

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

When the terms of the current public members expire in 1996, the persons appointed or reappointed to fill those positions have the following terms: one public member is appointed for a one-year term; one public member is appointed for a 2-year term; and one public member is appointed for a 3-year term.

Of the 2 public members added to the board pursuant to this Act, one must be appointed to fill a term that expires October 31, 1997 and one for a term that expires October 31, 1998.

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

Effective June 30, 1995.

CHAPTER 400

S.P. 597 - L.D. 1584

**An Act to Require Annual Reporting
by the Board of Governors of the
Maine Workers' Compensation
Residual Market Pool**

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

Sec. 1. 24-A MRSA §2395, sub-§6 is enacted to read:

6. Report required. Beginning in 1996, the board shall file an annual report on or before June 1st to the Governor, the superintendent, the President of the Senate and the Speaker of the House of Representatives and the joint standing committee of the Legislature having jurisdiction over banking and insurance matters. The report must identify the following information:

- A. The pool's most recent audited financial statements;
- B. The total claims payments made by the pool in the preceding 12 months;
- C. The most recent actuarial report, including cash flow and deficit projections for the pool;
- D. A report of changes to the operations of the pool;
- E. A summary of the number of open claims and aggregate reserves for each policy year; and
- F. Any information required to be maintained by the pool pursuant to section 2393, subsection 2, paragraph E and section 2394, subsection 1.

Sec. 2. Report by board of governors. On or before March 1, 1996, the Board of Governors of the Maine Workers' Compensation Residual Market Pool shall file a report to the Governor, the Superintendent of Insurance, the President of the Senate, the Speaker of the House of Representatives and the Joint Standing Committee on Banking and Insurance. The report must include information on the cash status of the Maine Workers' Compensation Residual Market Pool and the receipt of revenue from major and minor insurers and employers, as defined in the Maine Revised Statutes, Title 24-A, section 2392, and the Maine Insurance Guaranty Association.

See title page for effective date.

CHAPTER 401

H.P. 292 - L.D. 396

**An Act to Amend the Laws
Governing Wrongful Death Caused
by Truck Drivers**

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

Sec. 1. 29-A MRSA §558, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Violation. A person commits a Class E crime if that person violates or knowingly permits a violation of this subchapter or a rule adopted pursuant to this subchapter. The violation is a Class C crime if:

- A. The violation is knowing or intentional;
- B. The violation in fact causes either death or serious bodily injury, as defined in Title 17-A, section 2, to a person whose health or safety is protected by the provision violated; and
- C. The death or injury is a reasonably foreseeable consequence of the violation.

See title page for effective date.

CHAPTER 402

H.P. 483 - L.D. 664

**An Act Regarding the Functioning of
the Department of Mental Health
and Mental Retardation and Several
Professional Regulatory Boards**

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

Whereas, those provisions are intended to improve management, performance, organization, program delivery and fiscal accountability of agencies and independent agencies reviewed; 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. 3 MRSA §927, sub-§6, as amended by PL 1993, c. 600, Pt. A, §§3 and 4, is further amended to read:

6. 2006.

A. Agencies:

- (1) Department of Conservation;
- (2) Department of Inland Fisheries and Wildlife;
- (3) Baxter State Park Authority; and
- (4) Department of Mental Health and Mental Retardation.

C. Independent agencies:

- (1) Saco River Corridor Commission;
- (2) Acupuncture Licensing Board;
- (3) Board of Licensing of Auctioneers;
- (4) Board of Licensing of Dietetic Practice;
- (5) Board of ~~Commercial~~ Driver Education;
- (6) Advisory Board for the Licensing of Taxidermists;
- (7) Maine Turnpike Authority; and
- (8) State Board of Optometry.

Sec. A-2. 5 MRSA §151, first ¶, as amended by PL 1993, c. 600, Pt. B, §§20 to 22, is further amended to read:

All money received by the Treasurer of State from the Board of Licensure in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Accountancy, the Board of Veterinary Medicine, the Board of Osteopathic Licensure, the State Board of Funeral Service, the State Board of Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Certification for Geologists and Soil Scientists, the Nursing Home Administrators Licensing Board, the State Board of Licensure for Architects and Landscape Architects, the Electricians' Examining Board, the Oil and Solid Fuel Board, Maine State Pilotage Commission, the State Board of Barbers, State Board of Cosmetology, State Board of Registration for Land Surveyors, State Board of Social Worker Registration, the Examiners of Podiatrists, the Board of Chiropractic Licensure, the Board of Examiners on Speech Pathology and Audiology, the Maine Real Estate Commission, the Board of ~~Commercial~~ Driver Education, the Board of Registration of Dietetic Practice, the State Board of Registration for Professional Foresters, the Board of Hearing Aid Dealers and Fitters, the Manufactured Housing Board, the Board of Occupational Therapists, Radiologic Technology Board of Examiners, Board of Registration of Substance Abuse Counselors, Maine Athletic Commission, Board of Underground Oil Storage Tank Installers and the Board of Commissioners of the Profession of Pharmacy ~~shall~~ constitute a fund, which ~~shall be~~ is a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively and as much thereof as may be required is appropriated for these purposes. The secretary of each board ~~shall~~ must be reimbursed for all expenditures for books, stationery, printing and other necessary expenses incurred in the discharge of ~~his~~ the secretary's duties. All such payments ~~shall~~ must be made from the respective funds held in the State Treasury, after the approval of the State Controller. In no event may these payments exceed the amounts received by the Treasurer of State from the treasurer of each respective board. Any balance remaining to the credit of any board at the end of any year ~~shall~~ must be carried forward to the next year.

Sec. A-3. 10 MRSA §8001, sub-§10, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, is amended to read:

10. Board of Driver Education. ~~Commercial~~ Driver Education, Board of;

Sec. A-4. 22 MRSA §3881, sub-§3, as enacted by PL 1993, c. 600, Pt. A, §16, is repealed and the following enacted in its place:

3. Fund. "Fund" means the repository for funds donated to the Maine Children's Trust Incorporated by the taxpayers of the State through an income tax checkoff pursuant to Title 36, section 5285 as well as federal grants and contracts, privately donated funds and in-kind donations for prevention programs, or by any means for the purposes of this chapter.

