with long-term care needs who applies for consumer-directed personal care assistance services pursuant to this chapter. Skills training may be provided in the following areas by the following individuals:

A. Personal health management to maximize personal well-being in relation to the adult's disability, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled, including all aspects of prevention, maintenance and treatment techniques;

B. Personal care assistant management, provided by a registered nurse experienced in the

rehabilitation of the severely disabled, including training in recruiting, hiring and managing a personal care assistant; scheduling; and potential problems; and

C. Functional skills required to maximize the adult's abilities in activities of daily living, provided by a registered occupational therapist experienced in the rehabilitation of the severely disabled.

Sec. I-2. 22 MRSA c. 1625, as amended, is repealed.

PART J

Sec. J-1. 5 MRSA §48, sub-§3, as amended by PL 1989, c. 36, is further amended to read:

3. Interpreting services and coordination for interpreters; request to the Office of Rehabilitation Services; interpreter compensation; continuation of services. Interpreting services and coordination for interpreters are governed as follows.

A. With the cooperation of the Maine Association of the Deaf and the National Registry of Interpreters for the Deaf, the Bureau Office of Rehabilitation Services is authorized and directed to prepare and continually update a listing of qualified and available interpreters.

B. When requested by an agency or court, the Bureau Office of Rehabilitation Services shall furnish the agency or court with a directory of information on appropriate and qualified interpreter sources.

C. An interpreter appointed under this section shall must be reimbursed by the Bureau Office of Rehabilitation Services, upon certification by the appropriate agency or court of services performed, at a fixed rate reflecting the current fee schedule as established by the Bureau Office of Rehabilitation Services, plus travel expenses; provided except that employees of the State or any of its political subdivisions, public employees and public or private school, university and college teachers or administrators for interpreting services or anyone who receives salary during regular work hours shall may not be reimbursed under this section for interpreter services performed during their regular working hours. Nothing in this section may be construed as preventing prevents any agency or court from employing a qualified interpreter on a full-time basis or under contract at a mutually agreed upon compensation rate.

D. It ~~shall be~~ is the sole responsibility of the Director of the ~~Bureau Office~~ of Rehabilitation Services to ~~assure~~ ensure implementation and continuation of the provisions of this section.

Sec. J-2. 5 MRSA §937, sub-§1, as amended by PL 1991, c. 716, §2, is further amended to read:

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

- A. Assistant to the Commissioner;
- B. Deputy Commissioner;
- ~~C. Associate Commissioner, Bureau of School Management;~~
- ~~D. Associate Commissioner, Bureau of Instruction;~~
- ~~E. Associate Commissioner, Bureau of Applied Technology and Adult Learning;~~
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; ~~and~~
- H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council; and
- I. Director, Office of Rehabilitation Services.

Sec. J-3. 5 MRSA §1822, as amended by PL 1989, c. 14, §1, is further amended to read:

§1822. Blind-made products

A Blind-made Products Committee, comprising the State Purchasing Agent, the Director of the ~~Bureau Office~~ of Rehabilitation Services and the Director of the Division for the Blind and Visually Impaired, ~~Bureau Office~~ of Rehabilitation Services, and hereafter in this section and sections ~~1822 to 1823 and~~ 1824 called "the committee," shall determine the price of all products ~~which that~~ meet specifications prescribed by the State Purchasing Agent and are agreeable to all members of the committee and ~~which~~ are manufactured by the Maine ~~Institution Center~~ for the Blind and Visually Impaired and offered for sale to the State or ~~any~~ political subdivision, ~~any~~ governmental agency or public benefit corporation ~~thereof, and of the State.~~ The committee shall revise ~~such~~ prices from time to time in accordance

with changing cost factors and shall make ~~such~~ rules and regulations regarding selection of products, time of delivery and other relevant matters ~~as shall be~~ necessary to carry out the purpose of this section and sections ~~1822 to~~ 1823 and 1824.

Sec. J-4. 5 MRSA §1824, as enacted by PL 1973, c. 198, is amended to read:

§1824. Procurement by State or any political subdivisions of the State

Products manufactured by the blind and offered for sale by the Maine ~~Institution Center~~ for the Blind and Visually Impaired, meeting specifications prescribed by the State Purchasing Agent, ~~which that~~ the State or any political subdivision, governmental agency or public benefit corporation ~~thereof shall~~ require of the State requires for ~~their~~ its purposes, shall must be purchased, when and where possible, from the Maine ~~Institution Center~~ for the Blind, ~~whenever such products are selected by the committee, and agreeable to Maine Institution for the Blind, and Visually Impaired~~ and offered to ~~such the~~ State or any political subdivision, governmental agency or public benefit corporation ~~thereof, of the State~~ at the agreed-upon price and according to the rules and regulations as made by the committee.

