

# 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**

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

2. The facility continues to meet nursing facility licensing rules; and

3. The facility meets all hospice licensing standards except the requirement that inpatient services be offset with a specified level of in-home services.

This section is repealed ~~January~~ July 1, 1996.

**Sec. 3. Rulemaking.** Beginning July 1, 1996 the rules and principles of reimbursement for inpatient hospice services through Medicaid must be consistent with the requirements of the Medicare program as long as reasonable and adequate inpatient hospice services for hospice patients that are Medicaid eligible but not Medicare eligible will be reimbursed under the Medicaid program.

See title page for effective date.

**CHAPTER 487**

**S.P. 194 - L.D. 503**

**An Act Regarding Fees Assessed by the Maine Land Use Regulation Commission for Changes within a Development District**

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

**Sec. 1. 12 MRSA §685-B, sub-§2, ¶B,** as amended by PL 1993, c. 410, Pt. U, §1, is further amended to read:

B. The fee prescribed by the commission rules, that fee to be a minimum of \$50 but no greater than 1/4 of 1% of the total development costs, except that the fee for subdivision applications is \$300 per lot. Zoning petitions submitted by other than a state or federal agency range from \$50 to \$500 depending on size and complexity. The fees apply to all amendments except for minor changes to building permits. A fee may not be assessed for a petition that seeks to change an area's designation under section 685-A from a management district to a development district;

See title page for effective date.

**CHAPTER 488**

**H.P. 959 - L.D. 1348**

**An Act to Reform the Process of Periodic Review of Programs and Agencies**

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

**Sec. 1. 3 MRSA c. 33,** as amended, is repealed.

**Sec. 2. 3 MRSA c. 35** is enacted to read:

**CHAPTER 35**

**STATE GOVERNMENT EVALUATION**

**§951. Short title**

This chapter may be known and cited as the "State Government Evaluation Act."

**§952. Scope**

This chapter provides for a system of periodic review of agencies and independent agencies of State Government in order to evaluate their efficacy and performance. Only those agencies, independent agencies or parts of those agencies and independent agencies that receive support from the General Fund or that are established, created or incorporated by reference in the Maine Revised Statutes are subject to the provisions of this chapter. The financial and programmatic review must include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, statutory mandate and fiscal accountability.

**§953. Definitions**

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

**1. Agency.** "Agency" means a governmental entity subject to review pursuant to this chapter, but not subject to automatic termination.

**2. Committee or committee of jurisdiction.** "Committee or committee of jurisdiction" means the joint standing committee of the Legislature having jurisdiction over the same policy and substantive matters as an agency subject to review under this chapter.

**3. Independent agency.** "Independent agency" means a governmental entity subject to review and to termination pursuant to this chapter.

**§954. Designation by legislative policy committee**

**1. Authorization.** On or before April 1st of any first regular session, the committee of jurisdiction shall review the list of agencies scheduled for review in section 959.

**2. Waiver from review.** The committee of jurisdiction may, with a 2/3 vote of all committee members, do one of the following with regard to an agency review:

A. Exempt an agency or independent agency from review and establish a new review date;

B. Establish a modified review process in which an agency or independent agency may be asked to provide less information than required by this section or additional information; or

C. Add an additional agency or independent agency for review, except that an agency that has been reviewed in accordance with this chapter in the legislative session immediately preceding the current legislative session may not be added for review.

### **§955. Committee schedule**

**1. Review established.** The committee of jurisdiction shall establish its agency review schedule in accordance with this chapter and upon approval of the necessary resources by the Legislative Council. The committee of jurisdiction shall provide each agency with a written notice of its intent to review an agency by no later than May 1st of the first regular session of the Legislature.

**2. Submission of program evaluation report.** Each agency and independent agency shall prepare and submit no later than November 1st prior to the second regular session of the Legislature, a program evaluation report as required in section 956, to the Legislature through the committee of jurisdiction.

**3. Conduct review.** The committee of jurisdiction shall begin its agency review process no later than February 1st of the second regular session of the Legislature and in accordance with this chapter.

**4. Report issued.** For those agencies and independent agencies selected for review by the committee of jurisdiction, the committee shall submit to the Legislature no later than March 15th of the second regular session of the Legislature the findings, administrative recommendations or legislation required to implement recommendations made as a result of its review, analysis and evaluation.

**5. Follow-up review.** The committee of jurisdiction shall establish in its final report a specified time in which the committee may review the progress of an agency in meeting the recommendations of the committee report. A follow-up review may consist of written progress reports, public hearings with the agency and committee or any other method approved by the committee of jurisdiction in its final report.