Sec. A-5. 22 MRSA §3881, sub-§7 is enacted to read:

7. Trust. "Trust" means the Maine Children's Trust Incorporated.

Sec. A-6. 22 MRSA §3882, as enacted by PL 1993, c. 600, Pt. A, §16, is amended to read:

§3882. Establishment; purpose; nonprofit organization

The Maine Children's Trust Incorporated, referred to in this chapter as the "~~fund trust~~," is established to provide a mechanism for voluntary contributions by individuals and groups for annual and long-term funding of prevention programs. ~~The fund is the repository for funds donated by taxpayers of the State through an income tax checkoff pursuant to Title 36, section 5285 as well as federal grants and contracts, privately donated funds and in-kind donations for prevention programs.~~

The ~~fund trust~~ is a private nonprofit corporation with a broad public purpose pursuant to this chapter. The exercise by the ~~fund trust~~ of the powers conferred by this chapter is held to be an essential governmental function.

Sec. A-7. 22 MRSA §3884, sub-§§1, 7 and 9, as enacted by PL 1993, c. 600, Pt. A, §16, are amended to read:

1. Plan. Develop a biennial working plan for ~~fund trust~~ activities that sets overall statewide goals and objectives for child abuse prevention activities, establishes priorities for distribution of money in the fund and provides a working plan for the ~~fund trust~~ for the biennium. In developing the plan, the board may:

- A. Review and evaluate existing prevention programs;
- B. Ensure that equal opportunity exists for the establishment of prevention programs and receipt of money from the fund among all geographic areas in the State;
- C. Review and evaluate public and private funding sources; and
- D. Submit the plan to the Legislature biennially;

7. Education. As a primary prevention activity of the ~~fund trust~~, develop and implement a campaign to provide statewide education and public information to enhance public awareness concerning child abuse and neglect;

9. Bylaws. Adopt bylaws, have the general powers accorded corporations under Title 13, chapter 81 and perform other acts as necessary or convenient to carry out the lawful purposes of the ~~fund trust~~;

Sec. A-8. 22 MRSA §3888, as enacted by PL 1993, c. 600, Pt. A, §16, is amended to read:

§3888. Prohibited interests of officers, directors and employees

An officer, director or employee of the ~~fund trust~~ or a spouse or dependent child of an officer, director or employee of the ~~fund trust~~ may not receive direct personal benefit from the activities of the ~~fund trust~~ in assisting a private entity. This provision does not prohibit corporations or other entities with which an officer, director or employee is associated by reason of ownership or employment from participating in prevention programs of the ~~fund trust~~, if that ownership or employment is made known to the board and the officer, director or employee abstains from voting on matters relating to that participation. This prohibition does not extend to corporators who are not officers, directors or employees of the ~~fund trust~~.

Sec. A-9. 22 MRSA §3889, as enacted by PL 1993, c. 600, Pt. A, §16, is amended to read:

§3889. Donations to the State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the ~~fund trust~~ and shall transfer those funds, that property or other interests to the fund.

Sec. A-10. 32 MRSA §270 is enacted to read:

§270. Definitions

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

1. Auction. "Auction" means the offering of goods or real estate for sale by means of exchanges between an auctioneer and members of an audience.

2. Auction company. "Auction company" means a person, partnership, corporation, association or other legal entity that engages in the business of arranging, managing, sponsoring, advertising or conducting auctions.

3. Auctioneer. "Auctioneer" means any person who conducts or offers that person's service to conduct auctions, contracts or offers to contract with consignors of real or personal property, with or without receiving or collecting a fee, commission or other valuable consideration, or sells or offers to sell property at auction.

4. Board. "Board" means the Board of Licensing of Auctioneers.

5. Small auctioneer. "Small auctioneer" means any person who conducts or offers that person's service to conduct auctions, contracts or offers to contract with consignors of real or personal property, with or without receiving or collecting a fee, commission or other valuable consideration, or sells or offers to sell property at auction and who receives \$10,000 or less in gross income annually from auction sales.

Sec. A-11. 32 MRSA §271-A, as amended by PL 1985, c. 748, §31, is further amended to read:

§271-A. Disposition of fees

All fees received under this chapter ~~shall~~ must be paid to the Treasurer of State to be used for carrying out the purposes of this chapter. Any balance of these fees ~~shall~~ may not lapse, but ~~shall~~ must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. A-12. 32 MRSA §271-B is enacted to read:

§271-B. Powers and duties

The board has the following duties and powers, in addition to those otherwise set forth in this chapter.

1. Licensure and standards. The board shall license and set standards of practice for auctioneers. The board shall evaluate the qualifications and supervise the licensure of applicants under this chapter.

2. Examination. The board shall administer and supervise the examination of applicants for licensure under this chapter.

3. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

4. Budget. The board shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change, unless alterations are mutually agreed upon by the Department of Professional and Financial

Regulation and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this chapter.

5. Records. The board shall keep records and minutes as are necessary to the ordinary dispatch of its functions.

Sec. A-13. 32 MRSA §272-A is enacted to read:

§272-A. Initial and renewal license fee waived for small auctioneer

An applicant for licensure shall indicate on the application form to the board whether the applicant expects to earn \$10,000 or less in gross income annually from auction sales during the licensure period. Applicants who meet the provisions of this chapter and who expect to earn \$10,000 or less in gross income annually from auction sales during the licensure period must be licensed as small auctioneers and a license fee may not be charged.

An applicant for renewal of a small auctioneer's license shall submit a copy of that applicant's federal and state income tax forms, showing gross annual income from auction sales during the prior licensure period. In order to be licensed an applicant must state on the application that the applicant expects to earn \$10,000 or less in gross income annually from auction sales during the prospective licensure period. Upon confirming that the gross income requirement has been met during the prior licensure period and is expected to be maintained throughout the prospective licensure period, the board shall renew the applicant's small auctioneer license and may not charge a fee for renewed licensure. Upon finding that the gross income requirement from auction sales during the prior period is not met or is expected to be exceeded in the prospective licensure period, the board shall renew the license at the level of auctioneer and charge the requisite fee.

