

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

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**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

**CHAPTER 1678****ALZHEIMER SPECIAL CARE PROGRAMS****§8551. Definitions**

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

**1. Alzheimer special care program.** "Alzheimer special care program" means a special program or secure, locked or segregated unit within one of the following entities for individuals with a diagnosis of probable Alzheimer's disease or a related disorder to prevent or limit access by an individual to areas outside the designated or separated program or area and that advertises, markets or otherwise promotes that entity as providing specialized Alzheimer or dementia care services:

A. A residential care facility subject to licensure pursuant to chapter 1663 or 1665;

B. A skilled nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405;

C. A hospice program subject to licensure pursuant to chapter 1681; or

D. Other facility, including, but not limited to, assisted living, adult daycare, congregate housing and eating and lodging facilities.

**§8552. Alzheimer special care program disclosure**

**1. Disclosure required.** An entity that offers to provide or provides care for individuals with Alzheimer's disease or a related disorder through an Alzheimer special care program shall disclose the form of care or treatment it provides that distinguishes it as being especially applicable to or suitable for those individuals. The disclosure must be made to the department and to any individual seeking placement within an Alzheimer special care program or the individual's guardian or other responsible party. The department shall examine and verify the accuracy of all disclosures as part of an entity's license renewal procedure.

**2. Disclosure content.** The disclosure required under subsection 1 must explain the additional care provided in the Alzheimer special care program and include at a minimum:

A. The program's written statement of its philosophy and mission that reflect the needs of individuals afflicted with dementia;

B. The process and criteria for placement in, or transfer or discharge from the program;

C. The process used for the assessment and establishment of a plan of care and its implementation, including the methods by which the plan of care evolves and remains responsive to changes in an individual's condition;

D. The program's staff training and continuing education practices;

E. Documentation of the program's physical environment and design features appropriate to support the functioning of cognitively impaired adult individuals;

F. The frequency and types of individuals' activities provided by the program;

G. A description of family involvement and the availability of family support programs;

H. An itemization of the costs of care and any additional fees; and

I. A description of security measures provided by the facility.

See title page for effective date.

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**CHAPTER 206****H.P. 892 - L.D. 1245****An Act Limiting the Types of Municipal Investments**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 30-A MRSA §5706 and 5712,** as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

**§5706. Deposit or investment of funds**

As directed by the municipal officers, the treasurer shall invest all municipal funds, including reserve funds and trust funds, to the extent that the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows:

**1. Financial institutions.** In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, ~~the Federal Savings and Loan Insurance Corporation,~~ the National Credit Union Share Insurance Fund or the successors to these federal agencies.

A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time ~~shall~~ must be secured by the pledge of certain securities as collateral, or fully covered by insurance.

(1) The collateral ~~shall~~ must be in an amount equal to the excess deposit. The municipal officers shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(2) The collateral ~~shall only~~ may consist only of securities in which municipalities may invest, as provided in article 2. The securities ~~shall~~ must be held in a depository institution approved by the municipal officers and pledged to indemnify the municipalities against any loss. The depository institution shall notify the municipal officers of the pledging when the securities are deposited and shall mail a copy of the notice to the Department of Audit;

**2. Repurchase agreements.** In repurchase agreements secured by obligations of the ~~Federal United States Government,~~ as defined in section 5712, subsection 1, provided that the market value of the underlying obligation is equal to or greater than the amount of the municipality's investment and that the municipality's security interest is perfected ~~under the terms of Title 11, article 9 pursuant to the provisions of Title 11, sections 8-313 and 8-321, except, if the term of the repurchase agreement is not in excess of 72 hours, the municipality's interest in the underlying security need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction;~~

**3. Mutual funds.** In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, provided that the investments of the fund are limited to bonds

and other direct obligations of the Federal United States Government, as defined in section 5712, subsection 1 or repurchase agreements secured by bonds and other direct obligations of the Federal United States Government, as defined in section 5712, subsection 1; or

**4. Safekeeping and investment management agreements.** The municipal officers may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping ~~and investment~~ of the reserve funds, as defined in section 5801, or trust funds, as defined by section 5653, of the municipality. Services ~~shall~~ must consist of the safekeeping ~~and investment management~~ of the funds, collection of interest and dividends, ~~periodic review of the portfolio investments~~ and any other fiscal service ~~which that~~ is normally covered in a safekeeping ~~and investment~~ agreement. ~~In performing services under any contract or agreement, the contracting bank has all the powers and duties prescribed for trust companies by Title 9-B, section 623, and the authority to invest~~ Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the municipality under this section are governed by the rule of prudence, Title 18-A, section 7-302. The contracting bank parties shall give assurance of proper safeguards, which that are usual to these contracts, and shall furnish insurance protection satisfactory to both parties.