### **§956. Program evaluation report**

**1. Report required.** Each agency and independent agency shall prepare and submit to the Legislature, through the committee of jurisdiction, a program evaluation report by a date specified by the committee.

**2. Program evaluation report; contents.** Each report must include the following information in a concise but complete manner:

A. Enabling or authorizing law or other relevant mandate, including any federal mandates;

B. A description of each program administered by the agency or independent agency, including the following for each program:

(1) Established priorities, including the goals and objectives in meeting each priority;

(2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and

(3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives;

C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility;

D. Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers' compensation;

E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years;

F. When applicable, the regulatory agenda and the summary of rules adopted;

G. Identification of those areas where an agency has coordinated its efforts with other agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements;

H. Identification of the constituencies served by the agency or program, noting any changes or projected changes;

I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

J. Identification of emerging issues for the agency or program in the coming years; and

K. Any other information specifically requested by the committee of jurisdiction.

### **§957. Committee analysis and recommendations**

**1. Authority.** For each agency or independent agency or a component part of each agency or independent agency subject to review pursuant to section 952, the committee of jurisdiction may conduct an analysis and evaluation that may include, but need not be limited to, an evaluation of the program evaluation report, the extent to which the agency or independent agency operates in accordance with its legislative authority and the degree of success achieved by the agency or independent agency in meeting its statutory and administrative mandate. In consultation with the Legislative Council, the committee shall select agencies or independent agencies for review either in accordance with the scheduling guidelines provided in this chapter or at any time determined necessary or warranted by the committee.

### **§958. Termination of independent agencies**

**1. Termination process.** The committee of jurisdiction may recommend to the Legislature that any independent agency be terminated if indicated or warranted by the committee's review, analysis and evaluation of the independent agency. An independent agency may be accorded a grace period of not more than one year from the effective date of the legislation approving termination in which to complete its business. During the grace period, the statutory powers and duties of the independent agency are not limited or reduced.

**2. Disposition of property, funds and records.** During the grace period, the Legislature shall determine the disposition of:

A. All property, including any land, buildings, equipment and supplies used by the independent agency;

B. All funds remaining in any account of the independent agency; and

C. All records resulting from the activities of the independent agency.

**3. Expiration of grace period.** Upon the expiration of the grace period, the independent agency shall cease its activities and terminate.

### **§959. Scheduling guideline for review of agencies or independent agencies**

**1. Scheduling guidelines.** Except as provided in subsection 2, reviews of agencies or independent agencies must be scheduled in accordance with the following.

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews:

- (1) Baxter State Park Authority in 1997;
- (2) Department of Conservation in 1997;
- (3) Blueberry Advisory Committee in 1999;
- (4) Board of Pesticides Control in 1999;
- (5) Maine Blueberry Commission in 1999;
- (6) Seed Potato Board in 1999;
- (7) Maine Dairy and Nutrition Council in 2001;
- (8) Maine Dairy Promotions Board in 2001;
- (9) Maine Milk Commission in 2001;
- (10) State Harness Racing Commission in 2001;
- (11) Maine Agricultural Bargaining Board in 2003;
- (12) Department of Agriculture, Food and Rural Resources in 2003; and
- (13) State Soil and Water Conservation Commission in 2003.

B. The joint standing committee of the Legislature having jurisdiction over banking and insurance matters shall use the following list as a guideline for scheduling reviews:

- (1) State Employee Health Commission in 1999.

C. The joint standing committee of the Legislature having jurisdiction over business and economic development matters shall use the

following list as a guideline for scheduling reviews:

- (1) Maine Development Foundation in 1997;
- (2) Board of Examiners in Physical Therapy in 1997;
- (3) Board of Examiners on Speech Pathology and Audiology in 1997;
- (4) Board of Hearing Aid Dealers and Fitters in 1997;
- (5) Department of Professional and Financial Regulation in 1997;
- (6) Maine Athletic Commission in 1997;
- (7) Manufactured Housing Board in 1997;
- (8) Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers in 1997;
- (9) Oil and Solid Fuel Board in 1997;
- (10) Plumbers' Examining Board in 1997;
- (11) Real Estate Commission in 1997;
- (12) State Board of Barbers in 1997;
- (13) State Board of Certification for Geologists and Soil Scientists in 1997;
- (14) State Board of Cosmetology in 1997;
- (15) State Board of Examiners of Psychologists in 1997;
- (16) State Board of Funeral Service in 1997;
- (17) State Board of Licensure for Professional Foresters in 1997;
- (18) State Board of Substance Abuse Counselors in 1997;
- (19) Department of Economic and Community Development in 1997;
- (20) Board of Underground Oil Storage Tank Installers in 1997;
- (21) Board of Occupational Therapy Practice in 1999;
- (22) Board of Respiratory Care Practitioners in 1999;