A person licensed as a small auctioneer shall comply with all other provisions of this chapter.

Sec. A-14. 32 MRSA §273, first and 4th ¶¶, as amended by PL 1991, c. 203, §3, are further amended to read:

Every resident person in this State desiring to do business as an auctioneer or small auctioneer, who satisfies the board that that person has knowledge of the laws of this State pertaining to auctions and sales, the ethics and practices of auctioneers, the laws relating to the record of sales of used merchandise and such other related subjects as the board may select, upon application in form designated by the board, must receive a license to conduct auctions. The

original application must be accompanied by 2 letters of recommendation as evidence of ethical business practice.

The application and supporting information must be kept on file together with a record of all licenses issued. The license fee may not exceed ~~\$100~~ \$125 for a biennium and the original license is effective from date of issue until March 31st of the biennial expiration or when the Commissioner of Professional and Financial Regulation designates.

Sec. A-15. 32 MRSA §274, as amended by PL 1991, c. 203, §4, is further amended to read:

§274. Renewal

Notice of expiration must be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The renewal notice must include any requests for information necessary to update the individual's records. The biennial license renewal fee may not exceed ~~\$100~~ \$125.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date ~~shall be~~ is subject to all requirements governing new applicants under this chapter.

Sec. A-16. 32 MRSA §275, as enacted by PL 1979, c. 478, §2, is amended to read:

§275. License limitations

1. License not transferable. A license is not ~~transferable~~ transferable nor does it give authority to more than one person, but each licensee may have the assistance of one or more persons in conducting the auction sale. These individuals may aid the licensee or ~~shall~~ may act in the capacity of an apprentice but ~~shall~~ may not act for or without the licensee.

2. Advertising. No auction ~~shall~~ may be advertised in this State without including the name and license number of the auctioneer or small auctioneer.

Sec. A-17. 32 MRSA §276, as amended by PL 1985, c. 748, §33, is further amended to read:

§276. Nonresident certification

Every nonresident person desiring to do business as an auctioneer or small auctioneer in this State shall obtain ~~an auctioneer's~~ a license. The board may issue a license to any nonresident upon fulfillment of the same application requirements as those set forth for resident auctioneers or small auctioneers.

In addition, an applicant licensed to conduct auctions in the state in which ~~he~~ the applicant resides shall furnish proof of that licensure to the board.

Sec. A-18. 32 MRSA §277, as amended by PL 1991, c. 203, §5, is further amended to read:

§277. Nonresident fee; renewal

The applicant shall pay an initial license fee not to exceed ~~\$200~~ \$225. The license may be renewed biennially upon payment of fees not to exceed ~~\$200~~ \$225.

Sec. A-19. 32 MRSA §278-A, sub-§1, as enacted by PL 1983, c. 413, §19, is amended to read:

1. Investigations. The ~~commissioner~~ board shall investigate, or cause to be investigated, all complaints made to ~~him~~ it and all cases of noncompliance with or violation of this chapter.

Sec. A-20. 32 MRSA §279, as enacted by PL 1979, c. 478, §2, is amended to read:

§279. Inspection of license

Every auctioneer or small auctioneer licensed by the State ~~intending to conduct an auction sale in any city or town shall, prior to the sale, must show his that~~ that ~~auctioneer's or small auctioneer's state license to the~~ at any time upon the request of a municipal law enforcement agency or municipal clerk or ~~officers~~ officer in whose municipality the auctioneer or small auctioneer is conducting an auction. The provisions for obtaining a state auctioneer's or small auctioneer's license ~~shall do~~ not prohibit any municipality from establishing its own permit requirements for an auction sale, provided no municipal permit ~~shall be~~ is required for an auction ~~which last~~ that lasts less than 2 full consecutive days.

Sec. A-21. 32 MRSA §280, sub-§1, as enacted by PL 1979, c. 478, §2, is amended to read:

1. Statement of ownership of property. Any law enforcement officer may require the auctioneer or small auctioneer to state whether the merchandise being sold is owned in part or in its entirety by the auctioneer or small auctioneer. If the merchandise is owned by another party, the name and address of that party ~~shall~~ must be stated to law enforcement officials.

Sec. A-22. 32 MRSA §280, sub-§3, as repealed and replaced by PL 1989, c. 450, §7, is amended to read:

3. Real estate brokerage. If an auctioneer or small auctioneer engages in real estate brokerage, the auctioneer or small auctioneer must be licensed under chapter 114, except that a license is not required if the auctioneer or small auctioneer is hired to call bids on

real estate being sold at an auction and the auctioneer or small auctioneer does not prepare contracts or otherwise control the actual sale or take custody of any part of the purchase price.

Sec. A-23. 32 MRSA §280, sub-§4, as enacted by PL 1991, c. 203, §8, is amended to read:

4. Contracts. A person may not conduct an auction in this State without first having a written contract with the owner of any property to be sold. ~~The Board of Licensing of Auctioneers shall designate the format of the contract.~~ The contract must contain the date of the contract and the name and license number of the auctioneer. The contract must contain the terms and conditions, including, but not limited to:

- A. Listing or description of all items to be sold;
- B. Reserves, if any;
- C. Payment schedule;
- D. Commission rate; and
- E. Statement of other charges.

Sec. A-24. 32 MRSA §281, as amended by PL 1995, c. 57, §2, is further amended to read:

§281. Exemptions

1. Charitable, educational, religious or nonprofit organizations. The provisions of this chapter ~~shall~~ do not apply to individuals who conduct a sale or auction for a charitable, educational, religious or other nonprofit organization, provided that the charity retains the total amount of the proceeds with the exception of advertising fees and the person conducting the sale or auction receives no fee for his services.