#### §5712. Government unit bonds

Municipalities may invest in:

**1. United States and instrumentalities.** The bonds and other direct obligations of the United States, or the bonds and other direct obligations or participation certificates issued by any agency, association, authority or instrumentality created by the United States Congress or any executive order;

**2. States.** The bonds and other direct obligations issued or guaranteed by any state or by any instrumentality or agency of any state, or by any political subdivision of any state, provided that the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Banking;

**3. Maine.** The bonds and other direct obligations issued or guaranteed by this State, or issued by any instrumentality or agency of this State, or any political subdivision of the State which that is not in default on any of its outstanding funded obligations; and

**4. Canada.** The bonds and other direct obligations issued or guaranteed by the Dominion of Canada, or issued or guaranteed by any province, or political subdivision of a province, provided that the securities are rated within the 3 highest grades by any rating service approved by the Superintendent of Banking and are payable in United States funds; and

**5. Short-term obligations.** Prime bankers' acceptances and prime commercial paper.

Investments made pursuant to this section are limited to direct obligations of the issuer in which the municipality directly owns the underlying security. Obligations created from, or whose value depends on or is derived from the value of one or more underlying assets or indexes of asset values in which the municipality owns no direct interest do not qualify as investments under this section.

**Sec. 2. 30-A MRSA §5718 and 5719** are enacted to read:

**§5718. Standard of prudence**

All investments made under this subchapter must be made with the judgment and care that persons of prudence, discretion and intelligence, under circumstances then prevailing, exercise in the management of their own affairs, not for speculation but for investment, considering:

**1. Safety.** The safety of principal and preservation of capital in the overall portfolio;

**2. Maintenance of liquidity.** Maintenance of sufficient liquidity to meet all operating and other cash requirements with which a fund is charged that are reasonably anticipated; and

**3. Income.** The income to be derived through-out budgetary and economic cycles, taking into account prudent investment risk constraints and the cash-flow characteristics of the portfolio.

This standard must be applied to the overall investment portfolio of the municipality and not to individual items within a diversified portfolio.

**§5719. Limitations on investments**

A municipality's authority to invest municipal funds is limited to investments permitted under this subchapter and a municipality has no authority under home rule authority or otherwise to make any

investments other than those permitted under this subchapter.

**Sec. 3. Application.** This Act applies only to investments purchased after the effective date of this Act.

See title page for effective date.

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**CHAPTER 207**

**H.P. 747 - L.D. 1021**

**An Act Authorizing the State Board of Education to Adopt Rules Regarding Certain Early Childhood Personnel**

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

**Sec. 1. 20-A MRSA §13011, sub-§1,** as enacted by PL 1983, c. 845, §4, is amended to read:

**1. Certification and revocation rules.** All certificates issued or revoked after June 30, 1988, ~~shall be~~ are in accordance with this chapter. The state board shall adopt rules ~~prior to April 1, 1988~~ to carry out the purposes of this chapter under which the commissioner shall:

A. Certify teachers and other professional personnel for service in a public school or in an approved private school;

B. Certify adult education teachers and other teaching and professional personnel in ~~publicly-supported~~ publicly supported educational programs other than ~~post-high~~ postsecondary school institutions, colleges and universities;

C. Approve the employment of teacher aides, teacher assistants and other semiprofessional personnel for service in schools; ~~and~~

D. Seek a revocation of a certificate in the Administrative Court; ~~and~~

E. Certify or authorize personnel who provide early childhood educational programs or developmental therapy to children with disabilities from birth to under 9 years of age in the home, in community-based special purpose and integrated programs and in public schools.

See title page for effective date.

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