- (23) Maine State Housing Authority in 1999;
- (24) Radiologic Technology Board of Examiners in 1999;
- (25) Arborist Examining Board in 1999;
- (26) Board of Accountancy in 1999;
- (27) Board of Commissioners of the Profession of Pharmacy in 1999;
- (28) Electricians' Examining Board in 1999;
- (29) State Board of Social Worker Licensure in 1999;
- (30) Board of Counseling Professionals Licensure in 2001;
- (31) Board of Real Estate Appraisers in 2001;
- (32) Finance Authority of Maine in 2001;
- (33) Petroleum Advisory Committee in 2001;
- (34) State Board of Veterinary Medicine in 2001;
- (35) Board of Chiropractic Licensure in 2003;
- (36) Board of Dental Examiners in 2003;
- (37) Board of Osteopathic Licensure in 2003;
- (38) Board of Licensure in Medicine in 2003;
- (39) Board of Licensure of Podiatric Medicine in 2003;
- (40) Nursing Home Administrators Licensing Board in 2003;
- (41) State Board of Nursing in 2003;
- (42) State Board of Optometry in 2003;
- (43) Board of Licensure for Professional Land Surveyors in 2003;
- (44) Maine State Pilotage Commission in 2003;
- (45) State Board of Registration for Professional Engineers in 2003;

(46) Acupuncture Licensing Board in 2005;

(47) Board of Licensing of Auctioneers in 2005; and

(48) Board of Licensing of Dietetic Practice in 2005.

D. The joint standing committee of the Legislature having jurisdiction over criminal justice matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Public Safety, except for the Bureau of Liquor Enforcement, in 2001; and

(2) Department of Corrections in 2003.

E. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters shall use the following list as a guideline for scheduling reviews:

(1) Telecommunications Relay Services Advisory Council in 1997;

(2) Department of Education in 1997;

(3) Maine Arts Commission in 1999;

(4) Maine Conservation School in 1999;

(5) Maine Historic Preservation Commission in 1999;

(6) Maine Library Commission in 1999;

(7) Maine State Museum Commission in 1999;

(8) Office of State Historian in 1999;

(9) Board of Trustees of the Maine Maritime Academy in 2001;

(10) Board of Trustees of the University of Maine System in 2001;

(11) Educational Leave Advisory Board in 2001;

(12) Maine Technical College System in 2001;

(13) Maine Health and Higher Educational Facilities Authority in 2003; and

(14) Maine Educational Loan Authority in 2003.

F. The joint standing committee of the Legislature having jurisdiction over human resource

matters shall use the following list as a guideline for scheduling reviews:

(1) Alcohol and Drug Abuse Planning Committee in 1997;

(2) Office of Substance Abuse in 1997;

(3) Maine Advisory Committee on Mental Retardation in 1999;

(4) Maine Health Care Finance Commission in 1999;

(5) Maine Emergency Medical Services in 2001;

(6) Department of Human Services in 2001;

(7) Board of the Maine Children's Trust Incorporated in 2003;

(8) Governor's Committee on Employment of People with Disabilities in 2003;

(9) Maine Developmental Disabilities Council in 2003; and

(10) Department of Mental Health and Mental Retardation in 2005.

G. The joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall use the following list as a guideline for scheduling reviews:

(1) Department of Inland Fisheries and Wildlife in 1997; and

(2) Advisory Board for the Licensing of Taxidermists in 2005.

H. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall use the following list as a guideline for scheduling reviews:

(1) Maine Court Facilities Authority in 1999;

(2) Maine Human Rights Commission in 2001;

(3) Maine Indian Tribal-State Commission in 2003; and

(4) Department of the Attorney General in 2003.

I. The joint standing committee of the Legislature having jurisdiction over labor matters shall

use the following list as a guideline for scheduling reviews:

- (1) Maine State Retirement System in 1997;
- (2) Department of Labor in 1999;
- (3) Maine Labor Relations Board in 2001;
- (4) Workers' Compensation Board in 2001; and
- (5) Maine Occupational Information Coordinating Committee in 2001.

J. The joint standing committee of the Legislature having jurisdiction over legal and veterans' affairs shall use the following schedule as a guideline for scheduling reviews:

- (1) Department of Defense and Veterans' Services in 2001;
- (2) State Liquor and Lottery Commission in 1999; and
- (3) Bureau of Liquor Enforcement within the Department of Public Safety in 1999.