Sec. J-5. 5 MRSA §1826-C, sub-§1, as enacted by PL 1985, c. 359, §3, is amended to read:

1. Committee established. There is established the Work Center Purchases Committee, consisting of the State Purchasing Agent, the Director of the ~~Bureau Office~~ of Rehabilitation Services, a representative of the Department of Mental Health and Mental Retardation, a representative of work centers, a disabled person and a representative of the business community.

Sec. J-6. 5 MRSA §12004-I, sub-§40, as enacted by PL 1987, c. 786, §5, is amended to read:

40.-	Advisory Expenses	22 <u>20-A</u>
Human Ser-	Committee Only	MRSA
vices: Educa-	to Division	§3074
tion Rehabili-	of Deafness	<u>§18024</u>
tation Services		

Sec. J-7. 20-A MRSA §203, sub-§1, as amended by PL 1993, c. 410, Pt. F, §2, is further amended to read:

1. Commissioner's appointments. The following officials ~~must be~~ are appointed by and serve at the pleasure of the commissioner:

- A. ~~Assistant to the~~ Deputy Commissioner;
- B. Deputy Commissioner;

F. Director, Planning and Management Information;

G. Federal and State Education Program Coordinator; ~~and~~

H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council; and

I. Director, Office of Rehabilitation Services.

Sec. J-8. 26 MRSA §475, 2nd ¶, as amended by PL 1985, c. 246, §2, is further amended to read:

The board ~~shall consist~~ consists of 9 members, of whom 6 ~~shall be~~ are appointed ~~to membership~~ by the director, subject to the approval of the Governor. Each member ~~shall hold~~ holds office until ~~his~~ a successor is duly appointed. At the expiration of each member's term, ~~his~~ that member's successor ~~shall be~~ is appointed by the director, subject to the approval of the Governor, from the same classification in accordance with this section for a term of 4 years. In case of a vacancy in board membership, the director, with the approval of the Governor, ~~shall appoint~~ appoints a member of the proper classification to serve the term of the absent member. Of the 6 members of the board appointed by the director, one ~~shall be representative of~~ must represent owners or lessees of elevators ~~within in~~ the State; one ~~shall be a representative of~~ must represent manufacturers of elevators; one ~~shall~~ must be a licensed elevator mechanic; one ~~shall~~ must be a representative of a ski area operator presently operating tramways in the State; one ~~shall~~ must be a qualified licensed professional engineer, who is familiar with tramway design, inspection and operation; and one ~~shall~~ must be a public member. The 7th member of the board ~~shall~~ must be a physically handicapped person appointed by the Director of the ~~Bureau Office~~ Office of Rehabilitation ~~Services~~, subject to the approval of the Governor, for a term of 4 years. The 8th member of the board ~~shall~~ must be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety and the 9th member of the board ~~shall be~~ is the Director of the Bureau of Labor Standards, who ~~shall be chairman~~ is chair of the board.

Sec. J-9. 29 MRSA §252-F, as enacted by PL 1987, c. 228, is amended to read:

§252-F. Deaf and hard-of-hearing persons; special designating placards

The Secretary of State, on application, shall issue a ~~hearing-impaired deaf and hard-of-hearing~~ placard to any person who is ~~hearing-impaired deaf or hard-of-hearing~~ when that application is accompanied

by a form, available from the Division of Deafness, ~~Bureau Office~~ Office of Rehabilitation ~~Services~~, certified by a physician or an audiologist stating that the applicant is ~~hearing-impaired deaf or hard-of-hearing~~ and ~~cannot~~ can not hear or understand normal speech. The placard ~~shall~~ must be displayed in a conspicuous location in the vehicle as near to the operator as possible without obstructing the view of the operator. The fee for the placard ~~shall be~~ is \$1.