2. Sheriffs, tax collectors, executors and administrators. This chapter ~~shall~~ does not apply to sheriffs or their deputies, constables, tax collectors, executors, administrators or any other officers authorized to sell property by order of any court.

3. Pedigreed animals. This chapter ~~shall~~ does not prohibit any person employed by the owner of pedigreed animals ~~to sell~~ from selling those animals at public auction.

4. Foreclosure sales. This chapter ~~shall~~ does not apply to any individual conducting a foreclosure sale pursuant to a court order.

5. Tax-acquired property. This chapter does not apply to the sale by or on behalf of a municipality of any real or personal property acquired by that municipality for nonpayment of taxes.

Sec. A-25. 32 MRSA §282, 3rd ¶, as enacted by PL 1991, c. 203, §9, is amended to read:

The Board of Licensing of Auctioneers may take any action pursuant to Title 10, section 8003, subsection 5. Any person who purports to be or operates as a licensed auctioneer or small auctioneer without obtaining a license commits a Class E crime.

Sec. A-26. 32 MRSA §283, as amended by PL 1991, c. 203, §§10 and 11, is further amended to read:

§283. Conditions of auction sales

Each auctioneer or small auctioneer shall post for display and describe at the beginning of each auction the conditions of the auction sale. The conditions ~~shall~~ must include:

1. Description of property. A description of the property to be sold and whether the property is sold "as is;"

2. Highest bidder acknowledged. That the highest bidder will be acknowledged by the auctioneer or small auctioneer;

3. Bid not commensurate. Whether a bid not commensurate with value, in the opinion of the auctioneer or small auctioneer, may be made;

4. Absentee bids. Whether absentee bids will be allowed;

5. Sales Tax. Sales tax requirements;

6. Auctioneer, small auctioneer or owner bidding. Whether or not the owner ~~or~~ auctioneer or small auctioneer reserves the right to bid;

7. Reserve. Whether or not the auction has a reserve;

8. Uniform Commercial Code. A statement that the Uniform Commercial Code, Title 11, section 2-328 applies to this auction sale; ~~and~~

9. Statement of buyer's premium. A statement of buyer's premium; and

10. Title and address. The title and address of the Board of Licensure of Auctioneers.

Sec. A-27. 32 MRSA §9902, sub-§5, as amended by PL 1987, c. 313, §2, is further amended to read:

5. Licensed dietetic technician. "Licensed dietetic technician" means a person licensed under this chapter who practices dietetics under the supervision of a dietitian who is licensed in accordance with this chapter.

Sec. A-28. 32 MRSA §9903, sub-§1, as amended by PL 1987, c. 313, §3, is further amended to read:

1. Establishment and membership. There is established, within the Department of Professional and Financial Regulation, the Board of Licensing of Dietetic Practice. The board ~~shall consist~~ consists of 5 members appointed by the Governor, including 2 public members who are residents of this State, who do not hold a license to practice dietetics and who have no direct or indirect financial interest in the practice or delivery of dietetic services. Other than these public members, the persons appointed to the board ~~shall~~ must have been engaged in rendering dietetic services to the public or in teaching or research in dietetics for at least 2 years immediately preceding their appointments. Two board members ~~shall~~ must be dietitians. The 5th member ~~shall~~ must be a dietetic technician. The professional members ~~shall~~ must at all times be holders of valid licenses under this chapter, except for the members of the first board, each of whom ~~shall~~ must fulfill the requirements for licensing under this chapter.

Sec. A-29. 32 MRSA §9903, sub-§§3 and 4, as enacted by PL 1985, c. 389, §28, are amended to read:

3. Meetings. The board shall meet at least once a year to conduct its business and to elect a ~~chairperson~~ chair. Additional meetings ~~shall~~ may be held as necessary to conduct the business of the board and may be ~~evened~~ convened at the call of the ~~chairperson~~ chair or a majority of the board members. A majority of the members of the board ~~shall constitute~~ constitutes a quorum for all purposes.

4. Compensation. Members of the board ~~shall be compensated~~ are entitled to compensation as provided in Title 5, ~~section 12002-A~~ chapter 379.

Sec. A-30. 32 MRSA §9904, sub-§3, as amended by PL 1987, c. 313, §3, is further amended to read:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or as otherwise ~~deemed~~ considered necessary to the fulfillment of its responsibilities under this chapter. Hearings ~~shall~~ must be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; to the extent applicable.

Sec. A-31. 32 MRSA §9906, sub-§1, as amended by PL 1987, c. 313, §5, is further amended to read:

1. Licensing required. ~~No~~ A person may not practice dietetics or ~~hold himself out~~ claim to be a dietitian or a dietetic technician unless ~~he~~ that person is licensed in accordance with this chapter.

Sec. A-32. 32 MRSA §9907, as amended by PL 1991, c. 509, §32, is further amended to read:

§9907. Requirements for licensing; education; experience

1. Dietitian's licensing. An applicant for licensing as a dietitian ~~shall~~ must file a written application on forms provided by the board, showing to the satisfaction of the board that ~~he~~ the applicant meets the following requirements.

A. The applicant must exhibit adherence to established ethical professional standards.

B. An applicant ~~shall~~ must present evidence satisfactory to the board of having successfully completed the academic requirements established by the American Dietetic Association or equivalent requirements as determined by the board and ~~shall~~ must have received a baccalaureate or higher degree from an accredited college or university. As part of ~~his~~ the applicant's professional education ~~an~~ the applicant ~~shall~~ must have completed courses in organic and inorganic chemistry, human physiology, microbiology, principles of sociology or psychology, basic communication skills, economics, food composition, nutrition and management theory.

C. An applicant ~~shall~~ must submit to the board evidence of having successfully completed the experience requirements approved by the American Dietetic Association or equivalent experience approved by the board. That experience ~~shall~~ must include at least 6 months full-time experience in the field of dietetics, or its part-time equivalent. The experience ~~shall~~ must have been acquired during or within 5 years of completion of the academic requirements in paragraph B or not more than 5 years before the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined and administered by the board. The examination requirement of this paragraph does not apply to an applicant who presents evidence of having practiced as a dietitian without censure for a period of 10 years immediately prior to September 30, 1987.

2. Dietetic technician's licensing. An applicant for licensing as a dietetic technician ~~shall~~ must file a written application on forms provided by the board

showing to the satisfaction of the board that ~~he~~ the applicant meets the following requirements.

A. The applicant must exhibit adherence to established ethical professional standards.

B. The applicant must have graduated from a dietetic technician program approved by the Commission on Accreditation of the American Dietetic Association or its equivalent, as determined by the board, or graduated with a Bachelor of Science Degree in Food and Nutrition from an approved 4-year program.

C. An applicant ~~shall~~ must submit to the board evidence of having successfully completed a 2-month work experience approved by the board. That experience ~~shall~~ must have been acquired during or within 5 years from completion of the academic requirements in paragraph B and not more than 5 years from the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined by the board.

Sec. A-33. 32 MRSA §9909, sub-§2, as amended by PL 1987, c. 313, §5, is further amended to read:

2. Continuing education. Each license renewal ~~shall~~ must be accompanied by evidence of continuing education or other requirements as established in rule by the board.

Sec. A-34. 32 MRSA §9911, sub-§2, as enacted by PL 1985, c. 389, §28, is amended to read:

2. Deposit of fees. All fees received by the board ~~shall~~ must be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of fees ~~shall~~ may not lapse, ~~but shall and must~~ be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. A-35. 32 MRSA §9912, as amended by PL 1987, c. 313, §8, is further amended to read:

§9912. Reciprocity

The board may, in its discretion, grant a license under this chapter to an individual licensed in another state if it determines that the requirements or standards for licensure in that state are equivalent to, or greater than, those established by this chapter. The board may not require an individual licensed in another state to meet requirements or standards for licensure in the State that are more stringent than requirements or standards for licensure imposed on in-state applicants.

Sec. A-36. 32 MRSA §9915, sub-§1, as enacted by PL 1987, c. 313, §9, is amended to read:

1. Licensed persons. Any person licensed or registered in this State under any other law from engaging in the profession or occupation for which ~~he~~ that person is licensed or registered;

Sec. A-37. 32 MRSA §12406, as amended by PL 1993, c. 600, Pt. A, §265, is further amended to read:

§12406. Establishment and compensation

1. Membership. There is within the Department of Professional and Financial Regulation the Acupuncture Licensing Board as established in Title 5, chapter 379. The board ~~shall consist~~ consists of 5 members appointed by the Governor. The Governor shall make the initial appointments to the board no later than 60 days after the effective date of this section and shall inform the Commissioner of Professional and Financial Regulation. The commissioner shall call the first meeting of this board for a date no more than 30 days after ~~his~~ notification by the Governor. Three members ~~shall~~ must be licensed acupuncturists, one member ~~shall~~ must be a licensed, practicing medical or osteopathic doctor and one member ~~shall~~ must be a member of the public who is not licensed to practice any healing art or science and who is not an acupuncturist. Until such time as a licensing procedure is in place, persons who meet the qualifications for licensing may be appointed in lieu of the licensed board members.

2. Terms of office. Appointments are for 3-year terms. Appointments of members must comply with section 60.

3. Qualifications. Members of the board ~~shall~~ must be residents of this State and ~~shall~~ must be trustworthy and competent to fulfill the responsibilities imposed by this chapter. Each board member, other than the public member and the practicing physician, ~~shall~~ must have been engaged in the active practice of acupuncture for a minimum of 3 years prior to appointment.

The Governor may remove any member for cause.

4. Vacancy. Any vacancy in the board ~~shall~~ must be filled by appointment of a person, as qualified as the board member ~~he replaces~~ being replaced, to hold office for the unexpired term.

5. Compensation and expenses. Members of the board ~~shall be compensated~~ are entitled to compensation according to the provisions of Title 5, chapter 379, provided that expenses do not exceed the fees collected by the board. If the fees to be collected under this chapter are insufficient to pay the expenses

provided by this section, the board members ~~shall be~~ are entitled to a pro rata payment in any years in which ~~such those~~ those fees are insufficient.

6. Organization and meetings. The board shall annually elect a ~~chairman~~ chair and a secretary from its membership. The secretary shall keep full and complete records of its proceedings and accounts, which ~~shall~~ must be open to public inspection at all reasonable times.

The board shall meet at least once a year to conduct its business and elect its officers. Additional meetings ~~shall~~ may be held as necessary to conduct the business of the board and may be convened at the call of the ~~chairman~~ chair or a majority of the board members.

Three members ~~shall~~ constitute a quorum for the transaction of board business, except that when only 3 members are present, one of them must be a nonacupuncturist member in order for the board to conduct any business.

The board shall adopt a seal for its use. The seal and records ~~shall~~ must be kept at the Department of Professional and Financial Regulation.

Sec. A-38. 32 MRSA §12407, sub-§§1, 3 and 6, as enacted by PL 1987, c. 488, §3, are amended to read:

1. Licensure and standards. The board shall ~~certify~~ license and set standards of practice for acupuncturists. The board shall evaluate the qualifications and supervise the ~~certification~~ licensure of applicants under this chapter. The board shall adopt standards no less stringent than those established by the National Commission for the Certification of Acupuncturists. The board shall adopt requirements for continuing education as a condition of license renewal.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial or ~~registration~~ licensure or as otherwise ~~deemed~~ considered necessary to the fulfillment of its responsibilities under this chapter.

The board ~~shall~~ may not refuse to renew ~~registration~~ licensure for any reason other than failure to pay a required fee, unless it has afforded the applicant an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied ~~registration~~ licensure without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of denial of the application, the reasons therefore and ~~his~~ the applicant's right to request a hearing. Hearings ~~shall~~ must

be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

6. Budget. No later than May 1st of each year, the board shall submit to the commissioner for ~~his~~ the commissioner's review and recommendation a proposed budget for each of the next 2 fiscal years.

Sec. A-39. 32 MRSA §12408, first ¶, as enacted by PL 1987, c. 488, §3, is amended to read:

To be eligible to apply for a license to practice acupuncture, an applicant ~~shall~~ must:

Sec. A-40. 32 MRSA §12409, as enacted by PL 1987, c. 488, §3, is amended to read:

§12409. Licensing

1. Licensed acupuncturist. The board shall issue a ~~certificate of licensing~~ license upon the affirmative vote of at least 3 members of the board to an applicant who has satisfactorily met the following minimal requirements:

A. ~~Met the~~ The eligibility requirements set forth in section 12408; and

B. ~~Met any~~ Any other reasonable criteria the board may prescribe by its rules.

Sec. A-41. 32 MRSA §12410, as enacted by PL 1987, c. 488, §3, is amended to read:

§12410. Fees

1. Application. Application for licensing as an acupuncturist ~~shall~~ must be on forms prescribed and furnished by the board. The application fee ~~shall be~~ is set by the board by rule, ~~shall be~~ is nonrefundable and ~~shall~~ must be in amounts ~~which~~ that are reasonable and necessary for their respective purposes.

2. Licensure. A ~~certificate~~ license for a ~~licensed~~ an acupuncturist ~~shall be~~ is in effect for 2 years. The ~~certificate~~ license fee ~~shall be~~ is established by the board in an amount not to exceed \$250 ~~biennially~~ annually. The board may raise the fee by rule within the limits of the statutory cap only as an action of last resort determined necessary to maintain the financial solvency of the board.

Fees for initial and renewal licenses ~~shall~~ must be set so that total fee receipts do not exceed the amount projected as necessary to properly cover the expenses of performing the duties imposed upon the board.

3. Deposit of fees. All fees received by the board ~~shall~~ must be paid to the Treasurer of State to be

used for carrying out this chapter. Any balance of fees ~~shall may~~ not lapse, but ~~shall must~~ be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. A-42. 32 MRSA §12412, sub-§1, as amended by PL 1989, c. 307, §6, is further amended to read:

1. Requirements. Prior to the expiration of a ~~certificate of licensing license~~, renewal application may be made by the ~~certificate license~~ holder who ~~shall pay a biennial~~ pays an annual renewal fee, which ~~shall may~~ not exceed the initial ~~registration licensure~~ fee, and who ~~shall submit~~ submits satisfactory proof of having completed continuing education requirements adopted by the board as a condition of renewal. It is not a condition of renewal that an applicant who qualified for licensure as a licensed registered nurse continue to be licensed as a registered nurse.

Sec. A-43. 32 MRSA §12413, first ¶, as enacted by PL 1987, c. 488, §3, is amended to read:

The board may suspend or revoke a ~~certificate of licensing license~~ pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew or the Administrative Court may suspend, revoke or refuse to renew a ~~certificate of licensing license~~ on any of the following grounds:

Sec. A-44. 32 MRSA §12413, sub-§§1 and 3, as enacted by PL 1987, c. 488, §3, are amended to read:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a ~~certificate license~~ under this chapter or in connection with services rendered as an acupuncturist;

3. Aiding and abetting misrepresentation. Aiding or abetting a person, not duly licensed under this chapter, in ~~representing himself as~~ claiming to be an acupuncturist;

Sec. A-45. 32 MRSA §12414 is enacted to read:

§12414. Findings

The Legislature finds that the regulation of the practice of acupuncture is warranted in order to protect the health, safety and welfare of the public.

Sec. A-46. Maine Children's Trust Incorporated; transition; retroactivity. The Maine Children's Trust Incorporated is the successor in every way to the Maine Children's Trust Fund.

All accrued expenditures, assets, liabilities, balances of funds, transfers, revenues or other available funds of the former Maine Children's Trust

Fund must be reallocated to the Maine Children's Trust Incorporated.

All existing rules, regulations and procedures in effect, in operation or promulgated by the former Maine Children's Trust Fund or any of its administrative units or officers are in effect and continue in effect until rescinded, revised or amended by the proper authority.

All existing contracts, agreements and compacts that are in effect for the Maine Children's Trust Fund continue in effect.

Any positions authorized and allocated subject to the personnel laws to the Maine Children's Trust Fund may continue to be authorized.

All records, property and equipment belonging to or allocated for the use of the Maine Children's Trust Fund may be used by the Maine Children's Trust Incorporated until existing supplies of those items are exhausted.

This section applies retroactively to July 1, 1994.

Sec. A-47. Revision clause. Wherever in the Maine Revised Statutes the words "Board of Commercial Driver Education" appear or reference is made to those words, they are amended to read and mean "Board of Driver Education" and the Revisor of Statutes shall implement these revisions when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 5 MRSA §20005-A, sub-§4 is enacted to read:

4. Procedures. The following procedures apply whenever the director commences a request-for-proposal procedure.

A. The director shall hold at least one informational meeting at least 3 months before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the director shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The director shall require any interested party to submit a notice of intent to bid at least 3 months before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's

competence and ability to comply with the requirements of the contract.

C. If only one community service provider submits a notice of intent to bid, the director may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts.

D. For purposes of this section, the director retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C.

Sec. B-2. 22 MRSA §12-A, sub-§4 is enacted to read:

4. Procedures. The following procedures apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner shall hold at least one informational meeting at least 3 months before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least 3 months before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts.

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C.

Sec. B-3. 34-B MRSA §1208-A, sub-§4 is enacted to read:

4. Procedures. The following procedures apply whenever the commissioner commences a request-for-proposal procedure.

A. The commissioner shall hold at least one informational meeting at least 3 months before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least 3 months before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

C. If only one community service provider submits a notice of intent to bid, the commissioner may enter into negotiations concerning a contract with that provider in accordance with the procedures established for performance-based contracts.

D. For purposes of this section, the commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C.

PART C

Sec. C-1. 5 MRSA c. 148-B, as amended, is repealed.

Sec. C-2. 5 MRSA c. 148-C is enacted to read:

CHAPTER 148-C

MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES ACT FOR COMMUNITY AGENCIES

§1660-C. Short title

This chapter may be known and cited as the "Maine Uniform Accounting and Auditing Practices Act for Community Agencies."

§1660-D. Definitions

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

1. Agreement. "Agreement" means a legally binding written document between 2 or more parties.

including, but not limited to, a document commonly referred to as an accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

2. Agreement funds; agreement funding.

"Agreement funds" or "agreement funding" means all agreement funds received by a community agency from the department. It includes state and federal pass-through funds.

3. Commissioner. "Commissioner" means the Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation, who share joint responsibility for the administration of this chapter.

4. Community agency. "Community agency" means any public or private nonprofit organization, firm, individual, partnership or business corporation operated for profit that:

A. Operates a social service program at the community level;

B. Receives public funds, either directly or indirectly, from one or more state departments or agencies;

C. Is not an administrative unit of the Federal Government or State Government; and

D. Is not exclusively a health care facility within the meaning of Title 22, section 382, subsection 6.

5. Community agency fiscal year.

"Community agency fiscal year" means the fiscal year of a community agency commencing on or after July 1, 1995.

6. Department. "Department" means the Department of Human Services, the Department of Mental Health and Mental Retardation and the Office of Substance Abuse, as well as other departments and agencies of State Government approved for inclusion in this chapter by the commissioner.

7. Department examination. "Department examination" means actions determined to be necessary by the department's audit division, including, but not limited to, analyses or testing of reported agreement balances and transactions, provision of internal control systems and compliance with rules. Examinations conducted by the department may be of a limited scope basis and need not be done in accordance with government auditing standards.

8. Department review. "Department review" means a review by the department of a community agency's submitted annual financial statement report. Review may include desk or quality control reviews or

such other reviews as the department may establish by rule. Reviews are done for the purpose of accepting or rejecting the audit submission for federal and state department purposes or for the purpose of financially closing out the agreements for the department.

9. Dollar threshold. "Dollar threshold" means a funding limit that is set to determine how a community agency will be held accountable for agreement receipts of state and federal funds from the department. This term governs the community agency's annual reporting requirements for agreement receipts and it is measured on an entitywide basis based on the community agency fiscal year.

10. Entitywide financial reporting.

"Entitywide financial reporting" means financial statements and agreement supplemental schedules of a community agency prepared based on its fiscal year. At a minimum, the supplemental schedules of the agreements must identify opening and ending balances and receipts and disbursements for each agreement.

11. Federal audit. "Federal audit" means an audit made pursuant to the federal Office of Management and Budget Circulars A-128 or A-133 or any subsequent revisions to these circulars. The federal audit must be conducted by qualified independent public accountants.

12. Federal funds. "Federal funds" means all federal funds received by a community agency and not just those agreements received from the department. It includes federal direct, indirect and pass-through funds from all sources.

13. Generally accepted accounting principles.

"Generally accepted accounting principles" means uniform minimum standards and guidelines for financial accounting and reporting ordinarily employed by skilled accountants and agreed upon by authoritative practitioners of recognized professional standing, such as the American Institute of Certified Public Accountants and other recognized professional bodies.

14. Government auditing standards.

"Government auditing standards" means auditing standards promulgated by the Comptroller General of the United States.

15. Independent public accountant.

"Independent public accountant" means a person who complies with government auditing standards and who is one of the following:

A. A licensed certified public accountant or person working for a licensed certified public accounting firm; or

B. A public accountant licensed on or before December 31, 1970 or a person working for a public accounting firm licensed on or before December 31, 1970.

16. Nonparticipating department.

"Nonparticipating department" means a department or division of State Government other than one defined as a department in this section that has not been approved for inclusion in this chapter by the commissioner.

Nonparticipating departments may not impose audit requirements or agreement compliance and cost criteria to an agreement with a community agency that do not conform to the requirements of this subsection and its subsequent rules.

17. Nonprofit organization. "Nonprofit organization" means any agency, institution or organization that consists of or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

18. Public. "Public" means a municipal, county or other governmental body that is a political subdivision within the State.

19. Risk pool. "Risk pool" means utilizing and assessing risk factors for determining the need for an examination of an agreement. Such risk factors may include the value of the agreement and the prior and current community agency historical profile.

20. Social service. "Social service" means any social services program funded in whole or in part through an agreement issued by the department. Medicaid funding is excluded unless specifically identified as a social service program in an agreement award.

§1660-E. Report

The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over state and local government matters on the implementation of this chapter.

§1660-F. Standard accounting practices

The commissioner shall adopt rules no later than 180 days after the effective date of this section that must contain the requirements for the state report for the department and, at a minimum, the following requirements.

1. Accounting systems and reporting. Community agencies shall maintain an accounting system in accordance with rules adopted by the commissioner. The rules must require annual

entitywide financial reporting to the department. The annual reporting requirements and the related dollar thresholds of accountability are as follows.

A. If the community agency receives at least \$25,000 and less than \$300,000 of agreement funding from the department, the agency must have an entitywide compilation of financial statements and agreement supplemental schedules prepared by a qualified independent public accountant.

B. If the community agency receives \$300,000 or more of agreement funding from the department, the agency must have an entitywide financial and compliance report, audit or review of the agency's financial statements and agreement supplemental schedules prepared by a qualified independent public accountant in accordance with the reporting requirements for the department.

2. Internal control structures. A community agency shall maintain and utilize internal control structures adequate to provide reasonable assurance that federal, state and other funds are managed and expended in compliance with applicable laws, rules and agreement terms.

3. Access to records. A community agency shall permit independent private and governmental auditors to have access to the agency's records and financial statements to ensure compliance with applicable laws, rules and agreement terms.

4. Record retention. A community agency shall retain accounting and operational records for at least 3 years after expiration of the agency's fiscal year or longer if required by circumstances such as appeals or litigation.

§1660-G. Standard audit practices

The commissioner shall adopt rules no later than 180 days after the effective date of this section containing at least the following requirements for audit practices.

1. Federal requirement. All federal audits prepared for agencies to which section 1660-F, subsection 1, paragraphs A and B apply must be performed by qualified independent public accountants. Agencies to which section 1660-F, subsection 1, paragraphs A and B apply must obtain audits that satisfy the federal audit requirement. Department auditors shall oversee these federal audit report submissions.

2. Department requirement. A community agency must satisfy the department financial and compliance reporting requirement by either entering a

risk pool for review or examination by the department or hiring an independent public auditor.

A. All community agencies to which section 1660-F, subsection 1, paragraph A applies that do not elect to satisfy the reporting requirements of the department by utilizing qualified independent public accountants must enter a risk pool. Auditors for the department shall review the community agencies' annual entitywide compilation report of agreement funds to determine the need for additional procedures based on assessment of risk.

B. All community agencies to which section 1660-F, subsection 1, paragraph A applies may utilize and all community agencies to which section 1660-F, subsection 1, paragraph B applies must utilize qualified independent public accountants to satisfy the financial and compliance reporting requirements of the department. The department shall oversee the community agency report submissions.

§1660-H. Rulemaking

The commissioner shall adopt rules, no later than 180 days after the effective date of this section, establishing uniform standards when administering agreements with a community agency. These rules must address the following subjects: community agency accounting, reporting and auditing standards; department program responsibilities; program compliance requirements; entitywide standard cost principles; agreement register; audit responsibilities; standards and procedures for departmental examinations; appeals and resolution process; and sanctions and timetables for accountability.

§1660-I. Responsibilities of parties

The responsibilities of the parties under this chapter are as follows.

1. Community agency. A community agency shall:

A. Maintain accounting records in accordance with department rules;

B. Prepare and submit annual entity financial statements and agreement supplemental schedules in accordance with department rules; and

C. Meet the federal and department audit requirement.

2. Department. The department shall:

A. Adopt rules establishing accounting and auditing practices for community agencies, including, but not limited to, agreement reporting

as part of the annual entitywide financial statement presentation; standards of accountability for community agencies; and audit requirements and standards for the department;

B. Provide community agencies the necessary training concerning the requirements of this chapter;

C. Review federal audits done by qualified independent public accountants in accordance with the applicable and prevailing federal Office of Management and Budget circulars. These reviews must be desk reviews of audit report submissions and quality control reviews of independent public accountant workpapers when necessary;

D. Review state audit reports performed for the department by qualified independent public accountants;

E. Review community agency entitywide compiled financial statement and agreement supplemental schedule submissions and determine the need for department examination;

F. Examine agreement funds based on an assessment of risk factors. These examinations may be limited in scope and need not be performed in accordance with government audit standards. Risk assessment must be the basis for determining the additional procedures to be employed to close out the agreements; and

G. Provide technical advice and act as a liaison between all interested parties.

3. Other. The Office of Substance Abuse and any other agency of State Government utilizing department audit services shall reimburse the department performing their audit services.

§1660-J. Nonparticipating department

A nonparticipating department may not authorize agreement compliance and cost principles to be administered or conduct audits of community agencies unless the department has informed the commissioner that the department will adopt all provisions of this chapter and the department demonstrates the ability to do so. All audits performed in accordance with the provisions of this chapter and rules adopted pursuant to it must satisfy all department requirements.

§1660-K. Emergency provision

The commissioner may utilize the risk pool provisions of section 1660-G for all audits not initiated or completed as of the effective date of this section.

§1660-L. Advisory Committee to the Commissioner

There is established the Advisory Committee to the Commissioner, referred to in this section as the "advisory committee." The advisory committee must be appointed by the commissioner and consists of 7 members. Three members must represent the Department of Human Services, the Department of Mental Health and Mental Retardation and the Office of Substance Abuse. Three members must represent community agencies. One member must represent the independent audit community. The chair must be elected by the committee from its members. All members of the advisory committee serve without compensation or reimbursement for expenses. The advisory committee must prepare an annual written report to the Legislature on the experience of the department with this chapter.

§1660-M. Appeals

Any person aggrieved under this chapter is entitled to judicial review, as provided in the Maine Administrative Procedure Act. The commissioner shall consult with the Advisory Committee to the Commissioner about additional appeal procedures and may adopt rules providing for such procedures.

Sec. C-11. 5 MRSA §12004-I, sub-§29, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. C-12. Consolidation of audit services

Effective July 1, 1995, the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the Advisory Committee to the Commissioner shall undertake a study of the consolidation of the several audit divisions with responsibilities for audits and cost determinations of agreements and community agencies covered by the Maine Revised Statutes, Title 5, chapter 148-C. The study must identify all audit groups, identify their functions and recommend how best to consolidate those functions to achieve operational efficiency to the audit process. The results of the study must be reported to the Joint Standing Committee on State and Local Government and to the Governor by December 31, 1995.

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

Effective July 3, 1995.

CHAPTER 403

S.P. 240 - L.D. 637

An Act to Change the Commissions Payable to the State from Off-track Betting

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

Whereas, off-track betting parlors in smaller markets are struggling financially; and

Whereas, those parlors provide badly needed jobs and tax dollars for the communities they serve; 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. 8 MRSA §275-O is enacted to read:

§275-O. Reduced payments

1. Eligible licensees. This section grants reduced payments to off-track betting licensees that were licensed and open for business before January 1, 1995 and that have a market area, as described in section 275-D, subsection 4, with a population of less than 50,000.

2. Reduced payments formula. For an off-track betting license that meets the conditions described in subsection 1, the reduction in payments due are calculated as follows.

A. For the first \$40,000 of all wagers into commingled pools on interstate simulcast races in any calendar week, the amounts payable by the licensee are 20% of the amounts prescribed by the sections listed in subsection 3.

B. For all wagers totaling over \$40,000 and \$80,000 or under into commingled pools on interstate simulcast races in any calendar week, the amounts payable by the licensee are 60% of the amounts prescribed by the sections listed in subsection 3.

C. For all wagers totaling over \$80,000 into commingled pools on interstate simulcast races in any calendar week, the amounts payable by