K. The joint standing committee of the Legislature having jurisdiction over marine resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Atlantic States Marine Fisheries Commission in 1997;
- (2) Department of Marine Resources in 1997;
- (3) Atlantic Sea Run Salmon Commission in 1999;
- (4) Lobster Advisory Council in 1999; and
- (5) Maine Sardine Council in 1999.

L. The joint standing committee of the Legislature having jurisdiction over natural resource matters shall use the following list as a guideline for scheduling reviews:

- (1) Department of Environmental Protection in 1997;
- (2) Board of Environmental Protection in 1997;
- (3) Advisory Commission on Radioactive Waste in 1999; and

(4) Saco River Corridor Commission in 2005.

M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

- (1) Capitol Planning Commission in 1997;
- (2) State Civil Service Appeals Board in 1999;
- (3) State Claims Commission in 1999;
- (4) Maine Municipal Bond Bank in 2001;
- (5) Office of Treasurer of State in 2001;
- (6) Department of Administrative and Financial Services, except for the Bureau of Taxation in 2003;
- (7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2003;
- (8) Local Government Records Board in 2003; and
- (9) State Planning Office in 2005.

N. The joint standing committee of the Legislature having jurisdiction over taxation matters shall use the following schedule as a guideline for scheduling reviews:

- (1) State Board of Property Tax Review in 2001; and
- (2) Department of Administrative and Financial Services, Bureau of Taxation in 2003.

O. The joint standing committee of the Legislature having jurisdiction over transportation matters shall use the following schedule as a guideline for scheduling reviews:

- (1) Maine Turnpike Authority in 1997;
- (2) The Bureau of Motor Vehicles within the Department of the Secretary of State in 1999; and
- (3) The Department of Transportation in 1999.

P. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall use the following list as a guideline for scheduling reviews:



- (1) Public Advocate in 1997;
- (2) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency in 1999; and
- (3) Public Utilities Commission in 1999.

**2. Waiver.** Notwithstanding this list of agencies arranged by year, an agency or independent agency may be reviewed at any time by the committee pursuant to section 954.

**§960. Future or reorganized agencies and independent agencies**

The chief staff administrator of a newly created or substantially reorganized agency or independent agency shall contact the committee to ensure placement of that agency or independent agency in the scheduling guideline outlined in section 959. The committee and the Legislative Council shall determine the placement of that agency or independent agency in the scheduling guideline.

**§961. Legislative Council**

The Legislative Council shall issue rules necessary for the efficient administration of this chapter and shall provide the committees of jurisdiction with assistance as required to carry out the purposes of this chapter.

**§962. Legal claims**

Termination, modification or establishment of agencies or independent agencies as a result of the review required by this chapter does not extinguish any legal claims against the State, any state employee or state agency or independent agency. The provisions of this chapter do not relieve the State or any agency or independent agency of responsibility for making timely payment of the principal and interest of any debt issued in the form of a bond or note.

**§963. Review**

The joint standing committee of the Legislature having jurisdiction over state and local government matters shall review the provisions and effects of this chapter no later than June 30, 2000 and at least once every 10 years after June 30, 2000.

**Sec. 3. 5 MRSA §13063, sub-§6, ¶D,** as enacted by PL 1993, c. 430, §1, is amended to read:

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter ~~33~~ 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program.

**Sec. 4. 32 MRSA §94,** as amended by PL 1991, c. 588, §26, is further amended to read:

**§94. Sunset**

The operations and conduct of Maine Emergency Medical Services must be reviewed in accordance with the Maine Sunset Act, Title 3, chapter ~~33~~ 35, no later than June 30, 2003.

**Sec. 5. 38 MRSA §1453-A, sub-§7,** as enacted by PL 1993, c. 664, §15, is amended to read:

**7. Repeal.** This commission is subject to review and terminates in accordance with Title 3, chapter ~~33~~ 35, not including the grace period, no later than June 30, 1999, unless continued or modified by law.

See title page for effective date.

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**CHAPTER 489**

**H.P. 270 - L.D. 372**

**An Act to Appropriate Funds for the Expansion and Renovation of the Norway Armory**

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

**Sec. 1. 5 MRSA §1513, sub-§1-F** is enacted to read:

**1-F. Transfer from Maine Rainy Day Fund; armory expansion and renovation.** Notwithstanding section 1585, an amount of \$500,000 in fiscal year 1995-96 may be transferred from the available balance in the Maine Rainy Day Fund to the "Capital Construction - Repairs - Improvements" account in the Department of Defense and Veterans' Services to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the State's matching share of the costs of expansion and renovation of the Norway Armory.

See title page for effective date.

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