Sec. J-10. 35-A MRSA §7302, sub-§1, as amended by PL 1993, c. 275, §1, is further amended to read:

1. Rate reduction. The commission shall establish a 70% rate reduction for intrastate toll calls made on lines, or via credit cards assigned to lines, used for making calls to and from certified deaf, hard-of-hearing or speech-impaired persons who must rely on teletypewriters for residential telephone communications. In addition, the 70% rate reduction must apply to all calls using the state telecommunications relay service. This reduction must also apply to intrastate toll calls made by agencies, certified by the Division of Deafness in the Department of ~~Human Services Education~~ Education as eligible to receive a discount, while providing vocal relay services to deaf, hard-of-hearing or speech-impaired persons, as well as to community service centers serving deaf, hard-of-hearing or speech-impaired persons, certified by the Division of Deafness of the Department of ~~Human Services Education~~ Education as eligible to receive a discount. The costs incurred by a telephone company under this subsection are just and reasonable expenses for rate-making purposes.

Sec. J-11. 35-A MRSA §7505, sub-§§1 and 5, as enacted by PL 1987, c. 503, §1, are amended to read:

1. State buildings. The Department of ~~Administration~~ Administrative and Financial Services shall require the installation and maintenance of telecommunication devices for communication for the ~~hearing deaf, hard-of-hearing and speech-impaired~~ speech-impaired who rely on those devices for telephone communications in locations accessible to the public in state buildings where a primary function is the delivery of service to the general public, in accordance with a plan developed by the Department of ~~Administration~~ Administrative and Financial Services, Office of Information Services and the Department of ~~Human Services Education, Bureau Office~~ of Rehabilitation Services.

5. Devices. The requirements of this section may be satisfied by installation of telecommunication typewriters, including so-called telecommunication devices for the deaf, or other devices approved by the Department of ~~Human Services Education, Bureau~~

Office of Rehabilitation Services, Division of Deafness.

Sec. J-12. 35-A MRSA §8704, sub-§1, ¶A, as enacted by PL 1989, c. 851, §7, is amended to read:

A. The Director of the Division of Deafness, Department of ~~Human Services~~ Education, or a designee;

Sec. J-13. 36 MRSA §654, sub-§1, ¶E, as repealed and replaced by PL 1987, c. 772, §14, is amended to read:

E. The residential real estate up to the just value of \$4,000 of inhabitants of Maine who are legally blind as determined by the Department of ~~Human Services~~ Education, Division for the Blind and Visually Impaired; and

Sec. J-14. Transition provisions.

1. Rules and procedures. All rules and procedures that are in effect, in operation or adopted on the effective date of this Act in or by the former Department of Human Services, Bureau of Rehabilitation continue in effect until rescinded, revised or amended by the proper authority.

2. Contracts and agreements. All contracts, agreements and compacts of the former Department of Human Services, Bureau of Rehabilitation in effect on the effective date of this Act continue in effect.

3. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances or allocations, transfers, revenues or other available funds in any account or subdivision of an account of the Department of Human Services and authorized for use by the Bureau of Rehabilitation on the effective date of this Act must be reallocated to the Department of Education, Office of Rehabilitation Services.

4. Equipment and property transferred. All equipment and property of the former Department of Human Services, Bureau of Rehabilitation must be transferred to the Department of Education, Office of Rehabilitation Services, unless the Commissioner of Human Services and the Commissioner of Education jointly authorize a different policy.

5. Personnel transferred. Employees of the former Department of Human Services, Bureau of Rehabilitation whose positions are transferred to the Department of Education, Office of Rehabilitation Services under this Act retain their positions within the Office of Rehabilitation Services and their employee rights, privileges and benefits, including sick

leave and vacation. For a period of 18 months beginning on the effective date of this Act, all personnel transferred to the Office of Rehabilitation Services retain all applicable seniority rights and privileges with regard to employment in the Department of Human Services subject to agreement by the parties in collective bargaining. The Bureau of Human Resources within the Department of Administrative and Financial Services shall assist with the orderly implementation of this section.

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

Effective April 15, 1994.

CHAPTER 709

S.P. 729 - L.D. 1950

An Act to Establish the Project Opportunity Demonstration Program

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

Whereas, the current welfare system creates disincentives for a welfare customer to obtain self-sufficiency; and

Whereas, neither welfare customers nor the general public support the current system; and

Whereas, discussions of alternative welfare systems are progressing and experimental changes are being encouraged by the Federal Government; and

Whereas, the ASPIRE-JOBS Program, which exists to assist welfare customers in employment, education and training activities, is hampered in its efforts by lack of funding and exemptions from active participation for 16,000 out of 22,000 welfare customers in the State; and

Whereas, as a result of recent changes enacted by the Legislature, some progress has been made in helping Aid to Families with Dependent Children customers to become self-sufficient; 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: