

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

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PREFACE

The 1995 edition of the Laws of Maine is the official publication of the Session Laws of the State of Maine enacted by the 117th Legislature and is compiled and published under the authority of the Maine Revised Statutes, Title 3, section 163-A. The Laws of Maine has been in continuous publication since 1820, when the Acts and Resolves adopted by the First Legislature were published by the Secretary of State under the authority of Resolve 1820, chapter 25.

Volume 1 of this edition contains the public laws enacted at the First Regular Session of the 117th Legislature.

Volume 2 contains the private and special laws, resolves and constitutional resolutions enacted at the First Regular Session of the 117th Legislature, followed by a selection of significant addresses, joint resolutions and memorials. An index to the materials in both volumes is located at the end of volume 2.

Additional volumes of the 1995 Laws of Maine will contain those measures adopted in the Second Regular Session and any special session of the 117th Legislature.

The following conventions are used throughout the series.

1. At the top of each page is a heading that indicates the individual classification of each law, the year and session of passage and its chapter number.
2. A table of contents that locates major divisions and contents by page reference is located at the beginning of each volume.
3. An individual subject index of the documents contained in this volume, arranged alphabetically by subject headings with corresponding chapter numbers, is located at the end of volume 2.
4. A session cross-reference table is also provided at the end of volume 2 to show how unallocated public laws, laws exempted in previous revisions, and Titles and sections of the Maine Revised Statutes of 1964 have been affected by the laws included in this publication.
5. When a word or phrase is deleted from the statutes, it is shown stricken through. When an entire section or larger segment is repealed, the text that is repealed is not shown stricken but its repeal is indicated by express language.
6. When new words or sections are added to the statutes, they are underlined.
7. Citations to a Legislative Document are printed beneath the chapter number heading to assist in locating the original source of each chapter.
8. The effective date for Maine laws is provided in the Constitution of Maine, Article IV, Part Third, Section 16, which specifies that, except for certain emergency legislation, an act or resolve enacted into law takes effect 90 days after the adjournment of the session in which it passed. The general effective date of nonemergency laws passed at the First Regular Session of the 117th Legislature is September 29, 1995. The effective dates of emergency legislation vary and are provided at the end of the chapters that were enacted as emergencies.

This edition of the Laws of Maine and its predecessors have been prepared for the convenience of the people of the State of Maine and any comments or suggestions for improvements in subsequent editions would be appreciated.

Margaret E. Matheson
Revisor of Statutes
July 1995

LEGISLATIVE STATISTICS

FIRST REGULAR SESSION

117th Legislature

Convened	December 7, 1994
Adjourned	June 30, 1995
Days in Session	
Senate	70
House of Representatives	70
Legislative Documents	1586
Carryover Bills	101
Public Laws	500
Private and Special Laws	50
Resolves	57
Constitutional Resolutions	2
Initiated Bills	3
Vetoed	1
Overridden.	0
Sustained	1
Emergency Enactments	140
Effective Date	September 29, 1995
	(unless otherwise indicated)

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OF THE
STATE OF MAINE
FOR THE POLITICAL YEARS 1995 AND 1996**

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PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST REGULAR SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995

CHAPTER 1

H.P. 59 - L.D. 57

**An Act to Extend the Reporting Date
of the Committee to Study
Organizational and Tax Issues in
Public Schools**

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

Whereas, the Committee to Study Organizational and Tax Issues in Public Schools has completed its study and reached consensus but needs additional time to draft and review its final comprehensive report; 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. PL 1993, c. 684, §5 is amended to read:

5. Report. The committee shall report its findings and recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over education matters by ~~January 15, 1995~~ February 13, 1995.

Sec. 2. Retroactivity. This Act applies retroactively to January 15, 1995.

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

Effective January 13, 1995.

CHAPTER 2

H.P. 10 - L.D. 4

**An Act to Continue the Fee on the
Handling of Milk**

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

Whereas, the recent decision in Cumberland Farms, Inc. v. LaFaver terminated the collection of revenue from the handling of milk by invalidating the Maine Dairy Farm Stabilization Tax; and

Whereas, the tax provided an average of more than \$2,000,000 per year in revenues to the State at a time when the State and its citizens are experiencing economic difficulties and significant fiscal problems; and

Whereas, such revenues are necessary to the State's ability to address such difficulties and problems; 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. 7 MRSA §2954, sub-§1, as repealed and replaced by PL 1991, c. 824, Pt. A, §8, is amended to read:

1. Commission empowered to establish prices; public hearing. The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of

emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices or are to respond to other conditions affecting prevailing Class I, Class II and Class III prices in southern New England, or reflect the ~~Maine Dairy Farm Stabilization Milk Handling Tax~~ as determined by Title 36, chapter ~~708-A~~ 716. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under the previous sentence. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.

Sec. 2. 7 MRSA §2954, sub-§2, ¶B, as amended by PL 1991, c. 526, §2, is further amended to read:

B. The minimum wholesale prices paid to dealers must be established to reflect the lowest prices at which milk purchased from producers in this State at minimum prices in the State can be received, processed, packaged and distributed within the State at a just and reasonable return, and in addition must include the amount of any tax determined by Title 36, chapter ~~708-A~~ 716.

Sec. 3. 7 MRSA §2954, sub-§13, as enacted by PL 1991, c. 526, §3, is amended to read:

13. Report to State Tax Assessor. The Maine Milk Commission shall report before the first of each month to the State Tax Assessor the basic price of milk established for that month as defined in Title 36, chapter ~~708-A~~ 716.

Sec. 4. 36 MRSA c. 708-A, as amended, is repealed.

Sec. 5. 36 MRSA c. 716 is enacted to read:

CHAPTER 716

MILK HANDLING TAX

§4771. Definitions

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

1. Basic price. "Basic price" means the minimum Class I price of milk established pursuant to Title 7, chapter 603 including that part of the Class I price that exceeds the applicable Class I price established pursuant to the New England Milk Marketing Order, except that part of the Class I price established by the Maine Milk Commission to reflect the cost factors provided in Title 7, section 2954, subsection 2 or the increased costs of production pursuant to Title 7, section 2954, subsection 2, paragraph A.

2. Handler. "Handler," with respect to a particular container of packaged milk, means the wholesale handler or, if none, the retail handler.

3. Milk. "Milk" has the same meaning as in Title 7, section 2951, subsection 6.

4. Packaged milk. "Packaged milk" means milk that has been processed and placed in containers for ultimate sale to consumers.

5. Person. "Person" means any individual, partnership, firm, corporation, association or other unit and the State and all political subdivisions or agencies of the State.

6. Retail handler. "Retail handler" means any person who handles packaged milk in this State that is next sold in this State subject to the retail minimum prices established pursuant to Title 7, chapter 603.

7. Tax period. "Tax period" means the period beginning on the Sunday closest to the first day of the month and continuing through the Saturday prior to the Sunday closest to the first day of the subsequent month.

8. Wholesale handler. "Wholesale handler" means any person who handles packaged milk in this State that is next sold in this State subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.

§4772. Milk Handling Tax

1. Tax. An excise tax is levied and imposed at the rate established in subsection 2 on the handling in this State of packaged milk for sale in this State. With respect to the handling in this State of a particular container of packaged milk for sale in this State, the tax must be paid by the wholesale handler or, if there is no wholesale handler with respect to that container of packaged milk, by the retail handler. There is no tax on the handling in this State of packaged milk for

sale in containers that are less than one quart or 20 or more quarts in volume, or packaged milk that is sold to an institution that is owned and operated by the State or Federal Government.

2. Rate. The rate of the tax levied under this chapter is established for each tax period on the basis of the basic price of milk in effect on the Sunday following the first Sunday of the tax period in accordance with the following chart:

<u>Basic Price</u>	<u>Rate of Milk Handling Tax</u>
\$16.50 per hundredweight and above	0¢ per quart
\$16.00 to \$16.49 per hundredweight	1¢ per quart
\$15.50 to \$15.99 per hundredweight	2¢ per quart
\$15.00 to \$15.49 per hundredweight	3¢ per quart
\$14.50 to \$14.99 per hundredweight	4¢ per quart
\$14.00 to \$14.49 per hundredweight	5¢ per quart
below \$14.00 per hundredweight	6¢ per quart

For any container other than a quart, the tax is computed on a quart-equivalent basis.

3. Calculation of tax. Handlers shall pay the tax for each tax period on all milk subject to the tax, sold during the tax period, and either:

A. Subject to the minimum wholesale prices paid to dealers established by the Maine Milk Commission pursuant to Title 7, chapter 603; or

B. Not subject to minimum wholesale prices paid to dealers but subject to minimum retail prices established by the Maine Milk Commission pursuant to Title 7, chapter 603.

In calculating the amount of packaged milk handled for sale in this State each tax period, the handler shall deduct any packaged milk returned to the handler during that tax period.

4. Tax as additional. Any tax imposed and collected under this chapter is in addition to any other taxes imposed or collected under any other law of the State.

5. Records, reports and administration. Every handler subject to the tax imposed under subsection 1 shall register with the State Tax Assessor within 5 business days of becoming subject to the tax

and annually thereafter on forms provided by the State Tax Assessor. The list of handlers so registered is available to the public. By the 25th day of each calendar month, every handler subject to the tax imposed under subsection 1 shall report to the State Tax Assessor the quantity of packaged milk handled in this State for sale in this State during the preceding tax period, the quantity of packaged milk handled that was subject to the Milk Handling Tax and any other information the State Tax Assessor determines necessary or useful in the administration of this chapter and enforcement of the Milk Handling Tax.

6. Due dates. Handlers shall pay to the State Tax Assessor the tax due for the preceding tax period not later than the 25th day of each calendar month and submit any information required by the State Tax Assessor on the forms provided.

7. Presumption. In any proceeding against a retail handler for collection of the tax with respect to any particular container of packaged milk, there is a rebuttable presumption that that retail handler did not purchase that container in a transaction subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603. The burden is on the retail handler to show that the retail handler purchased that container of packaged milk in a transaction subject to minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.

8. General Fund. The State Tax Assessor shall immediately pay all funds received from the Milk Handling Tax to the Treasurer of State to be deposited in the General Fund.

§4773. Repeal

This chapter is repealed on August 1, 1996.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Bureau of Taxation

All Other \$10,000

Provides funding to cover the initial costs of the Bureau of Taxation to administer the Milk Handling Tax.

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

Effective January 17, 1995.

CHAPTER 3

H.P. 118 - L.D. 153

An Act to Facilitate the Confirmation Process

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

Whereas, the 117th Legislature has made changes in the numbers and jurisdictions of joint standing committees of the Legislature; and

Whereas, some statutory references to committees with responsibility for reviewing appointments by the Governor are no longer correct; and

Whereas, review of nominations must be completed before the regular effective date of nonemergency legislation; 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. 5 MRSA §17102, sub-§1, ¶D, as amended by PL 1993, c. 410, Pt. L, §17, is further amended to read:

D. Four persons appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over ~~aging, veterans and retirement~~ matters and to confirmation by the Legislature:

(1) At least 2 of whom must be qualified through training or experience in the field of investments, accounting, banking or insurance or as actuaries;

(2) One of whom must be selected from a list of 3 nominees submitted by the Maine Retired Teachers' Association; and

(3) One of whom must be the recipient of a retirement allowance through the retirement system and be selected from a list or lists of

nominees submitted by retired state employees, retired participating local district employees or a committee comprised of representatives of these groups; and

Sec. 2. 12 MRSA §683, first ¶, as amended by PL 1991, c. 76, is further amended to read:

The Maine Land Use Regulation Commission, as established by Title 5, section 12004-D, subsection 1 to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission consists of 7 public members, none of whom may be state employees, who must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~energy and natural resources~~ conservation matters and to confirmation by the Legislature, for staggered 4-year terms. Among the public members, there must be 4 who must be knowledgeable in at least one of each of the following areas: commerce and industry; fisheries and wildlife; forestry; and conservation. Of the potential appointees to the commission, the Governor shall actively seek and give consideration to persons residing in or near the unorganized areas of the State and to persons residing on unorganized coastal islands. At least 2 members must be residents within the commission's jurisdiction.

Sec. 3. 12 MRSA §5011, first ¶, as amended by PL 1993, c. 685, Pt. B, §1, is further amended to read:

There is created and established the Department of Conservation to preserve, protect and enhance the land resources of the State of Maine; to encourage the wise use of the scenic, mineral and forest resources of the State of Maine and ensure that coordinated planning for the future allocation of lands for recreational, forest production, mining and other public and private uses is effectively accomplished; and to provide for the effective management of public lands in the State of Maine. The Department of Conservation consists of a Commissioner of Conservation, referred to in this Part as the "commissioner," appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over ~~energy and natural resources~~ conservation matters and to confirmation by the Legislature, to serve at the pleasure of the Governor; and the following entities as previously created or established are incorporated into the Department of Conservation:

Sec. 4. 34-A MRSA §1401, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Appointment. The Governor shall appoint the Commissioner of Corrections, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~health and institutional services~~ corrections matters and to confirmation by the Senate, to serve at the pleasure of the Governor.

Sec. 5. 38 MRSA §341-A, sub-§3, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

3. Commissioner. The commissioner ~~shall be~~ is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~energy and~~ energy and natural resource matters and to confirmation by the Legislature.

A. The commissioner ~~shall serve~~ serves at the pleasure of the Governor.

B. When the State receives authority to issue permits under the Federal Water Pollution Control Act, 33 United States Code 1982, Section 1251 et seq., as amended, a person may not serve as commissioner who receives, or during the 2 years prior to appointment has received, a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit under the Federal Water Pollution Control Act.

C. The commissioner may delegate duties assigned to the commissioner under this Title to staff of the department.

Sec. 6. 38 MRSA §341-C, sub-§1, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

1. Appointments. The board ~~shall consist~~ consists of 10 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~energy and~~ energy and natural resource matters and to confirmation by the Legislature.

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

Effective January 24, 1995.

CHAPTER 4

H.P. 230 - L.D. 309

An Act to Encourage Major Business Expansion in Maine

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

Whereas, there is a need to provide incentives to retain jobs and encourage major business expansions within the State in order to create new employment opportunities, provide a broader tax base and improve the economy of the State; and

Whereas, access to financing for major projects at reduced interest rates provides a substantial incentive to businesses to relocate to Maine or expand Maine activities; and

Whereas, this legislation will serve an important public purpose; 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. 10 MRSA §963-A, sub-§10, ¶M, as amended by PL 1993, c. 712, §3, is further amended to read:

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; ~~or~~

Sec. 2. 10 MRSA §963-A, sub-§10, ¶N, as enacted by PL 1993, c. 712, §4, is amended to read:

N. Any electric rate stabilization project; ~~or~~

Sec. 3. 10 MRSA §963-A, sub-§10, ¶O is enacted to read:

O. Any major business expansion project.

Sec. 4. 10 MRSA §963-A, sub-§31-A is enacted to read:

31-A. Major business expansion project. "Major business expansion project" means any building, structure, machinery, equipment or facility proposed to be constructed, rehabilitated, expanded, modernized or acquired in the State by a business entity, that has a projected cost of \$5,000,000 or more, that is projected to result in a net gain of at least 100 job opportunities within the State or the retention of at least 100 jobs and that benefits from financing assistance from the authority including use of a capital reserve fund pursuant to section 1053. A major

business expansion project does not include electric rate stabilization projects or projects primarily involved in the provision of housing or retail sales to consumers.

Sec. 5. 10 MRSA §1043, sub-§2, ¶F, as amended by PL 1985, c. 344, §63, is further amended to read:

F. In the case of projects ~~which~~ that are primarily pollution-control facilities:

- (1) The proposed users of the facilities make a contribution to the economy of the State;
- (2) A public benefit will result from including the facilities in the project; and
- (3) It is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonably foreseeable future; ~~and~~

Sec. 6. 10 MRSA §1043, sub-§2, ¶I, as repealed and replaced by PL 1987, c. 697, §10, is amended to read:

I. The project will, to the extent possible, cooperate with representatives of the Department of Labor and the Department of Human Services regarding employment opportunities for recipients of the services of those departments; and

Sec. 7. 10 MRSA §1043, sub-§2, ¶J is enacted to read:

J. In the case of major business expansion projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the obligations, including:

- (1) Whether individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations, and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;
- (2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public

benefits projected to be created for the term of the revenue obligation securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability, its plan for marketing its product or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; and

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances.

Financing assistance for any one major business expansion project may not exceed \$25,000,000 in loan amount. The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter II, application procedures, approval criteria and reasonable fees for major business expansion projects.

Sec. 8. 10 MRSA §1053, sub-§6, as amended by PL 1993, c. 712, §5, is further amended to read:

6. Securities outstanding. The authority may not have at any one time outstanding revenue obligation securities to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding an amount equal to \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032. Notwithstanding any other provision of this subsection, the authority may additionally have outstanding at any one time up to \$120,000,000 of bonds under this subchapter relating to loans for electric rate stabilization projects and \$120,000,000 of bonds under this subchapter relating to loans for major business expansion projects, in each case consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds

to fund capital reserve funds. The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 9. 10 MRSA §1054, as amended by PL 1987, c. 393, §12, is further amended to read:

§1054. Taxable bond option

With respect to all or any portion of any issue of any bonds or any series of bonds ~~which that~~ the authority may issue in accordance with the limitations and restrictions of this subchapter, the authority may covenant and consent that the interest on the bonds ~~shall be~~ is includable, under the United States Internal Revenue Code of ~~1954~~ 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. Bonds issued pursuant to this section ~~shall are~~ not be subject to any limitations or restrictions of any law ~~which that~~ may limit the authority's power to issue those bonds or to the procedures set forth in section 1043 or in section 1044, subsections 1, 11 and 12; except that the procedures set forth in section 1043 do apply with respect to major business expansion projects. The foregoing grant of power ~~shall~~ may not be construed as limiting the inherent power of the State or its agencies under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders of the interest under the United States Internal Revenue Code or any subsequent law. Any action or proceeding in any court to contest the issuance of the securities, the approval by the authority of a project to benefit from issuance of the securities or the approval by the authority of mortgage insurance or the provision of a capital reserve fund for the securities for any reason must be started within 30 days after the date on which the members of the authority adopt a formal resolution approving issuance of the securities and otherwise must be governed by Title 5, chapter 375, subchapter VII. Once the authority has adopted a resolution to approve the issuance of securities pursuant to this section, any

action by the authority to amend, alter or revise the resolution may not commence a new period of time within which any such action or proceeding may be commenced. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter VII, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding may be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the resolution or contesting any provision of the resolution, any amendment to the resolution or the issuance of the securities may be started or asserted nor may the resolution or the issuance of the securities be open to question in any court upon any grounds.

Sec. 10. Loans authorized. The Finance Authority of Maine may make loans for major business expansion projects, as defined in the Maine Revised Statutes, Title 10, section 963-A, from up to \$100,000,000 of the proceeds of revenue obligation securities secured by capital reserve funds pursuant to Title 10, section 1053. Any revenue obligation securities for major business expansion projects secured by capital reserve funds pursuant to Title 10, section 1053 are limited obligations of the Finance Authority of Maine payable from revenues from borrowers and any capital reserve funds pledged for those securities as those funds are administered under Title 10, chapter 110, subchapter III and are not payable from any other assets or funds of the Finance Authority of Maine.

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

Effective February 1, 1995.

CHAPTER 5

H.P. 120 - L.D. 155

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 1995

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable prior to July 1, 1995; 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. Supplemental Appropriations from General Fund. There are appropriated from the General Fund for the fiscal year ending June 30, 1995, to the departments listed, the following sums.

1994-95

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Budget - Bureau of the

Personal Services	(\$18,000)
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Provides for the deappropriation of funds through the transfer of Personal Services to the Bureau of General Services, Buildings and Grounds Operations to fund overtime for the balance of fiscal year 1994-95.

Budget - Bureau of the

Personal Services	(4,211)
All Other	4,211

TOTAL	-0-
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Provides for the appropriation of funds through a line category transfer from Personal Services to All Other. Salary savings from one vacant Budget Analyst position and one Word Processing Operator position vacant due to

maternity leave will be used to provide temporary clerical support.

Buildings and Grounds Operations

Personal Services	66,000
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Provides for the appropriation of funds to meet the cost of overtime related to snow removal, emergency repairs, and Delta operations.

Financial and Personnel Services - Division of

All Other	22,000
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Provides for the appropriation of All Other funds to reimburse the Division of Financial and Personnel Services for settling a questioned cost with the Department of Health and Human Services. The funds will be transferred by financial order to account 01418A071301. This account funded the settlement.

Taxation - Bureau of

Personal Services	(48,000)
-------------------	----------

Provides for the deappropriation of funds through the transfer of Personal Services funds to the Bureau of General Services, Buildings and Grounds Operations to fund overtime for the balance of fiscal year 1994-95.

Taxation - Bureau of

All Other	(22,000)
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Provides for the deappropriation of funds through the transfer of All Other funds to the Division of Financial and Personnel Services to make repayment for settling a questioned cost on behalf of the State.

Salary Plan

Personal Services (2,500,000)

Provides for the deappropriation of funds from available savings.

**Departments and Agencies -
Departmental Total Quality
Management Accounts**

All Other (1,000,000)

Provides for the deappropriation of funds from a reduction of available total quality management balances. The Maine Quality Management Council will make a recommendation to the State Budget Officer that will equitably distribute the necessary savings no later than February 28, 1995. The State Budget Officer shall calculate the amounts that apply against the General Fund accounts established in the Maine Revised Statutes, Title 5, section 1589, subsection 2 based on the recommendations of the Maine Quality Management Council. Notwithstanding Title 5, section 1585, or any other provision of law, the State Budget Officer shall cause the calculated amount to be transferred from each account referred to in this paragraph by financial order.

**Departments and Agencies -
Statewide**

Personal Services (49,036)

Deappropriates funds not utilized to implement Public Law 1993, chapter 441.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(3,549,036)

**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

Maine Milk Commission

All Other 1,500,000

Provides funds to the Maine Milk Commission to be deposited in the Maine Milk Pool created in the Maine Revised Statutes, Title 7, section 3153. The funds must be distributed at the rate of \$375,000 per month in the months of March 1995, April 1995, May 1995 and June 1995.

**DEPARTMENT OF
AGRICULTURE, FOOD AND
RURAL RESOURCES
TOTAL**

1,500,000

**ATTORNEY GENERAL,
DEPARTMENT OF THE**

**Administration - Attorney
General**

Personal Services (30,000)

All Other 30,000

TOTAL -0-

Provides for the appropriation of funds through a line category transfer from Personal Services to All Other. Funds are available due to salary savings from one vacant Senior Legal position and will be used to meet telephone and copier expenses.

**Office of Chief Medical
Examiner**

All Other (20,000)

Provides for the deappropriation of funds no longer needed.

**DEPARTMENT OF THE
ATTORNEY GENERAL
TOTAL**

(20,000)

AUDIT, DEPARTMENT OF**Audit - Departmental Bureau**

Personal Services	30,000
All Other	(30,000)

Provides for the appropriation of funds through a transfer from the All Other line category to the Personal Services line category to meet anticipated payroll needs for fiscal year 1994-95.

**DEPARTMENT OF AUDIT
TOTAL**

-0-

**CONSERVATION,
DEPARTMENT OF****Land Use Regulation
Commission**

Personal Services	(13,480)
All Other	13,480

TOTAL	-0-
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Provides for the appropriation of funds through a transfer from Personal Services to All Other for agency costs of a technical review process of an application for a wind energy station.

Parks - General Operations

Personal Services	(14,706)
All Other	14,706

TOTAL	-0-
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Provides for the appropriation of funds through a line category transfer for unanticipated workers' compensation costs.

**DEPARTMENT OF
CONSERVATION
TOTAL**

-0-

**CORRECTIONS,
DEPARTMENT OF****Administration - Corrections**

Personal Services	(120,672)
All Other	25,032

TOTAL	(95,640)
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Provides for the appropriation of funds for medical expenses related to a workers' compensation case and the deappropriation of funds from salary savings.

Office of Advocacy

Personal Services	(4,500)
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Provides for the deappropriation of funds from salary savings.

Bangor Pre-Release Center

Personal Services	(21,000)
All Other	(20,064)

TOTAL	(41,064)
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Provides for the deappropriation of funds from salary savings and through savings in the costs of institutional operations.

**Central Maine Pre-Release
Center**

Personal Services	(41,000)
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Provides for the deappropriation of funds from salary savings.

**Charleston Correctional
Facility**

Personal Services	(265,000)
All Other	61,989

TOTAL	(203,011)	Provides for the deappropriation of funds from food savings.	
Provides for the appropriation of funds for medical expenses and the deappropriation of funds from salary savings.		Food - State Prison	
Correctional Services		All Other	(147,610)
Personal Services	(2,100)	Provides for the deappropriation of funds from food savings.	
Provides for the deappropriation of funds from salary savings.		Fuel - Corrections	
Correctional Center		All Other	91,924
Personal Services	(258,217)	Provides for the appropriation of funds for fuel costs.	
All Other	(75,158)	Bureau of Juvenile Corrections	
TOTAL	(333,375)	Personal Services	350
Provides for the deappropriation of funds from salary savings and savings realized in institutional operations.		Provides for the appropriation of funds to meet payroll costs.	
Downeast Correctional Facility		Parole Board	
Personal Services	12,502	Personal Services	(55)
Provides for the appropriation of funds for overtime and related Personal Services costs.		All Other	(2,308)
Food - Charleston Correctional Facility		TOTAL	(2,363)
All Other	(14,434)	Provides for the deappropriation of funds for per diem and meeting expenses.	
Provides for the deappropriation of funds from food savings.		Probation and Parole	
Food - Downeast Correctional Facility		Personal Services	127,159
All Other	(17,295)	All Other	3,758
Provides for the deappropriation of funds from food savings.		TOTAL	130,917
Food - Maine Correctional Center		Provides for the appropriation of funds for overtime and related Personal Services costs and medical expenses related to a workers' compensation case.	
All Other	(175,000)	State Prison	
		Personal Services	(98,689)
		All Other	169,926
		TOTAL	71,237

Provides for the deappropriation of funds from salary savings and the appropriation of funds for medical expenses.

State Prison - Farm Program

Personal Services 2,700

Provides for the appropriation of funds for overtime and related Personal Services costs.

Warren Correctional Facility

Personal Services 195,385

All Other 142,997

TOTAL 338,382

Provides for the appropriation of funds for overtime and related Personal Services costs and for depreciation expense for the Warren Sanitary District.

Youth Center - Maine

Personal Services 401,900

All Other 17,280

TOTAL 419,180

Provides for the appropriation of funds for overtime and related Personal Services costs and contracted nursing services.

Youth Center - Maine

All Other 10,200

Provides for the appropriation of funds for costs associated with developing a juvenile database.

DEPARTMENT OF CORRECTIONS TOTAL

-0-

EDUCATION, DEPARTMENT OF

Blind and Visually Impaired - Division for the

All Other 416,825

Provides for the appropriation of funds transferred from Rehabilitation Services funds to the Blind and Visually Impaired program to provide for required federal grant match.

Education in Unorganized Territory

Personal Services (110,000)

Provides for the deappropriation of funds through salary savings.

Preschool Handicapped

All Other 596,804

Provides for the appropriation of funds for additional pre-school handicapped students requiring public education services for compliance with the federal IDEA. It is the intent of the Legislature that the Department of Education find additional savings within its various General Fund programs should additional funding be needed for this program in fiscal year 1994-95.

Rehabilitation Services

All Other (416,825)

Provides for the deappropriation of funds to transfer Rehabilitation Services funds to the Blind and Visually Impaired program to provide for required federal grant match.

DEPARTMENT OF EDUCATION TOTAL

486,804

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

Water Quality Control

Personal Services	(78,023)
Capital Expenditures	78,023

Provides for the appropriation of funds through a transfer of Personal Services savings to Capital Expenditures where they will be used to purchase computers and upgrade networking systems.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

-0-

EXECUTIVE DEPARTMENT

**Driver Education and
Evaluation Program -
Substance Abuse**

Personal Services	22,048
All Other	(22,048)

Provides for the appropriation of funds through the transfer of funds from All Other to Personal Services to meet Personal Services costs for fiscal year 1994-95.

**EXECUTIVE DEPARTMENT
TOTAL**

-0-

**HUMAN SERVICES,
DEPARTMENT OF**

**Administration - Human
Services**

Personal Services	(295,000)
-------------------	-----------

Provides for the deappropriation of funds from salary savings.

**Administration - Regional -
Human Services**

All Other	96,527
-----------	--------

Provides for the appropriation of funds for regional office health and safety problems and to meet unanticipated expenses for telecommunications and Bureau of General Services costs.

**Administration - Regional -
Human Services**

Personal Services	(130,000)
-------------------	-----------

Provides for the deappropriation of funds from salary savings.

**Administration - Income
Maintenance**

Personal Services	(145,000)
-------------------	-----------

Provides for the deappropriation of funds from salary savings.

**Administration - Social
Services**

Personal Services	(190,000)
-------------------	-----------

Provides for the deappropriation of funds from salary savings.

**Aid to Families with
Dependent Children - Foster
Care**

All Other	609,000
-----------	---------

Provides for the appropriation of funds for state matching funds for the final foster care payroll of fiscal year 1994-95, which will prevent an 8-day delay in foster parents receiving their checks.

Child Welfare Services

All Other	1,426,705
-----------	-----------

Provides for the appropriation of funds to cover increased

cost expected to occur in child welfare in fiscal year 1994-95.

Child Welfare Services

All Other 534,000

Provides for the appropriation of funds for the final foster care payroll of fiscal year 1994-95, which will prevent an 8-day delay in foster parents receiving their checks.

Child Welfare Services

Personal Services (75,000)

Provides for the deappropriation of funds from salary savings.

Elder and Adult Services - Bureau of

Positions - Legislative Count (3.0)

Personal Services 25,704

All Other 8,559

TOTAL 34,263

Provides for the appropriation of funds from the transfer of positions from the Medical Care Administration account. The positions being transferred are one Division Director position, one Medical Social Worker Consultant position and one Clerk Typist III position.

Elder and Adult Services - Bureau of

Personal Services (250,000)

Provides for the deappropriation of funds from salary savings.

General Assistance - Reimbursement to Cities and Towns

All Other (400,000)

Provides for the deappropriation of funds due to anticipated savings based on current expenditure estimates.

Health - Bureau of

Personal Services (400,234)

Provides for the deappropriation of funds from salary savings.

Health Planning and Development

Personal Services (75,000)

Provides for the deappropriation of funds from salary savings.

Income Maintenance - Regional

Personal Services (776,000)

Provides for the deappropriation of funds from salary savings.

Intermediate Care - Payments to Providers

All Other (12,602)

Provides for the deappropriation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.

Intermediate Care - Payments to Providers

All Other (1,057,394)

Provides for the deappropriation of funds based on estimates of expenditures through June 30, 1995.

Intermediate Care - Payments to Providers

All Other 4,700,000

Provides for the appropriation of funds for the settlement of the loss of federal financial participation for provider-specific gross receipts tax on nursing facilities.

Low-Cost Drugs to Maine's Elderly

All Other (250,000)

Provides for the deappropriation of funds based on estimates of expenditures through June 30, 1995.

Medical Care - Payments to Providers

All Other (25,130)

Provides for the deappropriation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.

Medical Care - Payments to Providers

All Other 1,983,914

Provides for the appropriation of funds to cover a projected shortfall.

Medical Care - Payments to Providers

All Other 7,500,000

Provides for the appropriation of funds to discontinue the practice of using anticipated July Other Special Revenue to support current fiscal year obligations.

Medical Care Administration

Positions - Legislative Count (0.5)
Personal Services 15,000
All Other 5,300
Capital Expenditures 2,500

TOTAL 22,800

Provides for the appropriation of funds for one part-time Physician, Medical Director of the Bureau's Quality Assurance Programs position.

Medical Care Administration

Positions - Legislative Count (1.0)
Personal Services 8,950
All Other 2,980
Capital Expenditures 3,000

TOTAL 14,930

Provides for the appropriation of funds for one Managed Care Quality Assurance Supervisor position for the Medicaid managed care initiative.

Medical Care Administration

Personal Services (770,000)

Provides for the deappropriation of funds from salary savings.

Medical Care Administration

Positions - Legislative Count (-3.0)
Personal Services (25,704)
All Other (8,559)

TOTAL (34,263)

Provides for the deappropriation of funds for the transfer of one Division Director position, one Medical Social Worker Consultant position and one Clerk Typist III position to the Bureau of Elder and Adult Services.

Purchased Social Services

All Other (100,000)

Provides for the deappropriation of funds based on estimates of expenditures through June 30, 1995.

Social Services - Regional

Personal Services (1,600,000)

Provides for the deappropriation of funds from salary savings.

Special Children's Services

Personal Services (27,789)

Provides for the deappropriation of funds from salary savings.

State Supplement to Federal Supplemental Security Income

All Other (1,450,000)

Provides for the deappropriation of funds based on estimates of expenditures through June 30, 1995.

Welfare Employment, Education and Training

All Other (200,000)

Provides for the deappropriation of funds based on estimates of expenditures through June 30, 1995.

Welfare Employment, Education and Training

Personal Services (90,000)

Provides for the deappropriation of funds from salary savings.

Maine Health Program

All Other (392,526)

Provides for the deappropriation of funds from available savings.

DEPARTMENT OF HUMAN SERVICES**TOTAL**

8,176,201

LABOR, DEPARTMENT OF**Job Training Partnership Program**

Personal Services 1,501

Provides for the appropriation of funds to adjust amounts previously approved in Public Law 1993, chapter 707, Part A, section 1.

Twelve County SDA - Job Training Partnership Program

Personal Services (1,501)

Provides for the deappropriation of funds to adjust an amount previously approved in Public Law 1993, chapter 707, Part A, section 1.

DEPARTMENT OF LABOR TOTAL

-0-

LEGISLATURE**Legislature**

Personal Services (400,000)

Provides for the deappropriation of funds from available savings.

LEGISLATURE TOTAL

(400,000)

LIBRARY, MAINE STATE**Library Development Services**

Personal Services 417

All Other (417)

TOTAL -0-

Provides for the appropriation of funds for a reclassification of one Community Service Librarian position to one Library Section Supervisor position due to a reorganization approved by the Bureau of Human Resources on April 14, 1994.

Library Development Services

Personal Services	236	Provides for the	
All Other	(236)	deappropriation of funds from	
		salary savings.	
TOTAL	-0-	Bangor Mental Health	
Provides for the appropriation		Institute	
of funds for a reclassification		All Other	(268,953)
of one Library Assistant		Provides for the	
position to one Audio Visual		deappropriation of funds to	
Specialist position due to a		meet projected costs for drugs,	
reorganization approved by the		workers' compensation, patient	
Bureau of Human Resources		medicals, utilities, contracts for	
on April 14, 1994.		psychiatrists and pharmacy	
		services through the transfer of	
MAINE STATE LIBRARY		All Other to the	
TOTAL	-0-	Disproportionate Share-Bangor	
MARINE RESOURCES,		Mental Health Institute	
DEPARTMENT OF		program.	
Marine Development - Bureau		Bangor Mental Health	
of		Institute	
Personal Services	(46,890)	Personal Services	(80,000)
Provides for the		Provides for the	
deappropriation of funds		deappropriation of funds from	
through salary savings. These		salary savings.	
funds are to be transferred to		Bath Children's Home	
the Bureau of Marine Sciences.		Personal Services	20,000
Marine Sciences - Bureau of		Provides for the appropriation	
All Other	46,890	of funds through the transfer of	
Provides for the appropriation		Personal Services salary	
of funds for utility services and		savings from the Bureau of	
fuel costs of a new science		Children with Special Needs	
research lab in Boothbay		program.	
Harbor.		Disproportionate Share -	
DEPARTMENT OF MARINE		Bangor Mental Health	
RESOURCES		Institute	
TOTAL	-0-	All Other	268,953
MENTAL HEALTH AND		Provides for the appropriation	
MENTAL RETARDATION,		of funds to meet projected	
DEPARTMENT OF		costs for drugs, workers'	
Administration - Mental		compensation, patient	
Health and Mental		medicals, utilities, contracts for	
Retardation		psychiatrists and pharmacy	
Personal Services	(125,000)	services through a transfer	
		from Bangor Mental Health	
		Institute's General Fund	
		account.	

Elizabeth Levinson Center

Personal Services 10,000

Provides for the appropriation of funds through the transfer of Personal Services salary savings from the Bureau of Children with Special Needs program.

Medicaid account in order to fund needs in that account.

Mental Health Services - Community

All Other (72,000)

Provides for the deappropriation of funds through the Assertive Community Treatment teams.

Medicaid Services - Mental Retardation

All Other 1,900,000

Provides for the appropriation of funds for state match required to support Medicaid reimbursable community mental retardation services.

Mental Retardation Services - Community

Personal Services (191,077)

Provides for the deappropriation of funds from salary savings.

Mental Health Services - Child Medicaid

All Other 131,524

Provides for the appropriation of funds for unbudgeted state match for 15 children with mental retardation in the State's home and community-based waiver program.

**DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION
TOTAL**

1,321,923

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**Educational and General Activities - University of Maine System**

All Other (1,000,000)

Provides for the deappropriation of funds from savings within the Office of the Chancellor.

**BOARD OF TRUSTEES OF THE UNIVERSITY OF MAINE SYSTEM
TOTAL**

(1,000,000)

Mental Health Services - Children

Personal Services (140,000)

Provides for the deappropriation of funds through the transfer of Personal Services salary savings to the Elizabeth Levinson Center, Bath Children's Home and other departmental needs.

SECTION A-1**TOTAL APPROPRIATIONS**

6,515,892

Mental Health Services - Children

All Other (131,524)

Provides for the deappropriation of funds through a transfer to Mental Health Services-Child

Sec. A-2. Allocation. The following funds are allocated from the Federal Expenditure Fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95		Project Officer position, operational expenses and for grants to regional development organizations for loans to businesses that have suffered adverse economic effects from defense budget reductions. Repaid loans will be used to develop a revolving loan program.	
ARTS COMMISSION, MAINE			
Arts - Sponsored Program			
Personal Services	489		
All Other	(489)		
Provides for the allocation of funds for a reclassification of one Senior Arts/Humanities Associate position to one Assistant Director of the Maine Arts Commission position due to a reorganization approved by the Bureau of Human Resources in October, 1994.			
MAINE ARTS COMMISSION TOTAL	<hr/> -0-	DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	<hr/> 1,386,000
CORRECTIONS, DEPARTMENT OF		DEPARTMENT OF EDUCATION	
Justice - Planning, Projects and Statistics		Blind and Visually Impaired - Division for the	
Personal Services	(22,869)	All Other	200,000
All Other	8,134	Provides for the allocation of funds for blind and visually impaired program grant awards.	
Capital Expenditures	14,735	Rehabilitation Services	
Provides for the allocation of funds through a line-category transfer to purchase computer equipment and software for the department's data center.		All Other	(147,800)
DEPARTMENT OF CORRECTIONS TOTAL	<hr/> -0-	Capital Expenditures	147,800
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		TOTAL	<hr/> -0-
Economic Conversion Division		Provides for the allocation of funds through a transfer from All Other to Capital Expenditures for office equipment in 10 offices across the State.	
Positions - Other Count	(1.0)	DEPARTMENT OF EDUCATION TOTAL	<hr/> 200,000
Personal Services	36,000	HUMAN SERVICES, DEPARTMENT OF	
All Other	1,350,000	Administration - Regional - Human Services	
Provides for the allocation of funds for one Development		All Other	54,823

Provides for the allocation of funds for regional office health and safety problems and to meet unanticipated expenses for telecommunications and Bureau of General Services costs.

Elder and Adult Services - Bureau of

Positions - Other Count (2.0)
Personal Services 17,364

Provides for the allocation of funds for the transfer of one Health Services Consultant position and one Microbiologist position from the Bureau of Medical Services.

Health - Bureau of

All Other 842,197
Capital Expenditures 30,000

TOTAL 872,197

Provides for the allocation of funds for All Other and Capital Expenditures to support the immunization program.

Health - Bureau of

Personal Services 2,829

Provides for the allocation of funds for the reclassification of one Public Health Educator III position to one Health Program Manager position in the immunization program through a reorganization.

Health - Bureau of

Personal Services 660

Provides for the allocation of funds for the reorganization of one Clerk Typist II position to one Clerk Typist III position in the ASSIST program.

Health - Bureau of

Personal Services 2,662

Provides for the allocation of funds to increase the work time of one Public Health Educator II position by 12 hours per week in the ASSIST program.

Intermediate Care - Payments to Providers

All Other (49,130)

Provides for the deallocation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.

Maternal and Child Health

All Other 97,043

Provides for the allocation of funds for the continuation of the maternal and child health initiative in fiscal year 1994-95.

Medical Care - Payments to Providers

All Other (24,636)

Provides for the deallocation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.

Medical Care Administration

Positions - Other Count (2.0)
Personal Services 16,100
All Other 5,361
Capital Expenditures 6,000

TOTAL 27,461

Provides for the allocation of matching funds for one Systems Analyst position and one Programmer Analyst position to support the new Medicaid management information system, along with associated All Other and Capital Expenditures.

Medical Care Administration

Positions - Other Count	(1.0)
Personal Services	5,700
All Other	1,710
Capital Expenditures	2,500

TOTAL	9,910
-------	-------

Provides for the allocation of federal matching funds for one Research Associate I position to perform analysis of nursing home eligibility and continued stay assessments, along with associated All Other and Capital Expenditures.

Medical Care Administration

Positions - Other Count	(1.0)
Personal Services	10,345
All Other	3,450
Capital Expenditures	3,000

TOTAL	16,795
-------	--------

Provides for the allocation of federal matching funds for one Director, Division of Information Management position to supervise the implementation and ongoing operation of the new Medicaid management information system, along with associated All Other and Capital Expenditures.

Medical Care Administration

Positions - Other Count	(-2.0)
Personal Services	(17,364)

Provides for the deallocation of funds in order to transfer one Health Services Consultant position and one Microbiologist position to the Bureau of Elder and Adult Services.

Intermediate Care - Payments to Providers

All Other	3,229,590
-----------	-----------

Provides for the allocation of federal matching funds required to support Medicaid reimbursable community mental retardation services.

Intermediate Care - Payments to Providers

All Other	(1,797,341)
-----------	-------------

Provides for the deallocation of funds based on estimates of expenditures through June 30, 1995.

Aid to Families with Dependent Children - Foster Care

All Other	1,035,168
-----------	-----------

Provides for the allocation of federal matching funds for the final foster care payroll for fiscal year 1994-95, which will prevent an 8-day delay in foster parents receiving their checks.

Health - Bureau of

All Other	57,284
-----------	--------

Provides funds related to a federal grant award to prevent head and spinal cord injuries through public health leadership, service coordination, surveillance, implementation and evaluation of community intervention programs.

Medical Care - Payments to Providers

All Other	3,372,225
-----------	-----------

Provides for the allocation of federal matching funds to cover a projected shortfall.

**DEPARTMENT OF HUMAN SERVICES
TOTAL**

6,907,540

**TRANSPORTATION,
DEPARTMENT OF****Administration and Planning**

Personal Services	250,000
All Other	270,300
TOTAL	520,300

Provides for the allocation of funds for the federal participation in the highway and planning research program for payment of staff and consultant activities.

**Highway and Bridge
Improvement**

Personal Services	(550,000)
Capital Expenditures	(2,770,300)
TOTAL	(3,320,300)

Provides for the deallocation of funds for which the obligation authority has been redefined within the federal highway programs and has been transferred to the federal transit authority program.

Railroad Assistance Program

Personal Services	85,000
-------------------	--------

Provides for allocation of funds for the administration charge billable to the Federal Rail Administration.

Traffic Service

Personal Services	300,000
All Other	500,000
TOTAL	800,000

Provides for the allocation of additional funds for the federal pavement-striping program for the payment of staff and pavement-striping materials.

Transportation Services

All Other	2,000,000
-----------	-----------

Provides for the allocation of funds created through the transfer of obligated authority from the Federal Highway Administration to the Federal Transit Authority.

Transportation Services

Personal Services	(85,000)
-------------------	----------

Provides for the deallocation of funds for which the obligated authority has been redefined to the Federal Rail Administration program.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

-0-

SECTION A-2

TOTAL ALLOCATIONS	8,493,540
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Sec. A-3. Allocation. The following funds are allocated from Other Special Revenue for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF****Consumer Services -
Agriculture**

All Other	15,000
-----------	--------

Provides for the allocation of funds to support increased pump and scale inspections by local sealers.

**DEPARTMENT OF
AGRICULTURE, FOOD AND
RURAL RESOURCES
TOTAL**

15,000

**BAXTER STATE PARK
AUTHORITY****Baxter State Park Authority**

All Other	(750,000)
Provides for the deallocation of funds through a transfer to a newly established Tree Harvesting Fund. This is a new enterprise fund to be used in the sale of park trees.	
BAXTER STATE PARK AUTHORITY	
TOTAL	<hr/> (750,000)
CORRECTIONS, DEPARTMENT OF	
Charleston Correctional Facility	
Personal Services	17,600
Provides for the allocation of funds for costs associated with wood harvesting and sawyer vocational programs.	
DEPARTMENT OF CORRECTIONS	
TOTAL	<hr/> 17,600
EDUCATION, DEPARTMENT OF	
Governor Baxter School for the Deaf	
Personal Services	29,135
All Other	68,940
Provides for the allocation of funds for support activities centering around deaf culture and education for children and families.	
DEPARTMENT OF EDUCATION	
TOTAL	<hr/> 98,075
HEALTH CARE FINANCE COMMISSION, MAINE	
Health Care Finance Commission	
Personal Services	(64,518)

All Other	27,238
Capital Expenditures	37,280
Provides for the allocation of funds through a line-category transfer from Personal Services to All Other and Capital Expenditures to complete a computer network. This will provide needed technological support to staff.	
MAINE HEALTH CARE FINANCE COMMISSION	
TOTAL	<hr/> -0-
HUMAN SERVICES, DEPARTMENT OF	
Health - Bureau of	
All Other	20,501
Provides for the allocation of funds for well-child clinic services.	
Health - Bureau of	
Positions - Other Count	(1.0)
Personal Services	8,300
All Other	8,590
TOTAL	<hr/> 16,890
Provides for the allocation of funds through the transfer of one Engineering Technician III position from the nuclear safety program to the Bureau of Health.	
Health - Bureau of	
Personal Services	1,264
Provides for the allocation of funds to upgrade one Comprehensive Health Planner I position to one Health Program Manager position.	
Nuclear Safety Program	
Positions - Other Count	(-1.0)
Personal Services	(8,300)
All Other	(8,590)

TOTAL	(16,890)	Maine Health Care Reform Commission	
Provides for the deallocation of funds due to the transfer of one Engineering Technician III position from the nuclear safety program to the Bureau of Health.		All Other	196,000
		Provides for the allocation of funds for consulting services and conducting a survey.	
DEPARTMENT OF HUMAN SERVICES		LEGISLATURE	
TOTAL	21,765	TOTAL	196,000
INDIAN TRIBAL-STATE COMMISSION, MAINE		MARINE RESOURCES, DEPARTMENT OF	
Maine Indian Tribal-State Commission		Marine Development - Bureau of	
Personal Services	(1,500)	Personal Services	3,958
All Other	1,500	Provides for the allocation of funds for an upgrade of one Marine Resource Scientist I position to one Marine Resource Scientist II position.	
Provides for the allocation of funds through a line-category transfer from Personal Services to All Other to correct a technicality in a 1993 public law. The intent of the law was to give the commission its entire allotment in a single grant payment.		Marine Sciences - Bureau of	
		Capital Expenditures	100,000
MAINE INDIAN TRIBAL-STATE COMMISSION		Provides for the allocation of funds for the creation of a Boat Sale Conversion account.	
TOTAL	-0-	DEPARTMENT OF MARINE RESOURCES	
LABOR, DEPARTMENT OF		TOTAL	103,958
Labor Relations Board		MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF	
All Other	7,140	Augusta Mental Health Institute	
Provides for the allocation of funds for an increased demand for services from the Panel of Mediators, the Maine Board of Arbitration and Conciliation and the Maine Labor Relations Board.		Personal Services	(62,846)
		All Other	62,292
DEPARTMENT OF LABOR		Capital Expenditures	554
TOTAL	7,140	TOTAL	-0-
LEGISLATURE		Provides for the allocation of funds through a line-category transfer from Personal Services to All Other to meet increased costs for contracted physicians,	

utilities, prescription drugs and
Capital Expenditures.

**Augusta Mental Health
Institute**

All Other 339,957

Provides for the allocation of
funds to cover unbudgeted
contracts, utilities and drugs.

**Bangor Mental Health
Institute**

Personal Services (68,802)

All Other 68,802

TOTAL -0-

Provides for the allocation of
funds through a line-category
transfer from Personal Services
to All Other to make
Americans with Disabilities
Act improvements to the
institute.

**Bangor Mental Health
Institute**

All Other 457,163

Provides for the allocation of
funds to meet projected costs
for drugs, workers'
compensation, patient
medicals, utilities, contracts for
psychiatrists and pharmacy
services.

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION
TOTAL**

797,120

**PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF**

Dental Examiners - Board of

Positions - Other Count (0.5)

Personal Services 15,000

Provides for the allocation of
funds for one part-time Clerk

Typist II position to assist with
the administration of the board.

**Licensure in Medicine - Board
of**

Capital Expenditures 35,000

Provides for the allocation of
funds to replace an outdated
processing and data network
and the acquisition of
investigation tracking software.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

50,000

**SECTION A-3
TOTAL ALLOCATIONS**

556,658

Sec. A-4. Allocation. The following funds
are allocated from Federal Block Grant funds for the
fiscal year ending June 30, 1995 to carry out the
purposes of this Part.

1994-95

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

**Community Development
Block Grant Program**

All Other 3,000,000

Provides for the allocation of
funds for additional
Community Development
Block Grant funds to cities and
towns.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

3,000,000

**HUMAN SERVICES,
DEPARTMENT OF**

**Administration - Regional -
Human Services**

All Other	89,896
-----------	--------

Provides for the allocation of funds for regional office health and safety problems and to meet unanticipated expenses for telecommunications and Bureau of General Services costs.

**Community Services Block
Grant**

Personal Services	8,137
All Other	(8,137)

TOTAL	-0-
-------	-----

Provides for the allocation of funds through a line-category transfer from Personal Services to All Other to fund retirement contributions for one Fiscal Operations Manager position.

Dental Disease Prevention

Personal Services	568
-------------------	-----

Provides for the allocation of funds to upgrade one Clerk Typist II position to one Clerk Typist III position in the Bureau of Health administration office.

Health - Bureau of

All Other	400,000
-----------	---------

Provides for the allocation of increased Preventative Health Federal Block Grant funds for the Rabies Program, Emergency Medical Services, the Sexually Transmitted Disease Program, the Tuberculosis Program and the Dental Health Program.

Health - Bureau of

All Other	150,426
-----------	---------

Provides for the allocation of funds from the Preventative Health Federal Block Grant through fiscal year 1994-95.

Maternal and Child Health

All Other	275,000
Capital Expenditures	77,000

TOTAL	352,000
-------	---------

Provides for the allocation of funds for All Other and associated capital equipment expenditures in fiscal year 1994-95.

Maternal and Child Health

Personal Services	863
-------------------	-----

Provides for the allocation of funds to upgrade one Occupational Therapist I position to one Occupational Therapist II position within the coordinated care services for Children with Special Health Needs account.

Special Children's Services

All Other	175,000
-----------	---------

Provides for the allocation of funds for continuation of coordinated care services in fiscal year 1994-95.

Special Children's Services

Personal Services	42,249
All Other	(42,249)

TOTAL	-0-
-------	-----

Provides for the allocation of funds through a line-category transfer from Personal Services to All Other for the continuation of the Special Children's Services program in fiscal year 1994-95 at current staffing levels.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

1,168,753

**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**

**Mental Health Services -
Children**

All Other 9,016

Provides for the allocation of
funds for direct client services.

**Mental Retardation Services -
Community**

All Other 25,494

Provides for the allocation of
funds for direct client services.

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION
TOTAL**

34,510

**SECTION A-4
TOTAL ALLOCATIONS**

4,203,263

Sec. A-5. Allocation. The following funds are
allocated from the Tree Harvesting Fund for the fiscal
year ending June 30, 1995 to carry out the purposes of
this Part.

1994-95

**BAXTER STATE PARK
AUTHORITY**

Tree Harvesting Fund

All Other 750,000

Provides for the allocation of
funds through a transfer from
the Baxter State Park Authority
account. These funds are for
the newly established
enterprise fund used in the sale
of park trees.

**BAXTER STATE PARK
AUTHORITY
TOTAL**

750,000

**SECTION A-5
TOTAL ALLOCATIONS**

\$750,000

PART B

Sec. B-1. Appropriation. There are appro-
priated from the General Fund for the fiscal year
ending June 30, 1995, to the departments listed, the
sums identified in the following, in order to provide
funding for approved reclassifications and range
changes.

1994-95

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Accounts and Control - Bureau
of**

Personal Services \$45,886

**Buildings and Grounds
Operations**

Personal Services 7,232

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

53,118

**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

Agricultural Production

Personal Services 13,698

Public Services - Agriculture

Personal Services 4,181

**Marketing Services -
Agriculture**

Personal Services 6,353

**DEPARTMENT OF
AGRICULTURE, FOOD AND
RURAL RESOURCES
TOTAL**

24,232

**ATTORNEY GENERAL,
DEPARTMENT OF THE
Chief Medical Examiner -
Office of the**

Personal Services

5,046

**DEPARTMENT OF THE
ATTORNEY GENERAL
TOTAL**

5,046

**CONSERVATION,
DEPARTMENT OF**

**Forest Fire Control - Division
of**

Personal Services

6,493

**DEPARTMENT OF
CONSERVATION
TOTAL**

6,493

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

**Administration - Economic
and Community Development**

Personal Services

5,046

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

5,046

**EDUCATION,
DEPARTMENT OF**

**Certification, Placement and
Teacher Education**

Personal Services

7,925

Division of Instruction

Personal Services

10,991

Support Services Unit

Personal Services

2,719

**DEPARTMENT OF
EDUCATION
TOTAL**

21,635

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

Air Quality Control

Personal Services

1,178

Land Quality Control

Personal Services

4,573

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

5,751

**HUMAN SERVICES,
DEPARTMENT OF**

**Administration - Human
Services**

Personal Services

4,950

Health - Bureau of

Personal Services

4,100

Medical Care Administration

Personal Services

790

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

9,840

**INLAND FISHERIES AND
WILDLIFE, DEPARTMENT
OF**

**Office of the Commissioner -
Inland Fisheries and Wildlife**

Personal Services

5,247

**Resource Management
Services - Inland Fisheries and
Wildlife**

Personal Services	1,493
-------------------	-------

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

6,740

LIBRARY, MAINE STATE**Administration - Library**

Personal Services	6,645
-------------------	-------

**MAINE STATE LIBRARY
TOTAL**

6,645

**MARINE RESOURCES,
DEPARTMENT OF****Marine Patrol - Bureau of**

Personal Services	4,690
-------------------	-------

**DEPARTMENT OF MARINE
RESOURCES
TOTAL**

4,690

**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF****Bath Children's Home**

Personal Services	493
-------------------	-----

**Mental Health Services -
Community**

Personal Services	129,866
-------------------	---------

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION
TOTAL**

130,359

**PUBLIC SAFETY,
DEPARTMENT OF****Criminal Justice Academy**

Personal Services	3,439
-------------------	-------

Liquor Enforcement

Personal Services	20,782
-------------------	--------

**DEPARTMENT OF PUBLIC
SAFETY**

TOTAL	24,221
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SECTION B-1

TOTAL APPROPRIATIONS	303,816
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Sec. B-2. Allocations; Federal Expenditure Fund. There are allocated from the Federal Expenditure Fund for the fiscal year ending June 30, 1995, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

1994-95**CORRECTIONS,
DEPARTMENT OF
Correctional Center**

Personal Services	2,922
-------------------	-------

**DEPARTMENT OF
CORRECTIONS
TOTAL**

2,922

**EDUCATION,
DEPARTMENT OF
Rehabilitation Services**

Personal Services	1,522
All Other	(1,522)

**DEPARTMENT OF
EDUCATION
TOTAL**

-0-

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF****Administration -
Environmental Protection**

Personal Services	1,411
-------------------	-------

**Oil and Hazardous Materials
Control**

Personal Services	3,609
-------------------	-------

**Oil and Hazardous Materials
Control**

Personal Services	1,504		1994-95
Water Quality Control		ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF	
Personal Services	977	Accident-Sickness-Health Insurance	
Water Quality Control		Personal Services	2,013
Personal Services	3,385	Employee Health Services	
DEPARTMENT OF ENVIRONMENTAL PROTECTION		Personal Services	4,797
TOTAL	<hr/> 10,886	DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES	
HUMAN SERVICES, DEPARTMENT OF		TOTAL	<hr/> 6,810
Administration - Human Services		AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF	
Personal Services	1,745	Pesticides Control - Board of	
Health - Bureau of		Personal Services	2,900
Personal Services	6,500	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES	
Medical Care Administration		TOTAL	<hr/> 2,900
Personal Services	2,200	ENVIRONMENTAL PROTECTION, DEPARTMENT OF	
DEPARTMENT OF HUMAN SERVICES		Maine Environmental Protection Fund	
TOTAL	<hr/> 10,445	Personal Services	4,146
MARINE RESOURCES, DEPARTMENT OF		Solid Waste Management	
Marine Sciences - Bureau of		Personal Services	1,545
Personal Services	8,800	DEPARTMENT OF ENVIRONMENTAL PROTECTION	
DEPARTMENT OF MARINE RESOURCES		TOTAL	<hr/> 5,691
TOTAL	<hr/> 8,800	EXECUTIVE DEPARTMENT	
SECTION B-2		Public Advocate	
TOTAL ALLOCATIONS	<hr/> 33,053	Personal Services	4,703

Sec. B-3. Allocations; Other Special Revenue. There are allocated from Other Special Revenue for the fiscal year ending June 30, 1995, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

EXECUTIVE DEPARTMENT TOTAL	<hr/> 4,703
HEALTH CARE FINANCE COMMISSION, MAINE	
Health Care Finance Commission	
Personal Services	4,101
MAINE HEALTH CARE FINANCE COMMISSION TOTAL	<hr/> 4,101
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF	
Insurance - Bureau of	
Personal Services	7,517
Nursing - Board of	
Personal Services	5,196
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL	<hr/> 12,713
PUBLIC SAFETY, DEPARTMENT OF	
Fire Marshal - Office of	
Personal Services	1,189
DEPARTMENT OF PUBLIC SAFETY TOTAL	<hr/> 1,189
PUBLIC UTILITIES COMMISSION	
Public Utilities - Administrative Division	
Personal Services	4,198
All Other	(4,198)
PUBLIC UTILITIES COMMISSION TOTAL	<hr/> -0-

SECTION B-3 TOTAL ALLOCATIONS	<hr/> 38,107
Sec. B-4. Allocations; Federal Block Grant Fund. There are allocated from Federal Block Grant funds for the fiscal year ending June 30, 1995, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.	
	1994-95
ATTORNEY GENERAL, DEPARTMENT OF THE Human Services Division	
Personal Services	1,723
All Other	(1,723)
DEPARTMENT OF THE ATTORNEY GENERAL TOTAL	<hr/> -0-
EDUCATION, DEPARTMENT OF Division of Instruction	
Personal Services	166
All Other	(166)
DEPARTMENT OF EDUCATION TOTAL	<hr/> -0-
HUMAN SERVICES, DEPARTMENT OF Risk Reduction	
Personal Services	5,300
DEPARTMENT OF HUMAN SERVICES TOTAL	<hr/> 5,300
SECTION B-4 TOTAL ALLOCATIONS	<hr/> \$5,300

PART C

Sec. C-1. Appropriation. There are appropriated from the General Fund for the fiscal year ending June 30, 1995, to the departments listed, the sums identified in the following, in order to provide

funding for approved reclassifications and range changes.

1994-95

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Accounts and Control - Bureau
of**

Personal Services

(\$21,504)

Provides funds from accrued salary savings for approved reclassifications and range changes.

**Accounts and Control - Bureau
of**

All Other

(24,382)

Provides funds for approved reclassifications and range changes.

**Buildings and Grounds
Operations**

All Other

(7,232)

Provides funds from savings in data processing for approved reclassifications and range changes.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(53,118)

**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

Agricultural Production

Personal Services

(6,200)

Provides funds from accrued salary savings for approved reclassifications and range changes.

Public Services - Agriculture

Personal Services

(15,532)

Provides funds from accrued salary savings for approved reclassifications and range changes in the Public Services - Agriculture program, the Marketing Services - Agriculture program and the Agricultural Production program.

**Marketing Services -
Agriculture**

Personal Services

(2,500)

Provides funds from accrued salary savings for approved reclassifications and range changes.

**DEPARTMENT OF
AGRICULTURE, FOOD AND
RURAL RESOURCES
TOTAL**

(24,232)

**ATTORNEY GENERAL,
DEPARTMENT OF THE**

**Chief Medical Examiner -
Office of**

All Other

(5,046)

Provides funds for approved reclassifications and range changes.

**DEPARTMENT OF THE
ATTORNEY GENERAL
TOTAL**

(5,046)

**CONSERVATION,
DEPARTMENT OF**

**Forest Fire Control - Division
of**

All Other

(6,493)

Provides funds for approved reclassifications and range changes.

**DEPARTMENT OF
CONSERVATION
TOTAL**

(6,493)

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF****Business Development**

Personal Services

(5,046)

Provides funds from a position
downgrade for an approved
reclassification in the
Administration program.**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

(5,046)

**EDUCATION,
DEPARTMENT OF****Certification, Placement and
Teacher Education**

All Other

(7,925)

Provides funds for approved
reclassifications and range
changes.**Division of Instruction**

All Other

(10,991)

Provides funds for approved
reclassifications and range
changes.**Support Services Unit**

All Other

(2,719)

Provides funds for approved
reclassifications and range
changes.**DEPARTMENT OF
EDUCATION
TOTAL**

(21,635)

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF****Air Quality Control**

All Other

(1,178)

Provides funds for approved
reclassifications and range
changes.**Land Quality Control**

All Other

(4,573)

Provides funds for approved
reclassifications and range
changes.**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

(5,751)

**HUMAN SERVICES,
DEPARTMENT OF****Administration - Human
Services**

All Other

(4,950)

Provides funds for approved
reclassifications and range
changes.**Health - Bureau of**

All Other

(4,100)

Provides funds for approved
reclassifications and range
changes.**Medical Care Administration**

All Other

(790)

Provides funds for approved
reclassifications and range
changes.**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

(9,840)

**INLAND FISHERIES AND
WILDLIFE, DEPARTMENT
OF****Office of the Commissioner -
Inland Fisheries and Wildlife**

All Other	(5,247)
-----------	---------

Provides funds for approved reclassifications and range changes.

**Resource Management
Services - Inland Fisheries and
Wildlife**

All Other	(1,493)
-----------	---------

Provides funds for approved reclassifications and range changes.

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

(6,740)

LIBRARY, MAINE STATE**Library Development Services**

All Other	(6,645)
-----------	---------

Provides funds for an approved reclassification in the Administration program.

**MAINE STATE LIBRARY
TOTAL**

(6,645)

**MARINE RESOURCES,
DEPARTMENT OF****Marine Patrol - Bureau of**

All Other	(4,690)
-----------	---------

Provides funds for approved reclassifications and range changes.

**DEPARTMENT OF MARINE
RESOURCES
TOTAL**

(4,690)

**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF****Mental Health Services -
Children**

Personal Services	(493)
-------------------	-------

Provides funds from a position downgrade for a reclassification in the Bath Children's Home program.

**Mental Health Services -
Community**

All Other	(129,866)
-----------	-----------

Provides funds for approved reclassifications and range changes.

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION
TOTAL**

(130,359)

**PUBLIC SAFETY,
DEPARTMENT OF****Administration - Public Safety**

Personal Services	(11,398)
-------------------	----------

Provides funds from accrued salary savings for approved reclassifications and range changes in the Liquor Enforcement program and the Criminal Justice Academy program.

Liquor Enforcement

Personal Services	(5,265)
-------------------	---------

Provides funds from accrued salary savings for approved reclassifications and range changes.

Liquor Enforcement

All Other	(7,558)
-----------	---------

Provides funds for approved reclassifications and range changes.

DEPARTMENT OF PUBLIC SAFETY

TOTAL (24,221)

SECTION C-1

TOTAL APPROPRIATIONS (\$303,816)

PART D

Sec. D-1. Allocation. The following funds are allocated from the Solid Waste Management Fund for the fiscal year ending June 30, 1995, to carry out the purposes of this Part.

1994-95

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Solid Waste Management

Personal Services (\$62,000)
All Other (73,000)

Provides for the deallocation of funds from salary savings and general operations due to lower than anticipated revenues within the Solid Waste Management Fund as a result of higher than anticipated corporate investment tax credits.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL (135,000)

WASTE MANAGEMENT AGENCY, MAINE

Office of Siting and Disposal Operations

All Other (365,000)

Provides for the deallocation of funds due to lower than anticipated revenues within the Solid Waste Management Fund

as a result of higher than anticipated corporate investment tax credits.

Office of Siting and Disposal Operations

All Other 40,000

Provides for the allocation of funds to cover the legal costs associated with the MERC and PERC v. Huber case. These funds will be allotted from the unexpended balance from the prior fiscal year.

MAINE WASTE MANAGEMENT AGENCY TOTAL (325,000)

SECTION D-1 TOTAL ALLOCATIONS (\$460,000)

PART E

Sec. E-1. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$278,228 from the Administration - Office of the Executive Director, \$118,395 from the Office of Planning, \$326,668 from the Office of Waste Reduction and Recycling, Other Special Revenue accounts in the Maine Waste Management Agency and \$776,709 in the Maine Solid Waste Management Fund, Other Special Revenue account in the Department of Administrative and Financial Services to General Fund Undedicated Revenue no later than June 30, 1995.

PART F

Sec. F-1. 36 MRSA §1811, 6th ¶, as enacted by PL 1993, c. 471, §3, is amended to read:

For the period beginning July 1, 1993 and ending June 30, 1995, the State Tax Assessor shall transfer each month to the Tourism Marketing and Development Fund all receipts of taxes imposed pursuant to this section on the value of liquor sold in licensed establishments, as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43, on the value of rental of living quarters in any hotel, rooming house, tourist or trailer camp and rental for a period of less than one year of an automobile and on the value of prepared food sold in establishments ~~that are licensed for on premises consumption of liquor pursuant to Title 28-A, chapter 43 as defined in section 1752, subsection 8-A,~~ less transfers pursuant

to Title 30-A, section 5681, subsection 5, in excess of the base General Fund revenue estimates effective July 1, 1993 for the previous month. The State Tax Assessor shall reduce any subsequent transfers to the Tourism Marketing and Development Fund by an amount equal to the amount of General Fund revenues defined in this paragraph that are below the base General Fund estimates effective July 1, 1993 for the previous month. This paragraph is repealed July 1, 1995.

Sec. F-2. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 36, section 1811, 6th paragraph applies retroactively to July 1, 1994.

PART G

Sec. G-1. PL 1993, c. 471, §5 is amended to read:

Sec. 5. Working capital advance. The State Controller is authorized to advance to the Department of Economic and Community Development, Tourism Marketing and Development Fund \$2,200,000 from the General Fund unappropriated surplus on July 1, 1993. Funds advanced for this purpose must be returned to the General Fund no later than ~~June 30, 1995~~ June 30, 1997.

Sec. G-2. PL 1993, c. 707, Pt. M, §1 is amended to read:

Sec. M-1. General Purpose Aid for Local Schools; lapsed balances. Notwithstanding any other provision of law, ~~\$198,406~~ \$348,406 in fiscal year 1994-95 in the General Purpose Aid for Local Schools account lapse to the General Fund as a result of construction audit recoveries and \$600,000 lapse as the result of the calculation of individual school unit subsidies, the estimation of bond interest and the timing of bonding by school administrative units for construction projects.

Sec. G-3. Carrying balances - Inland Fisheries and Wildlife Program; lapsed balances. Notwithstanding any other provision of law, \$360,681 in fiscal year 1994-95 in the Carrying Balances-Inland Fisheries and Wildlife Program lapse to the General Fund as a result of a revenue shortfall in fiscal year 1993-94.

Sec. G-4. Transfer of funds. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$246,804 of Medicaid reimbursement, currently held in suspense, to the General Fund, profit and loss, no later than June 30, 1995.

Sec. G-5. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$336,915 from the Bureau of Medical

Services, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1995.

Sec. G-6. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$176,067 from the Administration - Human Services, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1995.

Sec. G-7. Transfer from "Salary Plan." The "Salary Plan" program in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the implementation of collective bargaining agreements for state employees in the Judicial Department in fiscal year 1994-95.

PART H

Sec. H-1. PL 1993, c. 707, Pt. A, §1, under the caption "CORRECTIONS, DEPARTMENT OF," is amended by repealing all of that part relating to "Administration - Corrections."

Sec. H-2. PL 1993, c. 707, Pt. A, §1, under the caption "CORRECTIONS, DEPARTMENT OF," is amended by repealing all of that part relating to "Departmentwide."

Sec. H-3. Department of Corrections overtime report. The Department of Corrections shall have an independent, external review conducted of overtime practices and costs at all correctional facilities. The department shall submit a report detailing the findings and recommendations of this review to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over corrections matters no later than April 1, 1995.

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

Effective February 17, 1995.

CHAPTER 6

S.P. 242 - L.D. 639

An Act to Modify the Motor Vehicle Emission Inspection Requirement for Vehicle Registration

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

Whereas, current law requires that citizens of Maine present either a certificate of compliance or a certificate of waiver issued under the motor vehicle emission inspection program in order to register a motor vehicle; and

Whereas, the United States Environmental Protection Agency has advised the State that the agency is changing its interpretations of the requirements for state compliance with the Clean Air Act, including what elements will be necessary for an acceptable inspection and maintenance program; and

Whereas, it would be an unfair burden upon the State and its citizens to require presentation of these compliance and waiver certificates for the brief time period from March 1st to May 1st if the United States Environmental Protection Agency significantly changes its interpretation of the inspection and maintenance program; 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. 29-A MRSA §403, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Requirement. ~~The~~ After May 1, 1995, the owner of a motor vehicle registered in any area designated by the Federal Government pursuant to 40 Code of Federal Regulations, Part 81 as nonattainment for ozone and classified as a moderate or a more severe nonattainment area must present a certificate of compliance or waiver, as defined by Title 38, section 2401, at the time of registration. A certificate of compliance or waiver is not required for motor vehicles exempted by Title 38, section 2402.

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

Effective February 28, 1995.

CHAPTER 7

S.P. 254 - L.D. 692

An Act to Extend the Reporting Deadlines of the Commission on Governmental Ethics and Election Practices and the Interim Advisory Committee on Alternative Dispute Resolution in the Public Sector

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

Whereas, the Interim Advisory Committee on Alternative Dispute Resolution in the Public Sector and the Commission on Governmental Ethics and Election Practices each require additional time in order to complete in a comprehensive and meaningful manner the tasks assigned to them by law by the 116th Legislature; and

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

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

Sec. 1. PL 1993, c. 401, §4, sub-§4 is amended to read:

4. Reports; legislation. The committee shall submit a progress report to the Joint Standing Committee on Judiciary by January 1, 1994. The committee may recommend legislation at any time. The committee shall present a summary of its activities and findings, together with any recommended legislation, to the First Regular Session of the 117th Legislature by ~~January 31, 1995~~ March 3, 1995.

Sec. 2. PL 1993, c. 583, §3 is amended to read:

Sec. 3. Study by the Commission on Governmental Ethics and Election Practices; jurisdiction. The Commission on Governmental Ethics and Election Practices shall review its current duties prescribed by law and shall identify issues that the commission has been asked to investigate and has not clearly had the authority to investigate. The commission shall make recommendations, along with any proposed legislation, to clarify and, if necessary, to expand the commission's jurisdiction and duties to the joint standing committee of the Legislature having jurisdiction over legal affairs no later than ~~January 30, 1995~~ March 30, 1995.

Sec. 3. Retroactivity. This Act applies retroactively to January 30, 1995.

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

Effective March 7, 1995.

CHAPTER 8

H.P. 632 - L.D. 857

An Act to Postpone the Date by Which Withdrawal from the Tree Growth Tax Laws Must Occur

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

Whereas, the changes in the tree growth tax laws raise several significant and complicated issues; and

Whereas, the joint standing committee of the Legislature having jurisdiction over taxation matters is currently addressing these issues in a thoughtful and comprehensive manner; and

Whereas, unless this legislation is enacted as an emergency measure, the April 1, 1995 deadline for withdrawal from the tree growth tax laws precludes reaching a meaningful and durable solution to the issues raised and may present problems of notice and fairness to certain landowners; 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. 36 MRSA §574-B, sub-§1, as amended by PL 1993, c. 576, §1, is further amended to read:

1. Forest management and harvest plan. A forest management and harvest plan has been prepared for the parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory that a management plan has been prepared for the parcel. A landowner with a parcel taxed pursuant to this subchapter on September 30, 1989 has until April 1,

1999 to comply with this requirement and until the plan is prepared or April 1, 1999, whichever is earlier, is subject to the applicability provisions under this section as it existed on April 1, 1982.

A landowner with a parcel taxed pursuant to this subchapter for a property tax year beginning before April 1, ~~1995~~ 1996 when the parcel was less than 100 acres and the sole use of the land was harvesting of trees for personal use shall:

A. By April 1, 1996, file a sworn statement that a revised management plan has been prepared for the parcel of forest land;

B. Apply for classification under the open space laws pursuant to section 1106-A; or

C. Notwithstanding section 581, withdraw from tree growth classification pursuant to this paragraph for the ~~1995~~ 1996 tax year.

For withdrawal from tree growth classification under this paragraph, the entire parcel subject to that classification in 1993 must be withdrawn from classification for the ~~1995~~ 1996 tax year. Persons electing to withdraw under this paragraph shall notify the assessor before April 1, ~~1995~~ 1996 and pay a penalty equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding that withdrawal had the real estate been assessed in each of those years at its fair market value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years and interest at the legal rate from the date or dates on which those amounts would have been payable. The procedure for withdrawal provided in this paragraph is intended to be an alternative to the procedure in section 581;

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

Effective March 21, 1995.

CHAPTER 9

S.P. 303 - L.D. 842

An Act to Preserve the Solvency of the Unemployment Compensation Fund

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

Whereas, the Unemployment Compensation Fund is a countercyclical program by which the reserves of the fund are built up during periods of low unemployment so that funds will be available for the payment of benefits during periods of high unemployment; and

Whereas, the reserves in the fund are relatively low and there exists a long-term solvency issue with the fund; and

Whereas, the years ahead are a period during which fund reserves should be accumulated; 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. 26 MRSA §1043, sub-§3-A, as amended by PL 1993, c. 22, §1, is further amended to read:

3-A. Alternate base period. For benefit years effective on or after September 27, 1992 ~~and prior to March 26, 1995,~~ for any individual who fails to meet the eligibility requirements of section 1192, subsection 5, in the base period as defined in subsection 3, the Department of Labor shall make a redetermination of eligibility based on a base period that consists of the last 4 completed calendar quarters immediately preceding the first day of the individual's benefit year. This base period is known as the "alternate base period." If wage information for the most recent quarter of the alternate base period is not available to the department from regular quarterly reports of wage information that is systematically accessible, the department shall gather the necessary data in accordance with rules established for this purpose.

If the department receives information from the employer that causes a revised monetary determination under this subsection, benefits received prior to that revision may not constitute an overpayment of benefits provided the claimant did not knowingly misrepresent information requested by the department.

Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for any subsequent benefit years under section 1192.

In the case of a combined-wage claim pursuant to the arrangement approved by the United States Secretary of Labor in accordance with section 1082, subsection 12, the base period is that base period applicable under

the unemployment compensation law of the paying state.

Sec. 2. 26 MRSA §1191, sub-§2, as amended by PL 1993, c. 528, §1, is further amended to read:

2. Weekly benefit amount for total unemployment. Each eligible individual establishing a benefit year on ~~and~~ or after October 1, 1983, who is totally unemployed in any week must be paid with respect to that week, benefits equal to 1/22 of the wages, rounded to the nearest lower full dollar amount, paid to that individual in the high quarter of the base period, but not less than \$12. The maximum weekly benefit amount for claimants requesting insured status determination beginning October 1, 1983, and thereafter from June 1st of a calendar year to May 31st of the next calendar year may not exceed 52% of the annual average weekly wage, rounded to the nearest lower full dollar amount, paid in the calendar year preceding June 1st of that calendar year. No increase in the maximum weekly benefit amount may occur for the period from June 1, 1992 to October 28, 1995. For the period from October 29, 1995 to May 31, 1997, the maximum weekly benefit amount is limited to 94% of the amount calculated previously in this subsection, rounded to the nearest lower full dollar amount. For claimants requesting insured status determination on or after April 1, 1993 and before January 1, 1995, the weekly benefit amount must be the amount determined by this subsection minus \$6. For claimants requesting insured status determination on or after April 1, 1995 and before January 1, 1998, the weekly benefit amount must be the amount determined by this subsection minus \$3.

Sec. 3. 26 MRSA §1196, sub-§3, as amended by PL 1993, c. 22, §4, is repealed.

Sec. 4. 26 MRSA §1196, sub-§4, as amended by PL 1993, c. 22, §5, is repealed.

Sec. 5. 26 MRSA §1221, sub-§2, ¶C, as enacted by PL 1993, c. 22, §6 and affected by §8, is amended to read:

C. Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall pay, in addition to the contribution rate as prescribed in subsection 4, 7/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1993 ~~and~~ 8/10 of 1% of the wages paid by the employer with respect to employment during the calendar year 1994 ~~and~~ 4/10 of 1% of the wages paid by the employer with respect to employment during calendar years 1995, 1996 and 1997.

Sec. 6. Retroactivity. The section of this Act that amends the Maine Revised Statutes, Title 26,

section 1221, subsection 2, paragraph C applies retroactively to January 1, 1995.

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

Effective March 24, 1995.

CHAPTER 10

S.P. 20 - L.D. 51

An Act to Amend the Laws Pertaining to Renewal of Liquor Licenses by Restaurants

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

Sec. 1. 28-A MRSA §653, sub-§1, as amended by PL 1993, c. 730, §27, is further amended to read:

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's pre-paid expense, stating the name and place of hearing, to appear on at least 6 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or on 2 consecutive weeks before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

See title page for effective date.

CHAPTER 11

H.P. 235 - L.D. 315

An Act to Allow Disclosure of Residential Natural Gas Costs

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

Sec. 1. 14 MRSA §6046 is enacted to read:

§6046. Disclosure of natural gas pipeline utility costs

Upon request, a natural gas pipeline utility, as defined in Title 35-A, section 102, shall provide free of charge to current or prospective customers, tenants or property owners residential natural gas energy consumption and cost information for a dwelling unit for the prior 12-month period or figures reflecting the highest and lowest natural gas energy consumption and cost for the previous 12 months. If a unit has been occupied for a period of less than 12 months, the natural gas pipeline utility shall estimate the unit's annual consumption and cost. Provision of this information is neither a breach of customer confidentiality nor a guarantee or contract by the utility as to future consumption levels for that unit. For purposes of this section, "dwelling unit" includes mobile homes, apartments, buildings or other structures used for human habitation.

See title page for effective date.

CHAPTER 12

H.P. 22 - L.D. 16

An Act to Exempt Adaptive Equipment Installed in Motor Vehicles Operated by Wheelchair Users from the Motor Vehicle Excise Tax

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

Sec. 1. 36 MRSA §1483, sub-§13 is amended to read:

13. Certain buses. Buses used for the transportation of passengers for hire in interstate or intrastate commerce, or both, by carriers granted certificates of public convenience and necessity, or permits, by the Maine Public Utilities Commission, provided such buses may be subject to the excise tax provided in

section 1482 at the option of the appropriate municipality;

Sec. 2. 36 MRSA §1483, sub-§14, as enacted by PL 1977, c. 678, §51, is amended to read:

14. Antique and experimental aircraft. Antique and experimental aircraft as defined in Title 6, section 3, ~~subsection~~ subsections 10-A and ~~subsection~~ 18-E and registered according to the provisions of Title 6; and

Sec. 3. 36 MRSA §1483, sub-§15 is enacted to read:

15. Adaptive equipment. Adaptive equipment installed on a motor vehicle owned by a disabled person or the family of a disabled person to make that vehicle operable or accessible by a disabled person.

Sec. 4. Effective date. This Act takes effect October 1, 1995.

Effective October 1, 1995.

CHAPTER 13

H.P. 247 - L.D. 349

An Act Concerning Tie Votes among Candidates in Municipal Secret Ballot Elections

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

Sec. 1. 30-A MRSA §2528, sub-§10, as amended by PL 1991, c. 323, is further amended to read:

10. Election by plurality vote; tie vote. Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless ~~the municipality's legislative body has provided by ordinance that any all but one~~ tied candidate ~~may~~ withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the 5-day period following the election. After the 5-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

See title page for effective date.

CHAPTER 14

S.P. 19 - L.D. 50

An Act to Repeal the Sunset on the Grandparents Visitation Act

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

Sec. 1. 19 MRSA §1003, sub-§1, ¶¶B and C, as enacted by PL 1993, c. 479, §1, are amended to read:

B. There is a sufficient existing relationship between the grandparent and the child. ~~This paragraph is repealed October 1, 1995; or~~

C. If a sufficient existing relationship between the grandparent and the child does not exist, a sufficient effort to establish one has been made. ~~This paragraph is repealed October 1, 1995.~~

Sec. 2. 19 MRSA §1003, sub-§1-A, as enacted by PL 1993, c. 479, §2, is amended to read:

1-A. Procedure. The following procedures apply to petitions for rights of visitation or access under subsection 1, paragraph B or C.

A. The grandparent must file with the petition for rights of visitation or access an affidavit alleging a sufficient existing relationship with the child, or that sufficient efforts have been made to establish a relationship with the child. When the petition and accompanying affidavit are filed with the court, the grandparent shall serve a copy of both on at least one of the parents or legal guardians of the child.

B. The parent or legal guardian of the child may file an affidavit in response to the grandparent's petition and accompanying affidavit. When the affidavit in response is filed with the court, the parent or legal guardian shall deliver a copy to the grandparent.

C. The court shall determine on the basis of the petition and the affidavit whether it is more likely than not that there is a sufficient existing relationship or, if a sufficient relationship does not exist, that a sufficient effort to establish one has been made.

D. If the court's determination under paragraph C is in the affirmative, the court shall hold a hearing on the grandparent's petition for reasonable rights of visitation or access and shall consider any objections the parents or legal guardians may have concerning the award of rights of visitation or access to the grandparent.

The standard for the award of reasonable rights of visitation or access is provided in subsection 2.

~~This subsection is repealed October 1, 1995.~~

See title page for effective date.

CHAPTER 15

S.P. 28 - L.D. 58

An Act to Require State or Independent Fair Hearing Examiners in the Grievance Process of the Department of Mental Health and Mental Retardation

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

Sec. 1. 34-B MRSA §1203, sub-§4, as enacted by PL 1983, c. 459, §7, is amended to read:

4. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may contract for the services of the hearing examiner or examiners, who shall conduct all adjudicatory proceedings pursuant to the Maine Administrative Procedure Act and who may not be employees of the Department of Mental Health and Mental Retardation.

See title page for effective date.

CHAPTER 16

H.P. 69 - L.D. 105

An Act to Allow Off-duty Police Officers to Work in Retail Stores That Are Licensed to Sell Alcoholic Beverages

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

Sec. 1. 28-A MRSA §704-A, as enacted by PL 1993, c. 730, §28, is repealed.

See title page for effective date.

CHAPTER 17

H.P. 104 - L.D. 139

An Act to Allow the Maine Human Rights Commission to Request the Cooperation of the Bureau of Consumer Credit Protection in Enforcing the Fair Credit Extension Laws

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

Sec. 1. 5 MRSA §4598, as amended by PL 1979, c. 541, Pt. A, §39, is further amended to read:

§4598. Enforcement

The Superintendent of ~~the Bureau of Banking and the Superintendent of Consumer Credit Protection~~ shall cooperate with the Maine Human Rights Commission in ~~their~~ its enforcement of this subchapter.

See title page for effective date.

CHAPTER 18

H.P. 138 - L.D. 186

An Act to Permit Full-time Deputies To Hold Local Public Office

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

Sec. 1. 30-A MRSA §355, sub-§2, as amended by PL 1989, c. 104, Pt. A, §9 and Pt. C, §§8 and 10, is further amended to read:

2. Full-time deputies. ~~No~~ A full-time deputy may not hold ~~the municipal office of selectman, city councillor or budget committee member or any other elective or appointive county office or a state office.~~

See title page for effective date.

CHAPTER 19

H.P. 150 - L.D. 198

An Act to Amend the Law Regarding Mandatory Insurance Coverage for Mental Illness

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

Whereas, under current law, provisions authorizing insurance coverage for certain mental health treatments are scheduled to be repealed on July 1, 1995; and

Whereas, this legislation eliminates those repealers; 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. 24 MRSA §2325-A, sub-§5-C, as amended by PL 1993, c. 586, §1, is further amended by amending the last blocked paragraph to read:

This subsection is repealed July 1, ~~1995~~ 1996.

Sec. 2. 24-A MRSA §2843, sub-§5-C, as amended by PL 1993, c. 586, §3, is further amended by amending the last blocked paragraph to read:

This subsection is repealed July 1, ~~1995~~ 1996.

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

Effective April 11, 1995.

CHAPTER 20

H.P. 168 - L.D. 216

An Act to Enhance the Title to Real Estate Acquired by Municipalities for Nonpayment of Taxes

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

Sec. 1. 36 MRSA §946-A, as enacted by PL 1993, c. 82, §1, is repealed and the following enacted in its place:

§946-A. Tax-acquired property and the restriction of title action

1. Tax liens recorded after October 13, 1993. A person may not commence an action against the validity of a governmental taking of real estate for nonpayment of property taxes upon the expiration of a 15-year period immediately following the expiration of the period of redemption. This subsection applies to a tax lien recorded after October 13, 1993.

2. Tax liens recorded on or before October 13, 1993. For a tax lien recorded on or before October 13, 1993, a person must commence an action against its validity no later than 15 years after the expiration of the period of redemption or no later than July 1, 1997, whichever occurs later.

3. Disability or lack of knowledge. Disability or lack of knowledge of any kind does not suspend or extend the time limits provided in this section.

See title page for effective date.

CHAPTER 21

H.P. 169 - L.D. 217

An Act to Amend the Sewer Lien Law to Provide Clear Title

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

Sec. 1. 38 MRSA §1208, as amended by PL 1987, c. 548, is further amended by adding at the end a new paragraph to read:

A discharge of the certificate given after the right of redemption has expired, which discharge has been recorded in the registry of deeds for more than one year, terminates all title of the sewer district derived from that certificate or any other recorded certificate for which the right of redemption expired 10 years or more prior to the foreclosure date of this discharge lien, unless the sewer district has conveyed any interest based upon the title acquired from any of the affected liens.

Sec. 2. Application. This Act applies to all liens recorded prior to and after the effective date of this Act.

See title page for effective date.

CHAPTER 22

H.P. 173 - L.D. 221

An Act to Allow Municipal Officials to Approve the Use of Flashing Lights by Fire Department Members

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

Sec. 1. 29-A MRSA §2054, sub-§2, ¶F, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

F. Only vehicles listed in this paragraph, rural mail vehicles as provided in paragraph C, subparagraph (5) and school buses may be equipped with, display or use a red auxiliary or emergency light.

(1) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle or a hazardous material response vehicle must emit a red light or a combination of red and white light.

(2) The municipal officers, ~~when approved by~~ or a municipal official designated by the municipal officers, with the approval of the fire chief, may authorize an active member of a municipal or volunteer fire department to use a flashing red signal light not more than 5 inches in diameter on a vehicle. The light may be displayed but may be used only while the member is en route to or at the scene of a fire or other emergency. The light must be mounted as near as practicable above the registration plate on the front of the vehicle or on the dashboard. A light mounted on the dashboard must be shielded so that the emitted light does not interfere with the operator's vision.

(3) Members of an emergency medical service licensed by Maine Emergency Medical Services may display and use on a vehicle a flashing red signal light of the same proportion, in the same location and under the same conditions as those permitted municipal and volunteer firefighters, when authorized by the chief official of the emergency medical service.

See title page for effective date.

CHAPTER 23

H.P. 278 - L.D. 382

An Act to Credit Incineration of Used Tires as Recycling

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

Sec. 1. 38 MRSA §2132, sub-§3, as enacted by PL 1991, c. 492, §3, is amended to read:

3. Beneficial use of waste. The use of waste paper, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers for the generation of heat, steam or electricity constitutes recycling for the sole purpose of determining whether the goals in

subsection 1 are met and if the wastes would otherwise be placed in or stockpiled at a landfill, the office determines that there is no reasonably available market in the State for recycling that waste and if the wastes are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.

See title page for effective date.

CHAPTER 24

H.P. 358 - L.D. 478

An Act to Make Certain Housekeeping Changes to the Banking Code Regarding Hours of Operation, Closing during Emergencies, the Publication of Reports of Financial Condition and the Maturity of Credit Lines

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

Sec. 1. 9-B MRSA §141, sub-§1, as amended by PL 1985, c. 787, §3, is repealed and the following enacted in its place:

1. Holidays established. Any day of public thanksgiving, mourning or disaster proclaimed or appointed by the Governor or by the President of the United States may be declared a bank holiday by the superintendent, and all financial institutions authorized to do business in this State must be closed on any day declared a bank holiday. In addition, financial institutions authorized to do business in this State must be closed on the following bank holidays:

A. January 1st, New Year's Day;

B. The 3rd Monday in January, Martin Luther King, Jr. Day;

C. The 3rd Monday in February, Washington's Birthday;

D. The 3rd Monday in April, Patriot's Day;

E. The last Monday in May, Memorial Day, but if the United States Government designates May 30th as the date of observance of Memorial Day, then the 30th of May;

F. July 4th, Independence Day;

G. The first Monday of September, Labor Day;

H. The 2nd Monday in October, Columbus Day;

I. November 11th, Veterans' Day; and

J. December 25th, Christmas Day.

If the first day of January, the 4th day of July, the 11th day of November or the 25th day of December falls on Sunday, the following Monday is deemed a bank holiday for the purpose of this Title. When the date for observance of Memorial Day changes under this subsection to the 30th day of May and that date falls on a Sunday, the following Monday is deemed a bank holiday for the purposes of this Title.

Sec. 2. 9-B MRSA §141, sub-§3, as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

3. Emergency closing. An institution under the supervision of the bureau or a federal regulatory agency may close for all or part of any business day for good cause any of its offices, branches or facilities if, in the opinion of the institution's management, that action is required by emergency conditions. At the time of a closing under this subsection, the institution shall submit to the bureau oral or written notice of the closing as prescribed by the superintendent. This notice may be made by telephone, facsimile or similar electronic means.

Sec. 3. 9-B MRSA §223, sub-§1, as amended by PL 1979, c. 429, §3, is repealed.

Sec. 4. 9-B MRSA §636, sub-§4, as amended by PL 1987, c. 405, §19, is further amended to read:

4. Maturity of credit line. A line of credit given pursuant to this section ~~shall~~ must be reviewed at least annually by the board of directors or trustees, ~~or by a committee of board members or by bank officers or a committee of bank officers.~~

Sec. 5. 9-B MRSA §815, as amended by PL 1975, c. 666, §26, is further amended to read:

§815. Supervision and examination

Credit unions ~~shall be~~ are under the supervision of the superintendent; and Part 2 of this Title ~~shall be~~ is applicable to credit unions in the same manner as that Part applies to financial institutions in general. ~~The superintendent may waive the publication requirements of section 223, subsection 1, for a credit union if the superintendent is satisfied that the credit union's condition and income reports are made available to its field of membership by other means.~~

See title page for effective date.

CHAPTER 25**H.P. 38 - L.D. 32**

**An Act Regarding the Prohibition
against Restaurants with Lounges
Serving Meals to Unaccompanied
Minors after 9 P.M.**

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

Whereas, the restaurants serving the State's winter tourists are experiencing severe hardships that demand immediate attention; 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. 28-A MRSA §1063, sub-§5, as enacted by PL 1993, c. 410, Pt. ZZ, §18, is repealed.

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

Effective April 14, 1995.

CHAPTER 26**H.P. 47 - L.D. 41**

**An Act to Decrease to Zero the
Allowable Blood-alcohol Level of a
Person Holding a Juvenile
Provisional License**

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

Sec. 1. 29-A MRSA §2472, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Suspension for OUI conviction or certain blood-alcohol level. The Secretary of State shall suspend for a period of at least one year, without preliminary hearing, a juvenile provisional license of a person who:

A. Receives an OUI conviction; or

B. Operates a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood.

Sec. 2. 29-A MRSA §2472, sub-§§4 and 5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

4. Duty to submit to test. A person under 21 years of age who operates a motor vehicle shall submit to a chemical test if there is probable cause to believe that person has operated a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood. The provisions of subchapter IV apply, except the suspension must be for a period of one year.

5. Hearing; stay; issues. If a hearing is requested in accordance with section 2483, the suspension under subsection 3, paragraph B is stayed pending the outcome of the hearing. The scope of a hearing must include whether:

A. There was probable cause to believe that the person was under 21 years of age and operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood;

B. The person operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood; and

C. The person was under 21 years of age.

See title page for effective date.

CHAPTER 27

H.P. 165 - L.D. 213

An Act to Change the Activities Requiring a Permit from the Department of Environmental Protection

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

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 1993, c. 617, §1, is repealed and the following enacted in its place:

2. Maintenance and repair. Maintenance and repair of a structure in, on, over or adjacent to a protected natural resource and maintenance and repair of a private crossing of a river, stream or brook if:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. Crossings do not block fish passages in water courses;

C. There is no additional intrusion into the protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

See title page for effective date.

CHAPTER 28

H.P. 317 - L.D. 438

An Act to Amend the Law Regarding Minimum Sentences for Class C Crimes Involving the Use of a Firearm against a Person

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

Sec. 1. 17-A MRSA §1252, sub-§5, as amended by PL 1979, c. 701, §30, is further amended to read:

5. Notwithstanding any other provision of this code, ~~except as provided in this subsection,~~ if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which ~~shall~~ may not be suspended, ~~shall be~~ is as follows: When the sentencing class for ~~such the~~ such the crime is Class A, the minimum term of imprisonment ~~shall be~~ is 4 years; when the sentencing class for ~~such the~~ such the crime is Class B, the minimum term of imprisonment ~~shall be~~ is 2 years; and when the sentencing class for ~~such the~~ such the crime is Class C, the minimum term of imprisonment ~~shall be~~ is one year. For purposes of this subsection, the applicable sentencing class ~~shall be~~ is determined

in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

See title page for effective date.

CHAPTER 29

S.P. 57 - L.D. 86

An Act to Increase the Fee Amount that an Unorganized Territory is Allowed to Retain as an Agent of the State Collecting Excise Taxes

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

Sec. 1. 36 MRSA §1487, sub-§2, as amended by PL 1993, c. 557, §1, is further amended to read:

2. State Tax Assessor. In the unorganized territory, the State Tax Assessor shall appoint agents to collect the excise tax. Agents, including municipalities designated as agents, are allowed a fee of \$2 \$4 for each tax receipt issued, except that municipalities designated as agents are allowed a fee of \$4 for each tax receipt issued. Agents shall deposit the remainder on or before the 20th day of each month following receipt with the Treasurer of State. The Treasurer of State shall make quarterly payments to each county in an amount that is equal to the receipts for that period from each county. Those payments must be made at the same time as payments under section 1606. County receipts under this section must be deposited in the county's unorganized territory fund.

See title page for effective date.

CHAPTER 30

H.P. 62 - L.D. 98

An Act to Allow Wine Tasting in Fine Wine Stores and at Special Festivals

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

Whereas, a wine taste-testing festival held this summer would increase revenues to the State and its tourist industry; and

Whereas, the changes in taste-testing laws need to be implemented immediately so that planning for a summer taste-testing festival can begin; 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. 28-A MRSA §1052-A, sub-§1, as enacted by PL 1993, c. 259, §1, is amended to read:

1. Special taste-testing festival license. Manufacturers of malt liquor and wine licensed under section 1355 and holders of an equivalent license from another state may apply for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and is issued annually.

Sec. 2. 28-A MRSA §1052-A, sub-§5, ¶¶D and E, as enacted by PL 1993, c. 259, §1, are amended to read:

D. A person may not be charged a fee for any malt liquor or wine served as part of a taste-testing activity;

E. Each out-of-state manufacturer is limited to serving 200 gallons of malt liquor or wine; and

Sec. 3. 28-A MRSA §1052-A, sub-§6, as enacted by PL 1993, c. 259, §1, is amended to read:

6. Excise taxes; premiums. ~~Each~~ A licensee must pay the appropriate excise taxes and premiums under sections 1652 and 1703 before the scheduled calendar date of the special taste-testing festival.

Sec. 4. 28-A MRSA §1205, sub-§1, as enacted by PL 1989, c. 488, is amended to read:

1. Taste testing on off-premise retail licensee's premises; fine wine stores. Subject to the conditions in subsection 2, the commission may authorize an off-premise retail licensee, 50% or more of whose gross income is derived from the sale of wine or malt liquor, or a fine wine store to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

Sec. 5. 28-A MRSA §1205, sub-§2, ¶E, as enacted by PL 1989, c. 488, is amended to read:

E. Taste testing ~~shall be~~ is limited to a designated area. In a fine wine store, the taste testing must be conducted in an area that is separate from the retail sales floor and not readily accessible to the general public;

Sec. 6. 28-A MRSA §1205, as enacted by PL 1989, c. 488, is amended by adding at the end a new paragraph to read:

For the purposes of this section, "fine wine store" means a store that sells wine from at least 50% of the world's wine regions and carries at least 500 different wine labels.

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

Effective April 18, 1995.

CHAPTER 31

H.P. 133 - L.D. 181

An Act to Allow Municipalities to Dispose of Abandoned Bicycles

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

Sec. 1. 33 MRSA §1871, sub-§3 is enacted to read:

3. Disposal of bicycles; exempt. For the purposes of this subchapter, a local legislative body in a municipality may dispose of bicycles determined to be abandoned, as defined in section 1803, in a manner decided by that body and is exempt from all other provisions of this subchapter.

See title page for effective date.

CHAPTER 32

H.P. 160 - L.D. 208

An Act to Simplify the Procedure for Making Anatomical Gifts under the Motor Vehicle Laws

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

Sec. 1. 22 MRSA §2906, sub-§2, as amended by PL 1991, c. 823, §1 and affected by §7, is further amended to read:

2. Revocation. ~~Except as provided in subsection 4, any~~ Any document of gift that has not been delivered to the donee may be revoked by the donor in the manner set out in subsection 1 or by destruction, cancellation or mutilation of the document and all executed copies of the document.

Sec. 2. 22 MRSA §2906, sub-§4, as enacted by PL 1991, c. 823, §2 and affected by §7, is repealed.

Sec. 3. 29-A MRSA §1402, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 4. 29-A MRSA §1402-A is enacted to read:

§1402-A. Anatomical gifts

1. Statement on anatomical gifts. A licensee may make a statement expressing the licensee's willingness to make an anatomical gift under Title 22, chapter 710 by affixing an organ donor decal provided by the Secretary of State to the back of the license.

2. Organ donor decal. The Secretary of State shall make available without additional fee an organ donor decal to a licensed driver 16 years of age or older. The statement on the organ donor decal must read: "The decal affixed hereto indicates the licensee is willing to make an anatomical gift upon death and has discussed this willingness with next of kin."

Sec. 5. Transition provision. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1402-A, the Secretary of State may continue to provide organ donor decals printed prior to the effective date of this Act that read as follows: "The decal affixed hereto indicates a willingness on the part of the licensee to make an anatomical gift upon his/her death."

See title page for effective date.

CHAPTER 33

S.P. 114 - L.D. 289

An Act to Clarify the Status of Certain Gifts to Legislators under the Governmental Ethics Laws

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

Sec. 1. 1 MRSA §1012, sub-§4, ¶¶B and C, as enacted by PL 1989, c. 561, §4, are amended to read:

B. A bequest or other form of inheritance; ~~and~~

C. A gift received from a relative; and

Sec. 2. 1 MRSA §1012, sub-§4, ¶D is enacted to read:

D. A subscription to a newspaper, news magazine or other news publication.

Sec. 3. 17-A MRSA §602, sub-§2, ¶C, as amended by PL 1993, c. 396, §1, is further amended to read:

C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include ~~meals a meal~~ if the ~~meals are meal~~ is provided by industry or special interest organizations as part of an informational program presented to a group of public servants or a subscription to a newspaper, news magazine or other news publication.

See title page for effective date.

CHAPTER 34

H.P. 232 - L.D. 312

An Act to Clarify the Law Relating to the Licensing of Accounting Firms

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

Sec. 1. 32 MRSA §12201, sub-§5, as enacted by PL 1987, c. 489, §2, is amended to read:

5. Firm. "Firm" means a sole proprietorship, a corporation ~~or~~ a partnership or any other form of organization.

See title page for effective date.

CHAPTER 35

H.P. 304 - L.D. 408

An Act to Exempt Individual Retirement Accounts from Attachment

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

Sec. 1. 14 MRSA §4422, sub-§13, ¶E, as enacted by PL 1981, c. 431, §2, is amended to read:

E. A payment or account under a stock bonus, pension, profitsharing, annuity, individual retirement account or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless:

(1) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(2) The payment is on account of age or length of service; and

(3) The plan or contract does not qualify under the United States Internal Revenue Code of 1954, ~~Sections~~ Section 401(a), 403(a), 403(b), 408 or 409.

See title page for effective date.

CHAPTER 36

H.P. 375 - L.D. 510

An Act to Extend the Duration of Workers' Compensation Health Benefit Pilot Projects

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

Sec. 1. 39-A MRSA §403, sub-§2, ¶D, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

D. Unless continued or modified by law, this subsection is repealed on ~~October 31, 1996~~ January 1, 2001.

See title page for effective date.

CHAPTER 37

H.P. 378 - L.D. 513

An Act to Require That the Dollar Value of the Employee Benefit Package Be Included in All Official Statements Concerning State and Legislative Salaries

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

Sec. 1. 3 MRSA §162, sub-§2, as amended by PL 1983, c. 584, is further amended to read:

2. Legislative employee salary and benefit schedules. To establish salary schedules for all employees of legislative agencies, departments and offices, except as otherwise provided by law, to develop relatively uniform salary schedules for House and Senate employees and officers and, notwithstanding any other provision of law, to establish benefit schedules for legislative employees. Every publication that states the salary of an employee or a position must also include a statement of the dollar value of the fringe benefit package provided;

Sec. 2. 5 MRSA §53 is enacted to read:

§53. Value of fringe benefits

Every state agency, department, board, commission, institution, authority or public instrumentality shall include in every publication that states the salary of an employee or a position a statement of the dollar value of the fringe benefit package provided. For purposes of this section, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability.

Sec. 3. 5 MRSA §282, sub-§6, as amended by PL 1989, c. 502, Pt. B, §1, is further amended to read:

6. Supervise. To supervise and direct the administration of the State Claims Commission; and

Sec. 4. 5 MRSA §282, sub-§7 is enacted to read:

7. Value of fringe benefits. To ensure that all publications that state the salary of an employee or of a position in State Government also include a statement of the dollar value of the fringe benefit package provided. For purposes of this subsection, "fringe benefits" includes an employer's cost of an employee's health insurance, dental insurance and retirement but does not include the amount paid to cover any unfunded liability.

See title page for effective date.

CHAPTER 38

S.P. 205 - L.D. 548

An Act to Correct Certain Statutory References in the Crime of Negotiating a Worthless Instrument

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

Sec. 1. 17-A MRSA §708, sub-§2, ¶B, as enacted by PL 1975, c. 499, §1, is amended to read:

B. Payment was refused by the drawee for lack of funds upon presentation presentment made within a reasonable time after negotiation or issue, as determined according to frame specified in Title 11, section 3-503 3-1304, and the drawer failed to make good honor the drawer's contract within 5 days after actual receipt of a notice of dishonor, as defined in Title 11, section 3-508 3-1503, provided that this time limit is tolled during one subsequent representment of the negotiable instrument.

Sec. 2. 17-A MRSA §708, sub-§3, as enacted by PL 1975, c. 499, §1, is amended to read:

3. As used in this section, unless the context otherwise indicates, the following definitions apply; terms have the following meanings.

A. "Issue" has the meaning provided in Title 11, section ~~3-402~~ 3-1105, subsection (1), ~~paragraph(a);~~.

A-1. "Drawee" has the meaning provided in Title 11, section 3-1103, subsection (1), paragraph (b).

A-2. "Drawer" has the meaning provided in Title 11, section 3-1103, subsection (1), paragraph (c).

B. "Negotiable instrument" has the meaning provided in Title 11, section ~~3-404;~~ 3-1104.

C. "Negotiation" and its ~~variants~~ variants have the meaning provided in Title 11, section ~~3-202~~ 3-1201.

See title page for effective date.

CHAPTER 39

H.P. 412 - L.D. 569

An Act to Remove Restrictions on Compensation For Deputy District Attorneys

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

Whereas, the relative limit on compensation for deputy district attorneys is set in statute. That limit

has produced unacceptable inequities that can be corrected only with legislation; 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. 30-A MRSA §272, sub-§4, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Deputy district attorney. Each district attorney may designate one full-time assistant district attorney or, if there is no full-time assistant district attorney, one part-time assistant district attorney to be the deputy district attorney. In the absence of the district attorney, the deputy shall act in the district attorney's place and ~~shall have~~ has the authority, duties and responsibilities of the district attorney. ~~Notwithstanding any other provision of law, any full-time assistant district attorney designated as a deputy district attorney may receive a salary up to 90% of the salary designated for the district attorney.~~

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

Effective April 18, 1995.

CHAPTER 40

S.P. 230 - L.D. 596

An Act to Expand the Uses of the Economic Opportunity Fund

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

Whereas, the current scope of the Economic Opportunity Fund limits the type of economic development activities that can be supported with the fund; and

Whereas, numerous nonprofit and regional organizations exist in the State that provide needed economic development services to businesses and communities throughout the State; and

Whereas, the current limitations of the fund prevent the State from utilizing the fund to leverage

federal grants for economic development purposes; and

Whereas, the effectiveness of the fund could be increased by allowing organizations to expand funds through grants to business entities and by allowing use of funds to leverage federal grant funds; and

Whereas, federal funds already approved and received by the State for the purpose of stimulating economic development will be jeopardized without immediate expansion of the scope of the fund to allow more flexible use of funds; 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. 5 MRSA §13090-B, sub-§4 is enacted to read:

4. Local and regional organizations. Notwithstanding other provisions of this section, for fiscal years 1994-95 and 1995-96 the department, upon application, may provide grants to local and regional nonprofit organizations up to a total amount of \$200,000 for the 2 years combined. Funds may be loaned to a private business entity or expended in a manner that is approved by the department and offers the prospect of stimulating economic growth. This subsection is repealed July 1, 1996.

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

Effective April 18, 1995.

CHAPTER 41

S.P. 95 - L.D. 235

An Act to Provide the Maine Legislature with Additional Financial Information

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

Whereas, the Legislature lacks electronic access to the budget management system; and

Whereas, the budget management system contains financial information important to the review and analysis of budgets in State Government; 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. 5 MRSA §1667-A is enacted to read:

§1667-A. Access to budget management system data

Notwithstanding any other provision of law, the State Budget Officer shall provide the Office of Fiscal and Program Review with electronic access, including report-writing capabilities, to those aspects of the budget management system presently referred to as the "budget analyst tool," except for those specific aspects of the system involved in budget recommendations that have been made or are being considered by the Governor or Governor-elect but have not yet been transmitted to the Legislature. For purposes of this section, "budget management system" and "budget analyst tool" include information used by the Bureau of the Budget to develop, analyze and review budgeted and actual revenue and expenditure information.

Notwithstanding any other provision of law, the Legislative Council shall provide the Bureau of the Budget, upon the bureau's request, with enacted budget bills in a data processing form that permits the electronic conversion of data to the budget management system.

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

Effective April 18, 1995.

CHAPTER 42

H.P. 151 - L.D. 199

An Act Concerning the Competitive Bidding Process in Cooperative Projects between the State and the Maine Technical College System

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

Sec. 1. 5 MRSA §1825-B, sub-§2, ¶E, as enacted by PL 1989, c. 785, §2, is amended to read:

E. The purchase is part of a cooperative project between the State and the University of Maine System or the Maine Technical College System involving:

(1) An activity assisting a state agency and enhancing the ability of the university system or technical college system to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs; or

See title page for effective date.

CHAPTER 43

H.P. 45 - L.D. 39

An Act to Require an Endorser's Authorization for a Candidate To Use an Endorsement

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

Sec. 1. 21-A MRSA §1014-A is enacted to read:

§1014-A. Endorsements of political candidates

1. Definition. For purposes of this section, "endorsement" means an expression of support for the election of a clearly identified candidate by methods including but not limited to the following: broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails or other similar types of general public political advertising or through computer networks, flyers, handbills, bumper stickers and other nonperiodical publications.

2. Authorization. A candidate may not use an endorsement unless the endorser has expressly authorized its use. The communication must clearly and conspicuously state that the endorsement has been authorized. If applicable, the communication must also satisfy the requirements of section 1014.

3. Civil forfeiture. A candidate who uses an endorsement without the authorization of the endorser violates this section and is subject to a civil forfeiture of no more than \$200.

4. Enforcement. The full amount of the forfeiture is due within 30 days of the commission's determination that an endorsement has been used without the endorser's authorization. The commission

is authorized to use all necessary powers to collect the forfeiture. If the full amount of the forfeiture is not collected within the 30 days after the commission has determined that a violation of this section has occurred, the commission shall report to the Attorney General the name of the person who has failed to pay. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the forfeiture. This action must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

See title page for effective date.

CHAPTER 44

H.P. 129 - L.D. 177

An Act to Clarify the Financial Assurance Provisions Applicable to Solid Waste Disposal Facilities

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

Sec. 1. 38 MRSA §1310-Y, first ¶, as enacted by PL 1993, c. 378, §9, is amended to read:

An owner or operator of a solid waste disposal facility licensed under section 1310-N shall provide the department assurance of its financial ability to satisfy the estimated cost of corrective action for known releases from the facility and its financial capacity to satisfy the estimated cost of closure and postclosure care and maintenance at the facility for a period of at least 30 years after closure. The board may adopt rules that increase or decrease that postclosure care period, as long as those rules are consistent with applicable federal rules. This section does not apply to a municipally owned or operated solid waste disposal facility that accepts exclusively special waste, construction and demolition debris, land-clearing debris or any combination of those types of waste.

See title page for effective date.

CHAPTER 45

S.P. 123 - L.D. 298

An Act to Extend the Return Period for Judgment Executions

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

Sec. 1. 14 MRSA §4651, as amended by PL 1987, c. 184, §22, is further amended to read:

§4651. Issue and return

Executions may be issued on a judgment of the Superior Court or the District Court after the judgment has become final by the expiration of the time for appeal, by dismissal of an appeal or on certificate of decision from the law court, unless the court has pursuant to rule ordered execution at an earlier time, and ~~shall be~~ are returnable within ~~one year~~ 3 years after issuance.

See title page for effective date.

CHAPTER 46

H.P. 239 - L.D. 341

An Act to Allow Restaurants to Sell Liquor on Sunday Mornings

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

Sec. 1. 28-A MRSA §4, sub-§1, ¶A, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 12 noon. A Class A restaurant or a Class A restaurant/lounge may commence selling liquor on Sunday at 9 a.m.

See title page for effective date.

CHAPTER 47

S.P. 206 - L.D. 549

An Act to Give the State a Right to Appeal from the Denial of a Rule 35 Motion

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

Sec. 1. 15 MRSA §2115-A, sub-§2-B is enacted to read:

2-B. Appeal from the denial of a Rule 35 motion. If a motion for correction or reduction of a sentence brought by the attorney for the State under Rule 35 of the Maine Rules of Criminal Procedure is denied in whole or in part, an appeal may be taken by the State from the adverse order of the trial court to the Law Court.

Sec. 2. 15 MRSA §2115-A, sub-§4, as amended by PL 1987, c. 234, §2, is further amended to read:

4. Time. An appeal taken pursuant to subsection 1, 2 ~~or~~ 2-A shall or 2-B must be taken within 20 days after the entry of the order or such further time as may be granted by the court pursuant to a rule of court, and an appeal taken pursuant to subsection 1 shall must also be taken before the defendant has been placed in jeopardy. An appeal taken pursuant to this subsection shall must be diligently prosecuted.

Sec. 3. 15 MRSA §2115-A, sub-§5, as amended by PL 1987, c. 234, §3, is further amended to read:

5. Approval of Attorney General. In any appeal taken pursuant to subsection 1, 2 ~~or~~ 2-A or 2-B, the written approval of the Attorney General shall ~~be~~ is required; provided that if the attorney for the State filing the notice of appeal states in the notice that the Attorney General has orally stated that the approval will be granted, the written approval may be filed at a later date.

See title page for effective date.

CHAPTER 48

H.P. 385 - L.D. 520

An Act to Stop the Alewives Restoration Program in the St. Croix River

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

Whereas, the bass fishery in the Woodland and Grand Falls flowages along the St. Croix River and its associated tributaries and lakes is extremely valuable to the economy of the State; and

Whereas, alewives and bass compete for the same food source; and

Whereas, that competition could significantly affect the bass fishery; and

Whereas, the alewife run in the St. Croix River normally begins in the first 2 weeks of May; 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. 12 MRSA §6134 is enacted to read:

§6134. Alewives passage; fishways on the St. Croix River

By May 1, 1995, the commissioner and the Commissioner of Inland Fisheries and Wildlife shall ensure that fishways on the Woodland Dam and the Grand Falls Dam, both located on the St. Croix River, are configured or operated in a manner that prevents the passage of alewives.

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

Effective April 27, 1995.

CHAPTER 49

I.B. 2 - L.D. 716

An Act to Repeal the Motor Vehicle Emission Inspection Program

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

Sec. 1. 29-A MRSA §403, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 2. 38 MRSA c. 28, as amended, is repealed.

See title page for effective date.

CHAPTER 50

H.P. 54 - L.D. 48

An Act to Repeal the Motor Vehicle Emission Inspection Program

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

Whereas, current law requires that, after July 1, 1994, cars registered in certain counties must be inspected biennially for air pollution emissions; and

Whereas, many of the details, standards and criteria necessary to conduct the Motor Vehicle Emission Inspection Program have not yet been established; and

Whereas, these details, standards and criteria will have a significant impact on residents of the State, including, but not limited to, owners of older automobiles and sellers of used automobiles; and

Whereas, it is essential that the Legislature be involved in working out these details of the program; 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. 29-A MRSA §403, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 2. 38 MRSA c. 28, as amended, is repealed.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Air Quality Control		
Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$171,385)	(\$176,480)
All Other	(21,337)	(21,505)
Deallocates funds no longer required as a result of the repeal of the Motor Vehicle Emission Inspection Program.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	<u>(\$192,722)</u>	<u>(\$197,985)</u>

Sec. 4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

	1995-96	1996-97
SECRETARY OF STATE, DEPARTMENT OF THE		

Administration - Motor Vehicles

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(\$93,380)	(\$92,101)
All Other	(47,496)	(48,921)

Deallocates funds no longer required as a result of the repeal of the Motor Vehicle Emission Inspection Program. The positions eliminated include a Clerk IV position, a Clerk Typist III position, a Clerk Typist II position and a Project Clerk Typist II position.

DEPARTMENT OF THE SECRETARY OF STATE		
TOTAL	<u>(\$140,876)</u>	<u>(\$141,022)</u>

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

Effective April 28, 1995.

CHAPTER 51

S.P. 56 - L.D. 85

An Act to Amend the Laws Concerning Guardianship

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

Sec. 1. 18-A MRSA §5-311, sub-§(c), as repealed and replaced by PL 1985, c. 770, §1, is amended to read:

(c) No owner, proprietor, administrator, employee or other person with a substantial financial interest in a facility or institution ~~which is~~ licensed under Title 22, sections 1817 and 7801, may act as guardian of an incapacitated person who is a resident, as defined in Title 22, section 7901-A, unless the person requesting to be appointed guardian is one of the following:

- (1) The spouse of the incapacitated person;
- (2) An adult child of the incapacitated person;
- (3) A parent of the incapacitated person or a person nominated by the will of a deceased parent; or

(4) A relative of the incapacitated person with whom the incapacitated person has resided for more than 6 months prior to the filing of the petition for appointment.

See title page for effective date.

CHAPTER 52

S.P. 152 - L.D. 338

An Act to Amend the Laws Pertaining to the Return of Security Deposits and Nonpayment of Rent or Utility Charges

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

Sec. 1. 14 MRSA §6033, sub-§2, as amended by PL 1985, c. 264, is further amended to read:

2. Return; time; retention. A landlord shall return to a tenant the full security deposit deposited with the landlord by the tenant or, if there is actual cause for retaining the security deposit or any portion of it, the landlord shall provide the tenant with a written statement itemizing the reasons for the retention of the security deposit or any portion of it:

A. In the case of a written rental agreement, within the time, not to exceed 30 days, stated in the agreement; and

B. In the case of a tenancy at will, within 21 days after the termination of the tenancy or the surrender and acceptance of the premises, whichever occurs later.

The written statement itemizing the reasons for the retention of any portion of the security deposit ~~shall~~ must be accompanied by a full payment of the difference between the security deposit and the amount retained.

Reasons for which a landlord may retain the security deposit or a portion of the security deposit include, but are not limited to, covering the costs of storing and disposing of unclaimed property, nonpayment of rent and nonpayment of utility charges that the tenant was required to pay directly to the landlord.

The landlord is deemed to have complied with this section by mailing the statement and any payment required to the last known address of the tenant.

~~Nothing in this section may preclude the landlord from retaining the security deposit to cover the costs of storing and disposing of unclaimed property, for~~

~~nonpayment of rent or nonpayment of utility charges which the tenant was required to pay directly to the landlord.~~

Sec. 2. 14 MRSA §6034, as enacted by PL 1977, c. 359, is amended to read:

§6034. Wrongful retention; damages

1. Notice to landlord of intention to bring suit; presumption on failure to return deposit. ~~Should If~~ If the landlord ~~fail~~ fails to return the security deposit and provide the itemized statement within the time periods in section 6033, the tenant shall give notice to the landlord of ~~his~~ the tenant's intention to bring a legal action no less than 7 days prior to commencing the action. ~~Should If~~ If the landlord ~~fail~~ fails to return the entire security deposit within the 7-day period, it ~~shall be~~ is presumed that the landlord is ~~willfully and wrongly~~ wrongfully retaining the security deposit.

2. Double damages for wrongful retention. The ~~willful wrongful~~ retention of a security deposit in violation of this chapter ~~shall render~~ renders a landlord liable for double the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs.

3. Burden of proof. In any court action brought by a tenant under this section, the landlord ~~shall bear~~ has the burden of proving that ~~his~~ the landlord's withholding of the security deposit, or any portion of it, was not wrongful.

See title page for effective date.

CHAPTER 53

H.P. 276 - L.D. 380

An Act to Establish a Minimum Percentage Markup for Alcoholic Beverages

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

Sec. 1. 28-A MRSA §606, sub-§8 is enacted to read:

8. No maximum limit on price. An agency store may sell liquor at any price equal to or higher than the retail sales price set in accordance with chapters 65 and 67.

See title page for effective date.

CHAPTER 54**H.P. 282 - L.D. 386****An Act to Establish the Maine
Commission on Community Service****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 5 MRSA c. 373** is enacted to read:**CHAPTER 373****MAINE COMMISSION FOR COMMUNITY
SERVICE****§7501. Commission established**

There is established the Maine Commission for Community Service, referred to in this chapter as the "commission," to foster the State's ethic of community service; encourage community service and volunteerism as a means of meeting critical human, environmental, educational and public safety needs throughout the State; serve as the State's liaison regarding national and community service and volunteer activities; foster collaboration among service agencies; receive gifts and grants, implement statewide service programs and make subgrants to state and local entities in accordance with the federal National and Community Service Trust Act of 1993, Public Law 108-02.

§7502. Membership; terms

1. Membership; qualifications. The commission consists of no fewer than 15 and no more than 25 voting members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters. The commission must include the following:

- A. A representative of a community-based agency or organization;
- B. The Commissioner of Education or the commissioner's designee;
- C. A representative of local government;
- D. A representative of a local labor organization;
- E. A representative of business;
- F. An individual who is at least 16 years of age but no more than 25 years of age and who is a participant in or supervisor of a service program

for youth or a campus-based or national service program;

G. A representative of a national service program;

H. An individual with expertise in the education, training and development needs of youth, particularly disadvantaged youth;

I. An individual with experience in promoting the involvement of adults aged 55 and older in national service and volunteerism; and

J. A representative of the State's volunteer community.

A member may fulfill the representation requirement for more than one category in this subsection.

The appointments may also include educators, including representatives from institutions of higher education and local education agencies; experts in the delivery of human, educational, environmental or public safety services to communities and persons; representatives of Native American tribes and nations; out-of-school or at-risk youth; and representatives of programs that are administered or receive assistance under the federal Domestic Volunteer Service Act of 1973, 42 United States Code, Section 4951, et seq. (1973). The commission also must include a nonvoting liaison designated by the federal Corporation for National and Community Service. The appointments must reflect diversity with respect to geography, race, ethnicity, age, gender, disability characteristics and political affiliation. Not more than 50% plus one member may be from the same political party. The number of voting members who are officers or employees of the State may not exceed 25% of the total membership.

The chair must be an appointed voting member of the commission, selected by the voting members. Members may not vote on issues affecting organizations they have served in a staff or volunteer capacity at any time during the preceding 12 months.

2. Terms of office. The appointed members serve 3-year staggered terms. Terms expire on September 1st. The Governor shall appoint members to vacancies on the commission as they occur or upon expiration of terms. Any vacancy must be filled for the unexpired portion of the term in which the vacancy occurs.

2-A. Members serve duration of terms. Notwithstanding subsection 2, members appointed on September 6, 1994 pursuant to Executive Order 6, fiscal year 1993-94 serve out the duration of their terms. This subsection is repealed January 1, 1998.

3. Reimbursement. Members are entitled to compensation for expenses incurred in the performance of their duties on the commission in the same manner as state employees.

§7503. Duties

The commission shall:

1. Vision. Develop a state vision statement for national, state and community service;

2. Ethic of service. Demonstrate an ethic of service through its activities and procedures utilizing decision-making by consensus and annually evaluate how effectively its procedures and bylaws are fostering the state vision and service ethic;

3. National and community service plan. Develop a 3-year comprehensive national and community service plan and update the plan annually. The commission shall ensure an open and inclusive process for maximum participation in development of the plan and determination of state priorities;

4. Preselect programs and prepare applications. Preselect national service programs as defined in the National Service Trust Act, 42 United States Code, Section 12502, et seq. and prepare a grant application to the Corporation for National and Community Service;

5. Assist state education agencies. Assist the Department of Education and institutions of higher education in the preparation of applications for national and community service grants;

6. Administer grant programs. Evaluate, monitor and administer grant programs;

7. Provide technical assistance. Serve as a clearinghouse for information on national and community service and provide technical assistance to local nonprofit organizations and other entities in planning, applying for funds and implementing national service programs;

8. Provide program development assistance and training. Provide program development assistance and training to national service programs in the State;

9. Recruitment and placement. Serve as a clearinghouse for people interested in national and community service placements and agencies recruiting volunteers;

10. State priorities. Make recommendations to the Corporation for National and Community Service with respect to priorities within the State for programs receiving assistance under the federal Domestic

Volunteer Service Act of 1973, 42 United States Code, Section 4951, et seq. (1973);

11. Coordination. Foster collaboration among state agencies, colleges, universities, municipalities, federal agencies and volunteer service programs;

12. Advisory committees. Establish advisory committees as needed, with membership not limited to commission members;

13. Fund raising. Carry out fund-raising efforts to supplement federal funding and to meet all federal matching requirements; and

14. Annual report. Submit an annual report to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over state and local government matters by January 31st of each year.

§7504. Staff and administrative services

The State Planning Office shall provide staff and administrative services as follows.

1. Executive director. The Director of the State Planning Office with the advice and consent of the commission shall hire an executive director as a member of the State Planning Office staff. The executive director oversees day-to-day operations of the commission, hires staff members with the approval of the commission and the Director of the State Planning Office, and carries out other responsibilities as directed by the commission.

2. Administrative services. The State Planning Office shall provide the executive director and the commission with continuing administrative support as appropriate. The State Planning Office may establish a dedicated account on behalf of the commission to receive funds contributed by private and public agencies for use solely for commission purposes.

Sec. 2. Transition. Any member appointed on September 6, 1994 pursuant to Executive Order 6, Fiscal Year 1993-94 must be included in the initial appointment of members. Members appointed under Executive Order 6, Fiscal Year 1993-94 serve out the staggered terms to which they were originally appointed.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96

1996-97

EXECUTIVE
DEPARTMENT

**Maine Commission for
Community Service**

All Other	\$1,000	\$1,000
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Provides authorization for the expenditure of contributions from private and public agencies to be used solely for the Maine Commission for Community Service within the State Planning Office.

See title page for effective date.

CHAPTER 55**S.P. 212 - L.D. 554****An Act Concerning the System of
State Law Libraries**

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

Whereas, current laws providing for a system of law libraries in Houlton, Farmington, Dover-Foxcroft and Belfast are repealed July 1, 1995; and

Whereas, law libraries in these communities are a significant resource to members of the public and bar; and

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

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

Sec. 1. 4 MRSA §193, last ¶, as enacted by PL 1993, c. 375, §3 and affected by §5, is repealed.

Sec. 2. PL 1993, c. 375, §5 is repealed.

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

Effective May 3, 1995.

CHAPTER 56**H.P. 410 - L.D. 567****An Act Relating to Municipal Clerks
Who Chair Boards of Voter
Registration**

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

Sec. 1. 21-A MRSA §103, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until ~~his~~ the member's successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until ~~his~~ that member's successor is appointed and sworn, except that, when the member nominated by the clerk and appointed to the board is the clerk of the municipality, the clerk's tenure as member ends when the clerk's tenure as clerk ends, unless sooner removed from office on the board.

Sec. 2. 21-A MRSA §103, sub-§8, as amended by PL 1991, c. 862, §2, is further amended to read:

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement, except that when the chair of the board is the clerk of the municipality, the chair may also be removed from office at any time during the chair's term by the municipal officers, for good cause, after notice and opportunity to be heard. When the clerk of the municipality is removed from the board, the municipal officers may appoint a replacement of their choice. The Any replacement nominee member shall serve out the remainder of the replaced member's term.

Sec. 3. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 21-A, section 103, subsection 8 applies retroactively to October 9, 1991.

See title page for effective date.

CHAPTER 57**H.P. 421 - L.D. 578****An Act to Amend Certain Laws
Relating to the Collection of
Property Taxes**

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

Sec. 1. 30-A MRSA §2603, first ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

The clerk, treasurer and collector of a municipality may each appoint in writing a one or more qualified ~~person~~ persons as ~~deputy~~ deputies.

Sec. 2. 32 MRSA §281, sub-§5 is enacted to read:

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. 3. 33 MRSA §1853, sub-§5, as enacted by PL 1987, c. 691, §4, is amended to read:

5. Exception for certain municipally acquired property. This section chapter does not apply to tangible personal property located in or on real property acquired by a municipality for taxes or tangible personal property located in "dangerous buildings," as described by Title 17, section 2851. Personal property located within in or on real property acquired by a municipality for taxes or within "dangerous buildings" shall must be removed by the owner or owners within 21 days after written notice to do so by the municipal officers. The notice shall must be sent by certified mail, return receipt requested, to the owner or owners at their last known address. The notice shall must specify that unless the tangible personal property is removed it will be disposed of by the municipality. Any municipality which that has complied with this subsection shall is not be liable for the disposal of tangible personal property under this section chapter.

Sec. 4. 36 MRSA §505, first ¶ is amended to read:

At any meeting, ~~when at which~~ it votes to raise a tax, or at any subsequent meeting prior to the commitment of that tax, a municipality may, with respect to ~~such the~~ tax, by vote determine:

Sec. 5. 36 MRSA §506-A, as enacted by PL 1985, c. 333, §§2 and 3, is amended to read:

§506-A. Overpayment of taxes

Except as provided in section 506, a taxpayer who pays an amount in excess of that finally assessed ~~shall must~~ be repaid the amount of the overpayment plus interest from the date of overpayment at a rate to be established by the municipality. ~~The~~ With respect to overpayments of taxes relating to property tax years beginning prior to April 1, 1996, the rate of interest

may not exceed the interest rate established by the municipality for delinquent taxes reduced by 4% but may not be less than 8% nor greater than 12%. With respect to overpayments of taxes relating to property tax years beginning on or after April 1, 1996, the rate of interest may not exceed the interest rate established by the municipality for delinquent taxes or be less than that rate reduced by 4%. If a municipality fails to set a rate, it shall pay interest at the rate ~~of 12%~~ it has established for delinquent taxes.

Sec. 6. 36 MRSA §942, last ¶, as amended by PL 1977, c. 630, §8, is further amended to read:

The municipality shall pay the tax collector \$4 ~~§3~~ for the notice, \$1 for filing the tax lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the tax lien certificate and for discharging the tax lien mortgage ~~shall must~~ be paid by the municipality to the register of deeds.

See title page for effective date.

CHAPTER 58

H.P. 427 - L.D. 590

**An Act to Clarify Law Enforcement
Relating to Junkyards and
Automobile Graveyards**

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

Sec. 1. 30-A MRSA §4452, sub-§5, ¶J, as amended by PL 1991, c. 548, Pt. D, §6, is repealed and the following enacted in its place:

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter I.

See title page for effective date.

CHAPTER 59

H.P. 695 - L.D. 953

**An Act to Amend the Workers'
Compensation Board's Annual
Assessment**

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

Whereas, Public Law 1993, chapter 619 required a report to the Joint Standing Committee on Labor by the Superintendent of Insurance and the Executive Director of the Workers' Compensation Board by January 15, 1995 on the most equitable pro rata distribution of the Workers' Compensation Board's annual assessment between insureds and self-insureds; and

Whereas, determination of the annual Workers' Compensation Board's assessment is required by law prior to May 1st of each year; and

Whereas, without further legislation the basis of this assessment may be seriously questioned and the financial support of the services provided by the Workers' Compensation Board be threatened causing unneeded confusion to employees and employers alike; 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. 39-A MRSA §154, sub-§3, as repealed and replaced by PL 1993, c. 619, §2, is amended to read:

3. Assessment on workers' compensation insurance. The following provisions apply regarding the Workers' Compensation Board assessment on workers' compensation insurance.

A. Every insurance company or association that writes workers' compensation insurance in the State and that does business or collects premiums or assessments in the State, including newly licensed insurance companies and associations, shall pay to the board the assessment determined pursuant to this section for the purpose of providing partial support and maintenance of the board.

B. The assessment must be stated as a percentage of gross direct premiums written, whether in cash or in notes absolutely payable on contracts written on risks located or resident in the State for workers' compensation insurance, less the amount of the direct return premiums on the gross direct premiums written and all dividends paid to policyholders on direct workers' compensation premiums each employer's premium base. In determining the assessment percentage, consideration must be given to the balance in the

Workers' Compensation Board Administrative Fund.

B-1. An employer's premium base for assessment purposes is defined as payroll times the filed manual rate applicable to the employer times the employer's current experience modification factor, if applicable. The calculation may not include any deductible credit, other than credits for the \$1,000 and \$5,000 indemnity deductibles and the \$250 and \$500 medical deductibles established pursuant to Title 24-A, sections 2385 and 2385-A. For policies written using retrospective rating, the premium base must be calculated in accordance with this paragraph regardless of the actual retrospective premium calculation.

The employer's premium base is subject to the final audit requirements of the Bureau of Insurance Rule, Chapter 470. If the audit results in a change in premium base, the amount of the assessment must be adjusted accordingly.

C. ~~The~~ For each fiscal year, the initial assessment percentage must be determined by the board by May 1st of each the prior fiscal year. Insurance companies or associations must begin collecting the initial assessment from all employers on July 1st of each year. In establishing the assessment percentage, the board shall estimate the expected premium base for the upcoming fiscal year based on the returns filed under paragraph D and anticipated trends in the insurance marketplace. The board shall consult with the Bureau of Insurance and other knowledgeable sources to help determine the trends. The board may adjust the assessment percentage at any time but shall provide written notice to the affected companies and associations at least 45 days prior to the effective date of the adjustment. The board may not adjust the assessment percentage more than 3 times in a fiscal year. The adjusted assessment percentage must be applied prospectively on policies with an effective date on or after the effective date of the adjustment.

D. Every insurance company or association subject to the assessment imposed by this section with an ~~annual assessment of over \$5,000 must~~ estimated annual payment of \$50,000 or more based on previous assessment returns may make payments quarterly. Each insurance company or association electing quarterly payments must on or before the last day of each January, each April, the 25th day of each June and the last day of each October file with the board on forms prescribed by the board a return for the quarter ending the last day of the preceding month, except the month of June, which is for the quarter

ending June 30th and remit payment of the assessment based upon the results for the quarter reported. A final reconciled annual return must be filed on or before September 15th covering the prior fiscal year in which the previous assessment was levied. The final return must be certified by the company's or association's chief financial officer. Insurance companies or associations with an annual assessment estimate of under ~~\$5,000~~ \$50,000 shall pay the assessment on or before June 1st and shall also file a quarterly and an annual return on forms prescribed by the board. Affiliated insurers may aggregate their collection volume in order to meet the \$50,000 assessment threshold as long as the affiliation is consistent with the standards defined in Title 24-A, section 222. Those qualifying insurance companies or associations that opt to consolidate their quarterly payments and reports may do so only if each individually licensed company or association is individually reported within each consolidated return.

Sec. 2. 39-A MRSA §154, sub-§4, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

4. Assessment on self-insured employers. Every self-insured employer approved pursuant to section 403 shall, for the purpose of providing partial support and maintenance of the board, pay an assessment on aggregate benefits paid by each member pursuant to section 404, subsection 4. This assessment must be a dollar amount.

Sec. 3. 39-A MRSA §154, sub-§5, as amended by PL 1993, c. 619, §3, is further amended to read:

5. Amounts of premiums and losses; distribution of assessment. The Bureau of Insurance shall provide to the board the amounts of gross direct workers' compensation premiums written by each insurance carrier and the amounts of aggregate benefits paid by each self-insurer and group self-insurer on or before April 1st of each year. ~~For~~ Beginning with the assessment for the fiscal year beginning July 1, 1994 1995 and thereafter, the total assessment must be distributed between insurance companies or associations and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year 1993 for which data is available. This distribution of the assessment must be determined on a basis consistent with the ~~Five Year Comparison, Disabling Cases, Number and Percent by Insurer Type, Maine, 1991 1992 information~~ reported by the Department of Labor, Bureau of Labor Standards, Research and Statistics Division in its ~~October 1993 edition of~~ annual Characteristics of Work-Related

Injuries and Illnesses in Maine, ~~1992 publication,~~ provided that ~~the~~ any segment of the market identified as "not-insured" ~~must~~ be excluded from the calculation of proportionate shares. In consultation with the Director of Labor Standards, the board shall determine a date prior to the required assessment to establish the distribution.

Sec. 4. 39-A MRSA §154, sub-§6, as amended by PL 1993, c. 619, §3, is further amended to read:

6. Assessment levied. The assessments levied under this section may not be designed to produce more than \$6,000,000 in revenues annually beginning in the 1993-94 1995-96 fiscal year. Assessments collected that exceed \$6,000,000 by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to 1/4 of the board's annual budget. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.

Sec. 5. 39-A MRSA §154, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

7. Insurance company or association collections. Insurance companies or associations shall bill and collect assessments under this section on insured employers. ~~Such~~ The assessments must be separately stated amounts on all premium notices and may not be reported as premiums for any tax or regulatory purpose or for the purpose of any other law. All collected payments must be submitted to the board with the next quarterly payment. The Bureau of Insurance shall report to the board all newly authorized workers' compensation carriers in order to facilitate notification to the new carrier of its obligations under this section.

Sec. 6. 39-A MRSA §154, sub-§11, as enacted by PL 1993, c. 145, §5, is repealed.

Sec. 7. 39-A MRSA §154, sub-§12 is enacted to read:

12. Audit. In consultation with the Bureau of Insurance, the board may audit all returns and investigate any issues relevant to the collection and payment of any assessment under this section.

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

Effective May 3, 1995.

CHAPTER 60

H.P. 256 - L.D. 358

An Act to Require the Use of the Process of Forcible Entry and Detainer in Eviction of Mobile Home Owners and Tenants

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

Sec. 1. 10 MRSA §9097-B is enacted to read:

§9097-B. Entry and detainer

Process of forcible entry and detainer pursuant to Title 14, chapter 709 must be used in mobile home evictions.

Sec. 2. 14 MRSA §6001, sub-§1, as enacted by PL 1981, c. 428, §1, is amended to read:

1. Persons against whom process may be maintained. Process of forcible entry and detainer may be maintained against a disseisor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract or person holding under such a tenant; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 days from the expiration or forfeiture of the term; ~~and~~ against a tenant at will, whose tenancy has been terminated as provided in section 6002; and against mobile home owners and tenants pursuant to Title 10, chapter 951, subchapter VI.

See title page for effective date.

CHAPTER 61

H.P. 377 - L.D. 512

An Act to Amend the Limitation on Damages in State Tort Claims Actions to Allow for the Accrual of Post-judgment Interest

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

Sec. 1. 14 MRSA §8105, sub-§2, as repealed and replaced by PL 1977, c. 78, §113, is amended to read:

2. Costs. Court costs, prejudgment interest and all other costs ~~which that~~ a court may assess ~~shall~~ must be included within the damage limit specified by this section. Accrued post-judgment interest may not be included within the damage limit.

See title page for effective date.

CHAPTER 62

H.P. 305 - L.D. 409

An Act to Continue Requiring Probable Cause before the Exercise of Protective Custody

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

Sec. 1. 34-B MRSA §3862, sub-§1, as amended by PL 1993, c. 596, §1, is further amended to read:

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based upon probable cause, that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, the law enforcement officer:

A. May take the person into protective custody; and

B. If the officer does take the person into protective custody, shall deliver the person immediately for examination by an available licensed physician or licensed clinical psychologist, as provided in section 3863.

~~This subsection is repealed October 1, 1995.~~

Sec. 2. 34-B MRSA §3862, sub-§1-A, as enacted by PL 1993, c. 596, §2 and affected by §4, is repealed.

Sec. 3. 34-B MRSA §3863, sub-§3, ¶C, as enacted by PL 1993, c. 596, §3, is amended to read:

C. Notwithstanding paragraph B, subparagraphs (1) and (2), a person sought to be admitted informally under section 3831 or involuntarily under this section may be held for evaluation and treatment at a hospital pending judicial endorsement of the application and certificate if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m. :

This paragraph is repealed October 1, 1995
1997.

See title page for effective date.

CHAPTER 63

H.P. 381 - L.D. 516

An Act Concerning the Liability of Corporate Clerks

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

Sec. 1. 13-A MRSA §714, sub-§1, as
enacted by PL 1971, c. 439, §1, is amended to read:

1. The officers of a corporation ~~shall~~ consist of a
president, a treasurer, ~~a clerk~~ and, if the bylaws so
provide, one or more vice-presidents; and ~~such~~ other
officers ~~as are~~ selected pursuant to subsection 5. The
clerk of a corporation is not an officer, but performs
the functions provided in this Act.

Sec. 2. 13-A MRSA §714, sub-§11, ¶F, as
enacted by PL 1971, c. 439, §1, is repealed.

Sec. 3. 13-A MRSA §714, sub-§11-A is
enacted to read:

11-A. The duties of the clerk are ministerial
only and the clerk is not liable in that capacity for any
liabilities of the corporation, including, without
limitation, debts, claims, taxes, fines or penalties.

See title page for effective date.

CHAPTER 64

S.P. 219 - L.D. 561

An Act to Allow County Commissioners to Perform Routine Road Maintenance without Permission from the Maine Land Use Regulation Commission

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

Sec. 1. 12 MRSA §685-A, sub-§5, as
amended by PL 1985, c. 70, §1, is further amended to
read:

5. **Considerations, application and exemp-**
tions. ~~No~~ A land use standard ~~shall~~ may not deprive
~~any an~~ owner or lessee or subsequent owner or lessee
of any interest in real estate of the use to which it is

lawfully devoted at the time of adoption of ~~said~~ that
standard. Year-round and seasonal single residences
and operating farms in existence and use as of
September 23, 1971, while so used, and new accessory
buildings or structures or renovations of ~~such~~ the
buildings or structures ~~which~~ that are or may be
necessary to the satisfactory and comfortable con-
tinuation of these residential and farm uses ~~shall be~~ are
exempt from the requirements of section 685-B,
subsection 1.

Land use standards adopted pursuant to this chapter
for management districts ~~shall~~ may in no way limit the
right, method or manner of cutting or removing timber
or crops, the construction and maintenance of hauling
roads, the operation of machinery or the erection of
buildings and other structures used primarily for
agricultural or commercial forest product purposes,
including tree farms. Notwithstanding this subsection,
a permit from the commission ~~shall be~~ is required for
roads covering a ground area of 3 acres or more
constructed in management districts, unless those
roads are constructed and maintained in accordance
with the guidelines of the commission's Land Use
Handbook, Section 6, "Erosion Control on Logging
Jobs," or as revised. The commission may require a
person constructing a road to notify the commission of
the location of the road within 21 days.

In adopting district boundaries and land use standards,
the commission shall give consideration to public and
private planning reports and other data available to it,
and shall give weight to existing uses of land and to
any reasonable plan of its owner as to its future use.

A permit from the commission is not required for the
repair or maintenance of county-owned roads, bridges
or culverts as long as the repair or maintenance is
conducted in accordance with commission standards
that pertain to these activities.

See title page for effective date.

CHAPTER 65

H.P. 183 - L.D. 231

An Act to Correct Errors and Inconsistencies Related to the Recodification of the Maine Revised Statutes, Title 29

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

Whereas, in Public Law 1993, chapter 683 the
Legislature enacted a recodification of the Maine
Revised Statutes, Title 29, which takes effect January
1, 1995; and

Whereas, the provisions of this Act correct certain errors and inconsistencies related to the recodification; 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. 4 MRSA §116, first ¶, as amended by PL 1987, c. 339, §1, is further amended to read:

All revenue received by the Supreme Judicial or Superior Court from fines, forfeitures, penalties, fees and costs ~~shall accrue~~ accrues to the State, except as otherwise provided under section 1057, Title 12, sections 3055 and 4508, Title 23, section 1653 and Title ~~29 29-A~~, section ~~2302 2602~~.

Sec. A-2. 4 MRSA §152, 2nd to last ¶, as repealed and replaced by PL 1983, c. 796, §1, is amended to read:

The District Court ~~shall possess~~ possesses the criminal jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961, except as provided in Title ~~29 29-A~~, section ~~2302 2602~~.

Sec. A-3. 4 MRSA §163, sub-§1, as corrected by RR 1991, c. 2, §4, is amended to read:

1. District Court funds. Except as otherwise provided by law, all fines, forfeitures, surcharges, assessments and fees collected in any division of the District Court or by the violations bureau must be paid to the clerk of that District Court, who shall deposit them in a special account in a timely manner. Once each month, the clerk shall remit the sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit the sums that have been collected in accordance with section 1057; Title 5, chapter 316-A; and Title ~~29 29-A~~, section ~~1312-B 2411~~, subsection ~~5 7~~. Funds received by the clerk as bail in criminal cases must be deposited daily in a special account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in the account is the property of and accrues to the State. The forfeiture and setoff of bail is governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines, surcharges and assessments imposed and to whom each is payable.

Sec. A-4. 4 MRSA §165, as amended by PL 1991, c. 484, §2, is further amended to read:

§165. Criminal jurisdiction; fines, penalties and costs paid over

The District Court has jurisdiction, and, except as provided in Title ~~29 29-A~~, section ~~2302 2602~~, concurrent jurisdiction with the Superior Court, of all crimes and offenses including violations of any statute or bylaw of a town, village corporation or local health officer, or breaches of the peace, not punishable by imprisonment in the State Prison, to issue process with respect to any violation over which the Passamaquoddy Tribe or the Penobscot Nation exercises exclusive jurisdiction under Title 30, section 6209 and over complaints for desertion and nonsupport or nonsupport of dependents where either the spouse, dependent or the respondent resides and may for such crimes and offenses impose any of the fines or sentences provided by law to be imposed therefor. All fines, penalties and costs imposed by such courts paid to the jailer after commitment of a respondent must be paid over by the respondent monthly.

Sec. A-5. 4 MRSA §807, sub-§3, ¶C, as repealed and replaced by PL 1989, c. 755, is amended to read:

C. An officer or authorized employee of a corporation, partnership, sole proprietorship or governmental entity, who is not an attorney, but is appearing for that organization:

- (1) In an action cognizable as a small claim under Title 14, chapter 738; or
- (2) For the purposes of entering a plea or answer and paying the fine or penalty for a violation by that organization of Title 23, chapter 24 or Title ~~29 29-A~~;

Sec. A-6. 4 MRSA §1151, sub-§2, as corrected by RR 1993, c. 1, §3, is amended to read:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title ~~29 29-A~~; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license

of that agency may be refused. The Administrative Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. A-7. 5 MRSA §88-A, sub-§2, as repealed and replaced by PL 1991, c. 824, Pt. B, §3, is amended to read:

2. Issuance of card; contents. Upon receipt of a completed application and payment of a fee of \$5, the Secretary of State shall issue an identification card to the applicant. If a person is the holder of a motor vehicle operator's license bearing a photograph of the individual and issued under Title ~~29~~ 29-A, chapter ~~7~~ 11, the Secretary of State or the Secretary of State's representative may refuse to issue an identification card. The Secretary of State shall design cards for persons 18 to 21 years of age so that they are readily distinguishable from cards for persons 21 years of age or older. Each card must contain:

- A. The applicant's photograph;
- B. The applicant's name and address;
- C. The applicant's date of birth; and
- D. Any other information and identification that the Secretary of State considers necessary.

Sec. A-8. 5 MRSA §3360, sub-§2, ¶E, as enacted by PL 1991, c. 806, §3, is amended to read:

E. Operating under the influence of intoxicating liquor, or drugs or with an excessive blood-alcohol level, as described in Title ~~29~~ 29-A, section ~~4312-B~~ 2411.

Sec. A-9. 5 MRSA §10051, sub-§1, as repealed and replaced by PL 1991, c. 824, Pt. A, §5, is amended to read:

1. Jurisdiction. Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title ~~29~~ 29-A; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine

whether renewal or reissuance of a license of that agency may be refused.

Sec. A-10. 5 MRSA §12004-I, sub-§84, as enacted by PL 1987, c. 786, §5, is amended to read:

84.	Medical	Expenses	29 <u>29-A</u>
Transporta-	Advisory	Only	MRSA
tion: Motor	Board		§547-
Vehicles	(Licensing of		<u>§1258</u>
	Drivers)		

Sec. A-11. 5 MRSA §20071, sub-§1, as amended by PL 1993, c. 631, §2, is further amended to read:

1. Alcohol-related or other drug-related motor vehicle incident. "Alcohol-related or other drug-related motor vehicle incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under ~~former~~ Title 29, section 1311-A; Title 29, ~~former~~ section 1312, subsection 10-A; ~~Title 29, former section 1312-B;~~ Title 29, ~~former~~ section 1312-C; Title 29, section 1312-B; Title 29, section 1313-B; Title 29, section 2241, subsection 1, paragraph N; Title 29, section 2241-G, subsection 2, paragraph B, subparagraph (2); ~~or~~ Title 29, section 2241-J; Title 29-A, sections 2411, 2453, 2456 and 2457; Title 29-A, section 2472, subsection 3, paragraph B; or Title 29-A, section 2503.

Sec. A-12. 5 MRSA §20071, sub-§4-B, ¶C, as amended by PL 1993, c. 631, §3, is further amended to read:

C. Eluded or attempted to elude an officer, as defined in Title ~~29~~ 29-A, section ~~2501-A~~ 2414, subsection 3, during the operation that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;

Sec. A-13. 10 MRSA §1109, sub-§1, ¶A, as enacted by PL 1991, c. 488, is amended to read:

A. "Gasoline sales" means the retail sale of internal combustion fuel for motor vehicles as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~7~~ 42.

Sec. A-14. 10 MRSA §1171, sub-§11, as enacted by PL 1975, c. 573, is amended to read:

11. Motor vehicle. "Motor vehicle" means any motor driven vehicle required to be registered under Title ~~29~~ 29-A, chapter 5.

Sec. A-15. 10 MRSA §1174, sub-§3, ¶R, as enacted by PL 1981, c. 331, §6, is amended by amending subparagraph (3), division (d) to read:

(d) Revocation of the franchised motor vehicle dealer's license pursuant to Title ~~29 29-A~~, section ~~350-A 903~~;

Sec. A-16. 10 MRSA §1176, first ¶, as amended by PL 1991, c. 328, is further amended to read:

If a motor vehicle franchisor requires or permits a motor vehicle franchisee to perform labor or provide parts in satisfaction of a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations, in the case of motor vehicles over 10,000 pounds gross vehicle weight rating, shall adequately and fairly compensate the franchisee for any parts so provided and, in the case of all other motor vehicles, shall reimburse the franchisee for any parts so provided at the retail rate customarily charged by that franchisee for the same parts when not provided in satisfaction of a warranty. Further, the franchisor shall reimburse the franchisee for any labor so performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty; provided that the franchisee's rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customer. A franchisor is not required to pay the price charged by the dealer to retail customers for parts of systems, appliances, furnishings, accessories and fixtures of a motor home as defined in Title ~~29 29-A~~, section ~~4 101~~, subsection ~~5-C 40~~ that are designed, used and maintained primarily for nonvehicular residential purposes. Any claim made by a franchisee for compensation for parts provided or for reimbursement for labor performed in satisfaction of a warranty must be paid within 30 days of its approval. All the claims must be either approved or disapproved within 30 days of their receipt. When any such claim is disapproved, the franchisee that submitted it must be notified in writing of its disapproval within that period, together with the specific reasons for its disapproval. No franchisor may, by agreement, by restriction upon reimbursement, or otherwise, restrict the nature or extent of labor performed or parts provided so that such restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor in a professional manner or by providing parts required in accordance with generally accepted standards.

Sec. A-17. 10 MRSA §1191, sub-§2, as enacted by PL 1989, c. 51, is amended to read:

2. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles, snowmobiles, all-terrain vehicles, customized vans and any vehicle operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross weight of not more than 8,600 pounds as

certified by the vehicle manufacturer or franchise representative pursuant to Title ~~29 29-A~~, section ~~4652 2354~~, subsection ~~2~~, paragraph ~~D~~, Title ~~29-A~~, section ~~2364~~, subsection 5 and Title ~~29-A~~, section ~~2365~~, subsection 8.

Sec. A-18. 10 MRSA §1471, sub-§4, as enacted by PL 1975, c. 770, §57, is amended to read:

4. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles as defined in Title ~~29 29-A~~, section ~~4 101~~, subsection ~~4 38~~, and any vehicles operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross vehicle weight of not more than 10,000 pounds as certified by the vehicle manufacturer or its franchised representative pursuant to Title 29, section 1652.

Sec. A-19. 10 MRSA §1471, sub-§6-A, as enacted by PL 1985, c. 429, §1, is amended to read:

6-A. Reconstructable motor vehicle. "Reconstructable motor vehicle" means a used motor vehicle ~~which that~~ does not meet the inspection standards as set forth in Title ~~29 29-A~~, section ~~2502 1751~~, and ~~which that~~ is sold, offered for sale or negotiated for sale to a person other than another dealer for the purpose of transportation after repair or rebuilding.

Sec. A-20. 10 MRSA §1474, sub-§1, as repealed and replaced by PL 1985, c. 429, §3, is amended to read:

1. Warranty content. A dealer warrants that the motor vehicle ~~he the dealer~~ sells, negotiates the sale of, offers for sale or transfers to a person other than another dealer has been inspected in accordance with Title ~~29 29-A~~, section ~~2502 1751~~, and with the rules promulgated under that section:

A. That the motor vehicle is in the condition and meets the standards required by that law and the rules; or

B. If the motor vehicle is a reconstructable motor vehicle, that the motor vehicle is in the condition specified in the disclosure statement affixed to the vehicle as required by subsection 4.

Sec. A-21. 10 MRSA §1475, sub-§3, as amended by PL 1993, c. 112, §2, is further amended to read:

3. Written statement. A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi or other descriptive term;

C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller.

Any dealer who offers for sale to consumers a repossessed vehicle that has been obtained by the dealer through any transaction other than a retail sale is not subject to the provisions of this subsection.

The seller of the used motor vehicle shall sign this written statement and the dealer who buys the vehicle shall maintain a record of it for one year following the sale of the motor vehicle.

As used in subsections 2 and 3, "substantial collision damage" means any damage to a motor vehicle from a collision when the costs of repair of that damage, at the time of repair, including replacement of mechanical and body parts, exceeded by 3 times the amount of damage that would at the time of the collision have required a report of the collision to a law enforcement agency under the provisions of Title ~~29~~ 29-A, section ~~89~~ 225.

Sec. A-22. 10 MRSA §1478, sub-§4, as enacted by PL 1985, c. 569, §2, is amended to read:

4. Disclosure at auction. At the time that a motor vehicle or article of equipment is provided to the auction for sale, the disclosure form ~~shall~~ must be attached to that vehicle or equipment in a place visible to the general public. The disclosure form ~~shall~~ must also indicate the last known date on which the vehicle passed inspection pursuant to Title ~~29~~ 29-A, chapter ~~22~~ 15.

A. In the event that a motor vehicle submitted by a state agency to the state auction does not possess a valid inspection certificate that has been issued within 180 days previous to the auction, the motor vehicle ~~shall be~~ is subject to inspection pursuant to Title ~~29~~ 29-A, chapter ~~22~~ 15. If the motor vehicle passes inspection, a current and valid inspection certificate ~~shall~~ must be affixed to the vehicle.

B. In the event that a motor vehicle subjected to a vehicle inspection pursuant to this subsection does not pass the inspection, the provision of section 1474, subsection 4 applies to the motor vehicle.

Sec. A-23. 10 MRSA §1661-A, as repealed and replaced by PL 1989, c. 83, §1, is amended to read:

§1661-A. Gasoline stations to provide services for handicapped drivers

Every full-service gasoline station offering self-service pumping at a lesser cost shall require an attendant employed by the station to dispense gasoline to any motor vehicle properly displaying a handicapped placard or special designating plates issued under Title ~~29~~ 29-A, section ~~252~~ 521, when the person to whom the placard or plates have been issued is the operator of the vehicle, the service is requested, the operator has a driver's license designated with a code H, restricted to special equipment, and there is no nonhandicapped adult in the motor vehicle.

Sec. A-24. 10 MRSA §1672, sub-§4, as enacted by PL 1991, c. 836, §3, is amended to read:

4. Motor fuel oil. "Motor fuel oil" means internal combustion fuel sold for use in motor vehicles as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~7~~ 42.

Sec. A-25. 11 MRSA §9-302, sub-§(3), ¶(b), as amended by PL 1991, c. 824, Pt. A, §17, is further amended to read:

(b) The following statutes: Title to motor vehicles, Title ~~29~~ 29-A, chapter ~~24~~ 7, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this Article, Part 4, apply to a security interest in that collateral created by that person as debtor; or

Sec. A-26. 12 MRSA §685-A, sub-§3, ¶G, as enacted by PL 1983, c. 114, §2, is amended to read:

G. Regulate, as necessary, motor vehicles as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~7~~ 42, on icebound inland lakes ~~which that~~ are completely encompassed by unorganized territories during the hours from sunset to sunrise of the following day.

Sec. A-27. 12 MRSA §931, as enacted by PL 1981, c. 13, is amended to read:

§931. Access to state-owned parks, camping areas and beaches

Any disabled veteran displaying on ~~his~~ the ~~veteran's~~ motor vehicle special designating plates or placards issued in accordance with Title ~~29~~ 29-A, section ~~252-A~~ 523, subsections 1 and 2 may not be assessed a fee for admission to any state-owned park, camping area or beach.

Sec. A-28. 12 MRSA §7759, sub-§3, as amended by PL 1993, c. 567, §1, is further amended to read:

3. Distribution from fund. The first \$10,000 received from the sale of environmental registration plates must be allocated to the Department of Conservation for marketing of the plates. Money distributed from the fund may be used for marketing the plates and for the production and marketing of goods using the environmental plate design. After the Treasurer of State has reimbursed the Secretary of State for costs of producing and issuing environmental registration plates in accordance with Title ~~29~~ 29-A, section ~~252-A~~ 455, the Treasurer of State shall annually distribute the balance in the fund as follows:

A. Sixty percent of the balance must be deposited in the Maine State Parks Fund established in section 610; and

B. Forty percent of the balance must be deposited in the Maine Endangered and Nongame Wildlife Fund established in section 7757.

This subsection is repealed March 31, 1996.

Sec. A-29. 12 MRSA §7827, sub-§23, ¶D, as amended by PL 1993, c. 129, §1, is further amended by amending subparagraph (7) to read:

(7) Notwithstanding subparagraphs (1) to (6), snowmobiles may be operated on the extreme right of a public way within the built-up portion of a municipality, unorganized or unincorporated township if the appropriate governmental unit has designated the public way as a snowmobile-access route for the purpose of allowing snowmobiles access to places of business. A public way designated by an appropriate governmental unit as a snowmobile-access route must be posted conspicuously at regular intervals by that governmental unit with highly visible signs designating the snowmobile-access route. Before designating a public way as a snowmobile-access route, the appropriate governmental unit shall make appropriate determinations that snowmobile travel on the extreme right of the public way may be conducted safely

and will not interfere with vehicular traffic on the public way. For purposes of this subparagraph, "appropriate governmental unit" means the Department of Transportation, county commissioners or municipal officers within their respective jurisdictions. The jurisdiction of each appropriate governmental unit over public ways pursuant to this subparagraph is the same as its jurisdiction over the passage of vehicles on public ways pursuant to Title ~~29~~ 29-A, section ~~902~~ 2395. Municipal or county law enforcement officials having jurisdiction have primary enforcement authority over any route established under this subparagraph.

Sec. A-30. 12 MRSA §7851, sub-§2, as amended by PL 1987, c. 619, §1, is further amended to read:

2. All-terrain vehicle. "All-terrain vehicle" means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this subchapter, "all-terrain vehicle" does not include an automobile as defined in Title ~~29~~ 29-A, section ~~1~~ 101, subsection ~~1-C~~ 7; a ~~motor~~ truck as defined in Title ~~29~~ 29-A, section ~~1~~ 101, subsection ~~6~~ 88; a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

Sec. A-31. 12 MRSA §7853, sub-§1, as enacted by PL 1985, c. 762, §4, is amended to read:

1. License. No operator's license is required for the operation of an ATV, except as required by Title ~~29~~ 29-A.

Sec. A-32. 12 MRSA §7854, sub-§2, as amended by PL 1985, c. 762, §7, is further amended to read:

2. No registration required. No ATV registration for the farm use specified in Title ~~29~~ 29-A, section ~~242~~ 501, subsection ~~1~~ 8, paragraph ~~E-1~~ E is required for a vehicle registered with the Secretary of State under the provisions of Title ~~29~~ 29-A, section ~~242~~ 501, subsection ~~1~~, paragraph ~~E~~ 8.

Sec. A-33. 12 MRSA §7855, sub-§2, ¶A, as amended by PL 1989, c. 493, §65, is further amended to read:

A. Any dealer licensed under Title ~~29~~ 29-A, section ~~357~~ 954, subsection 2, will not be required to pay the \$15 license fee.

Sec. A-34. 12 MRSA §7857, sub-§5, ¶A, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

A. This subsection does not apply to ATV's registered with the Secretary of State under Title ~~29~~ 29-A.

Sec. A-35. 12 MRSA §7857, sub-§13-B, as enacted by PL 1985, c. 762, §14, is amended to read:

13-B. Operating an ATV without protective headgear. Notwithstanding Title ~~29~~ 29-A, section ~~1376~~ 2083, a person is guilty of operating an ATV without protective headgear, if ~~he~~ that person is under 18 years of age and operates an ATV without protective headgear.

Sec. A-36. 12 MRSA §7857, sub-§13-C, as enacted by PL 1993, c. 438, §39, is amended to read:

13-C. Carrying a passenger on an ATV without headgear. Notwithstanding Title ~~29~~ 29-A, section ~~1376~~ 2083, a person is guilty of carrying a passenger on an ATV without protective headgear, if that person carries a passenger under 18 years of age on an ATV and the passenger is not wearing protective headgear.

Sec. A-37. 14 MRSA §3125-A, as enacted by PL 1991, c. 699, §1, is amended to read:

§3125-A. Debtor subject to loss or suspension of right to operate or register a motor vehicle

A judgment debtor subject to suspension or loss of the right to operate or register a motor vehicle under Title ~~29~~ 29-A, section ~~783~~ 2251, subsection ~~2~~, paragraph ~~F~~ 10 may request a disclosure hearing on the issue of how to satisfy the judgment. The court may enter an order for an installment payment agreement in the manner agreed upon by the parties or a modified order in accord with the factors set forth in section 3128. If the parties fail to reach an agreement for an order, the judgment debtor may ask the court for the entry of an installment payment agreement in consideration of those factors.

Sec. A-38. 14 MRSA §3131, sub-§9, ¶D, as enacted by PL 1987, c. 184, §14, is amended to read:

D. If the property is a motor vehicle for which a certificate of title is required, the time when an attested copy of the turnover or sale order is delivered to the office of the Secretary of State where notice would be delivered pursuant to Title ~~29~~ 29-A, section ~~2374~~ 665, subsection 1; or

Sec. A-39. 14 MRSA §3141, sub-§3, as amended by PL 1987, c. 708, §11, is further amended to read:

3. Immediate payment. When a court has imposed a fine, as described in subsection 1, the imposition of such a fine constitutes an order to pay the full amount of the fine in accordance with this chapter. Following imposition of the fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements ~~he~~ the defendant has made to comply with the court's order to pay the fine. Without utilizing the provisions of subsection 4, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on that day, within which to return to the court and tender payment of the fine. If the defendant fails to appear as directed, the court shall issue a civil order of arrest. The arrest order ~~shall~~ must be carried out by the sheriff as a civil order of arrest is carried out under section 3135. If the underlying offense involves any violation of Title 23, section 1980; Title 28-A, section 2052; or Title ~~29~~ 29-A, the court shall also, upon the defendant's failure to appear, suspend the defendant's license or permit to operate motor vehicles in this State and the right to apply for or obtain a license or permit to operate a motor vehicle in this State.

If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine. If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order ~~him~~ the defendant to pay the fine. Failure or refusal to pay as ordered by the court ~~shall subject~~ subjects the defendant to the contempt procedures provided in section 3142.

Sec. A-40. 14 MRSA §3141, sub-§7, as amended by PL 1991, c. 548, Pt. A, §4, is further amended to read:

7. Remedies. Failure to pay by the date fixed by the court's order or an amended order subjects the defendant to the contempt procedures provided in section 3142, suspensions under Title ~~29~~ 29-A, section ~~2304-A~~ 2605, and all procedures for collections provided for in sections 3127-A, 3127-B, 3131, 3132, 3134, 3135 and 3136. An installment agreement under this section must be considered an agreement under section 3125, and a court order to pay under

section 3127. In addition to other penalties provided by law, the court may impose on the defendant reasonable costs for any failure to appear.

Sec. A-41. 14 MRSA §4651-A, sub-§3, as enacted by PL 1987, c. 184, §23, is amended to read:

3. Lien on motor vehicles. The filing of an execution duly issued by any court of this State or an attested copy thereof where a proof of transfer would be delivered pursuant to Title ~~29~~ 29-A, section ~~2374~~ 665, subsection 1, and delivery of an application pursuant to Title ~~29~~ 29-A, section ~~2376~~ 657, within one year after issuance of the execution ~~shall create~~ creates a lien in favor of each judgment creditor upon the right, title and interest of each judgment debtor in any motor vehicle for which a title certificate must be obtained pursuant to Title ~~29~~ 29-A, chapter ~~24~~ 7.

Sec. A-42. 14 MRSA §6661, as amended by PL 1977, c. 78, §112, is further amended to read:

§6661. Application

Sections 6659 and 6660 ~~shall~~ apply only in built-up areas as defined in Title ~~29~~ 29-A, section ~~4252~~ 2074, subsection 3, ~~paragraph A~~ 2 in such cities and towns whose population exceeds 5,000 according to the last Federal Decennial Census.

Sec. A-43. 14 MRSA §8104-A, sub-§1, ¶¶A, B and C, as enacted by PL 1987, c. 740, §4, are amended to read:

A. Motor vehicle, as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~7~~ 42;

B. Special mobile equipment, as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~44~~ 70;

C. Trailers, as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~48~~ 86;

Sec. A-44. 15 MRSA §1102, as enacted by PL 1987, c. 758, §20, is amended to read:

§1102. Detention of juveniles charged as adults

Unless they have attained their 18th birthday, persons who are arrested for crimes defined under Title 12 or Title ~~29~~ 29-A, ~~which that~~ are not juvenile crimes as defined in section 3103, may not be detained unless a juvenile caseworker has been notified within 2 hours after the person's arrest and has approved the detention. Section 3203-A, subsection 7, paragraphs A and B, governing the facilities in which juveniles may be detained, apply to any detention of such juveniles following arrest.

Sec. A-45. 15 MRSA §3103, sub-§1, ¶A, as amended by PL 1981, c. 679, §2, is further amended to read:

A. Conduct ~~which that~~, if committed by an adult, would be defined as criminal by Title 17-A, the Maine Criminal Code, or by any other criminal statute outside that code, including any rule or regulation under a statute, except for those provisions of Titles 12 and ~~29~~ 29-A not specifically included in paragraphs E and F;

Sec. A-46. 15 MRSA §3103, sub-§1, ¶F, as affected by PL 1991, c. 516, §3, is amended to read:

F. The criminal violation of operating a motor vehicle under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as defined in Title ~~29~~ 29-A, section ~~4342-B~~ 2411 and offenses defined in Title ~~29~~ 29-A as Class B or C crimes.

Sec. A-47. 15 MRSA §3308, sub-§6, as amended by PL 1981, c. 679, §8, is further amended to read:

6. Records to Secretary of State. Whenever a juvenile has been adjudicated as having committed a juvenile crime involving the operation of a motor vehicle, the court shall forthwith transmit to the Secretary of State an abstract, duly certified, setting forth the name of the juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any other pertinent facts. These records ~~shall be~~ are admissible in evidence in hearings conducted by the Secretary of State or any of ~~his~~ the Secretary of State's deputies and ~~shall be~~ are open to public inspection.

Nothing in this Part may be construed to limit the authority of the Secretary of State, pursuant to Title ~~29~~ 29-A, to suspend a person's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license.

Sec. A-48. 15 MRSA §3314, sub-§3, ¶A, as amended by PL 1993, c. 658, §2, is further amended to read:

A. For an adjudication under section 3103, subsection 1, paragraph F, the juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle or right to apply for or obtain a license must be suspended by the court for a period of 180 days. The period of suspension may not be suspended by the court. The court shall give notice of the suspension and take physical custody of an operator's license or permit as provided in Title ~~29~~ 29-A, section ~~2241-H~~ 2434. The court shall immediately transmit a certified abstract of the suspension to the Secretary of State. A further suspension may be imposed by the Secretary of State pursuant to Title ~~29~~ 29-A, section ~~4342-D~~ 2451, subsection ~~4-B~~ 3.

Sec. A-49. 15 MRSA §3314, sub-§3-A, as enacted by PL 1989, c. 850, §1, is amended to read:

3-A. Operator's license suspension for drug offenses. The court may suspend for a period of 6 months the license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license of any person who violates Title 17-A, chapter 45, or Title 22, section 2383, and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title ~~29~~ 29-A, section ~~2241-H~~ 2434. The court shall immediately forward the operator's license and a certified abstract of suspension to the Secretary of State.

Sec. A-50. 15 MRSA §5823, sub-§3, as enacted by PL 1987, c. 428, §2, is amended to read:

3. Defaced or missing identification numbers. Any vehicle disposed of under this section ~~which that~~ does not have a vehicle identification number or the number is illegible ~~shall must~~ be issued a special number by the Secretary of State under Title ~~29~~ 29-A, section ~~403~~ 407.

Sec. A-51. 17 MRSA §2264, sub-§5, as repealed and replaced by PL 1993, c. 349, §39, is amended to read:

5. Vehicle operator. From a vehicle. When any litter is thrown or discarded from a vehicle, both the operator of the vehicle, unless it is a vehicle being used for the carriage of passengers for hire, and the person actually disposing of the litter are in violation of this section. The violation is a ~~civil violation~~ traffic infraction under Title ~~29~~ 29-A, chapter ~~49~~ 23, subchapter VI. This penalty is in addition to any penalty under section 2264-A.

A record of a violation of this subsection must be forwarded to the Secretary of State who, in accordance with Title ~~29~~ 29-A, section ~~2304~~ 2607, shall add the violation to the department's point system. The violation is counted in determining an individual's total points under the point system of the Bureau of Motor Vehicles.

Sec. A-52. 17 MRSA §2267-A, sub-§4, as enacted by PL 1981, c. 578, is amended to read:

4. Financial responsibility. A conviction or adjudication of any person for a violation of this section ~~shall constitute~~ constitutes a violation of state law relative to motor vehicles to which Title ~~29~~ 29-A, chapter ~~9~~ 13 applies.

Sec. A-53. 17 MRSA §2802, as amended by PL 1979, c. 472, §3, is further amended to read:

§2802. Miscellaneous nuisances

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~7~~ 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.

Sec. A-54. 17 MRSA §2872, as amended by PL 1987, c. 676, §1, is further amended to read:

§2872. Employees transporting minors

No person may be employed in any preschool facility in any capacity ~~which that~~ involves the transporting of minors by means of motor vehicle if the person, prior to commencement of that employment, has been convicted of a violation of former Title 29, ~~former~~ section 1312, subsection 10; section 1312-B or 1312-C; ~~or~~ Title 15, section 3103, subsection 1, paragraph F; or Title 29-A, section 2411 within the preceding 6-year period.

Sec. A-55. 17 MRSA §3203, as amended by PL 1979, c. 127, §124, is further amended to read:

§3203. Sales of motor vehicles and mobile homes prohibited

Any person who ~~shall carry~~ carries on or engage engages in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles;

or who ~~shall open~~ opens any place of business or lot ~~wherein he in which that person~~ attempts to or does engage in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles; or who does buy, sell, exchange, deal or trade in new or used motor vehicles as a business on the first day of the week, commonly known and designated as Sunday, is a disorderly person. Such a disorderly person upon conviction for the first offense ~~shall must~~ be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days, or by both; and for the 2nd offense ~~shall must~~ be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both; and for the 3rd or each subsequent offense ~~shall must~~ be punished by a fine of not more than \$750 or by imprisonment for not more than 6 months, or by both. If the person is the holder of dealer or transporter registration plates under Title ~~29 29-A~~, chapter ~~5 2~~, ~~subchapter III-A~~, such person ~~shall be~~ is subject to the suspension or revocation of ~~said those~~ plates, as provided for in Title ~~29 29-A~~, section ~~350-A 903~~, for the violation of this section.

Sec. A-56. 17-A MRSA §17, sub-§1, as amended by PL 1991, c. 733, §5, is further amended to read:

1. A law enforcement officer who has probable cause to believe that a civil violation has been committed by a person must issue or have delivered a written summons to that person directing the person to appear in the District Court to answer the allegation that the person has committed the violation. The summons must include the signature of the officer, a brief description of the alleged violation, the time and place of the alleged violation and the time, place and date the person is to appear in court. The form used must be the Violation Summons and Complaint, as prescribed in Title ~~29 29-A~~, section ~~2300 2601~~, for traffic infractions and the Uniform Summons and Complaint for other civil violations, except that, if the agency by whom the officer is employed has on May 1, 1991 current stocks of forms that the agency is authorized to use, the agency may permit officers to use those forms in place of the Uniform Summons and Complaint until those stocks are depleted. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. The law enforcement officer may not order a person to sign the summons for a civil violation unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title 28-A, section 2052; or Title ~~29 29-A~~.

Every law enforcement officer issuing a Violation Summons and Complaint charging the commission of a traffic infraction shall file the original of the Violation Summons and Complaint with the violations

bureau within 5 days of the issuance of that Violation Summons and Complaint. Every law enforcement officer issuing a Uniform Summons and Complaint that charges the commission of an offense shall file the original of the Uniform Summons and Complaint with the District Court having jurisdiction over the offense or in such other location as instructed by the Chief Judge of the District Court without undue delay and, in any event, within 5 days after the issuance of the Uniform Summons and Complaint.

Sec. A-57. 17-A MRSA §1057, sub-§5, as enacted by PL 1989, c. 917, §2, is amended to read:

5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive blood-alcohol level" has the same meaning as ~~specified~~ "under the influence of intoxicants" as defined in Title 29 29-A, section 1312-B 2401, subsection 4 13. "Excessive blood-alcohol level" means 0.08% or more by weight of alcohol in the blood. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive blood-alcohol level within the meaning of this section are those applicable pursuant to Title ~~29 29-A~~, ~~section 1312-B~~ sections 2411 and 2431; except that the suspension of a permit to carry concealed firearms issued pursuant to Title 25, chapter 252, or of the authority of a private investigator licensed to carry a concealed firearm pursuant to Title 32, chapter 89, is as provided in those chapters.

Sec. A-58. 17-A MRSA §1105, sub-§1, ~~¶E~~, as amended by PL 1989, c. 924, §10, is further amended to read:

E. A person violates section 1103, and, at the time of the offense, the person is on a school bus or on or within 1,000 feet of the real property comprising a private or public elementary or secondary school. For purposes of this paragraph, "school bus" has the same meaning as set forth in Title ~~29 29-A~~, section ~~2044 2301~~, subsection ~~2 5~~; or

Sec. A-59. 22 MRSA §567, sub-§1, as amended by PL 1993, c. 537, §2, is further amended to read:

1. **Acceptable data.** Except as provided in this subsection, 6 months after the adoption of rules specified in subsection 2, certification is required of any commercial, industrial, municipal, state or federal laboratory that analyzes water, soil, air, solid or hazardous waste, or radiological samples for the use of programs of the department or the Department of Environmental Protection, except as provided under chapter 411, the Maine Medical Laboratory Act; Title 26, chapter 7, subchapter III-A, Substance Abuse Testing; and Title ~~29 29-A~~, section ~~1312 2524~~,

~~subsection 6,~~ administration of tests to determine blood-alcohol level or drug concentration. A laboratory operated by a waste discharge facility licensed pursuant to Title 38, section 413 may analyze waste discharges for total suspended solids, settleable solids, biological or biochemical oxygen demand, chemical oxygen demand, pH, chlorine residual, fecal coliform, E. coli, conductivity, color, temperature and dissolved oxygen without being certified under this section.

Sec. A-60. 22 MRSA §2906, sub-§4, as enacted by PL 1991, c. 823, §2 and affected by §7, is amended to read:

4. Driver's license. A gift on an organ donor card pursuant to Title ~~29 29-A~~, section ~~540-C 1402~~ may be revoked by destroying, cancelling or mutilating the organ donor card and pouch.

Sec. A-61. 23 MRSA §306, as amended by PL 1971, c. 593, §22, is further amended to read:

§306. Application of provisions

This chapter ~~shall~~ does not apply to highways other than those in the state highway system as designated by the department nor to those in the compact or built-up areas of any city or town as defined in Title ~~29 29-A~~, section ~~4252 2074~~, subsection 2, except with the approval of the municipal officers of the city or town wherein such compact or built-up area is situated.

Sec. A-62. 23 MRSA §1653, first ¶, as amended by PL 1971, c. 593, §22, is further amended to read:

All revenue received by the State from the registration of motor vehicles and the licensing of operators thereof, from the tax imposed on internal combustion engine fuel, from fines, forfeitures and costs accruing to the State under Title ~~29 29-A~~, section ~~2302 2602~~, and from permits granted by the department to open highways ~~shall must~~ be segregated, allocated to and become part of the General Highway Fund created and existing by statute, and after payment and deduction from such fund of such sums as are necessary to meet all provisions of bond issues for state highway and bridge construction, the remainder of such fund ~~shall must~~ be apportioned and expended solely:

Sec. A-63. 23 MRSA §1973, sub-§3, as amended by PL 1993, c. 698, §1, is further amended to read:

3. Tolls. Tolls, or the fixing of tolls, is not rulemaking and is not subject to supervision or regulation by any state commission, board or agency. Subject to subsection 4, the authority may fix and revise from time to time tolls for the use of the

turnpike and the different parts or sections of the turnpike, and charge and collect the tolls, and contract with any person, partnership, association or corporation desiring the use of any part of the turnpike, including the right-of-way adjoining the paved portion. The tolls must be so fixed and adjusted as to provide a fund at least sufficient with other revenues of the turnpike, if any, to pay for each fiscal year:

A. The cost of maintaining, repairing and operating the turnpike, and providing and maintaining reasonable reserves for those costs;

B. The bonds and the interest on those bonds, and all sinking fund requirements, and other requirements provided by the resolution authorizing issuance of the bonds or by the trust indenture or loan or a security agreement as those bonds, interest, sinking fund requirements and other requirements become due;

C. Those sums for the purpose of maintaining, constructing or reconstructing access roads or portions of access roads that have been requested by the department and in the sole discretion of the authority are from time to time determined to warrant the expenditure of turnpike revenues; and

D. The cost of maintaining, constructing or reconstructing interchanges.

The authority may use any method for assessing and collecting tolls, including but not limited to toll tickets, barrier toll facilities, billing accounts, commuter passes and electronic recording or identification devices. The display of a recording or identification device issued or authorized by the authority for these purposes on or near the windshield of a motor vehicle is not a violation of a law or rule, including but not limited to Title ~~29 29-A~~, sections ~~4369, 4369-A 1916~~ and ~~4370 2082~~, unless the device is attached in a way that obstructs the driver's clear view of the highway or an intersecting highway.

Sec. A-64. 23 MRSA §1980, sub-§2-A, ¶¶B, E and G, as enacted by PL 1993, c. 698, §2, are amended to read:

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

(1) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging an account holder for the appropriate toll by transmission of information between a device on a motor vehicle and a toll collection facility.

(2) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by another means of payment approved by the authority at the time.

(3) "Photo-monitoring system" means a motor vehicle sensor installed to work in conjunction with a toll collection facility that automatically produces a photograph, microphotograph, videotape or other recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

(4) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate, except as provided in paragraph E, and a person deemed to be a registered owner under the provisions of paragraph E.

(5) "Toll" or "tolls" means tolls or charges prescribed by the authority for the use of the turnpike.

Definitions of terms included in Title ~~29~~ 29-A, section ~~4~~ 101 apply to terms used in this subsection that are not specifically defined in this subsection.

E. Defenses to liability under this subsection are as follows.

(1) If a person other than the registered owner of the motor vehicle is adjudicated criminally or civilly responsible for the failure to pay an authority toll, then the registered owner is not liable under this subsection.

(2) If the registered owner is the lessor of motor vehicles and at the time of the failure to pay an authority toll the motor vehicle was in the possession of a lessee and the lessor provides the authority with a copy of the lease agreement containing the information required by Title ~~29~~ 29-A, section ~~904~~ 254, then the lessee, and not the lessor, is liable under this subsection.

(3) If the motor vehicle is operated using a dealer or transporter registration plate and at the time of the failure to pay the motor vehicle was under the custody or control of a person other than the dealer or transporter, and if the dealer or transporter provides the authority with the name and address of the person who had custody or

control over the motor vehicle at the time of the failure to pay, then that person and not the dealer or transporter is liable under this subsection.

(4) If a report that the motor vehicle was stolen is given to a law enforcement officer or agency before the failure to pay occurs or within a reasonable time after the registered owner becomes aware of the theft, then the registered owner is not liable under this subsection.

G. If a registered owner does not satisfy a judgment under this subsection within 30 days after final adjudication of liability under paragraph C, in addition to any other method for enforcing the judgment, upon petition by the authority, the adjudicating court shall order the suspension of the registration for the vehicle involved in the failure to pay and forward the suspension to the Secretary of State. The Secretary of State shall proceed, in accordance with Title ~~29~~ 29-A, section ~~55-B~~ 154, subsection 6, to mail the required 10-day notice and suspend the registration certificate and plates issued for the vehicle in question. A notice under this paragraph is not effective with respect to a vehicle described in paragraph E, subparagraphs (1) to (4).

Sec. A-65. 23 MRSA §3022, 4th ¶, as repealed and replaced by PL 1979, c. 127, §153, is amended to read:

After a public easement has been laid out, it may be taken pursuant to section 3023. Notwithstanding any other provision of this chapter, public easements laid out under this section ~~shall be~~ are limited to rights of access by foot or motor vehicle as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection 42.

Sec. A-66. 23 MRSA §4206, sub-§9, as amended by PL 1987, c. 109, is further amended to read:

9. Experimental vehicle permits. The Commissioner of Transportation, with the advice of the Commissioner of Public Safety and the Director of Motor Vehicles, may establish a program providing for the issuance of temporary experimental vehicle permits on a discretionary basis, each for a period not exceeding 2 years, upon proper application in writing from a trucker representing a significant sector of the trucking industry. The permits are to provide for the operation and the evaluation of the operation of experimental vehicles ~~which that~~ have a length, width, height, weight and other conditions beyond that specified in Title ~~29~~ 29-A, over any nonlimited way or bridge. These permits ~~shall~~ must carry no fee. Registration ~~shall~~ must be assessed for the applicable road limit exclusive of general or special commodity permits,

despite expected operation beyond these limits, in an experimental mode. Multistate experiments are to be encouraged. Registration in another state in the context of a regional multistate experiment will be honored without the necessity of acquiring a Maine registration. These permits ~~shall only~~ may be granted only within the context of a structured joint industry-government evaluation program, including preparatory off-road performance tests, strictly controlled operational testing on the highway system and both in-process and final evaluation reports covering productivity, operating characteristics and safety. Additional reports may be required by the commissioner if ~~deemed~~ considered necessary during the experimental phase. The Commissioner of Transportation shall issue these permits on a limited basis and only if ~~he~~ the commissioner judges that a significant potential exists for increased productivity without undue compromise in safety by the eventual legal general operation of the experimental vehicle, without permit, on the highway system. No commitment to that eventual operation is implied by the issuance of the temporary experimental vehicle permit. The Commissioner of Transportation shall ratify, at ~~his~~ the commissioner's discretion, all conditions of the experimental programs proposed, including, but not limited to, preparatory off-road vehicle tests, time limits, vehicle dimensions, axle and gross weight limits, routing, insurance and reporting provisions. The commissioner may terminate any evaluation at any time if in ~~his~~ the commissioner's judgment the operation of the vehicle poses an undue threat to public safety or the integrity of the highway system or if the conditions of the permit are violated.

The commissioner shall submit a report biennially to the joint standing committee of the Legislature having jurisdiction over transportation before the first regular session of each Legislature. This report ~~shall~~ must discuss the progress of any experimental vehicle evaluations and contain recommendations, if any, for legislation leading to their eventual general use on the highway system.

Sec. A-67. 24-A MRSA §2303-A, as enacted by PL 1989, c. 366, §1, is amended to read:

§2303-A. Surcharge

No insurer may surcharge a motor vehicle insurance policy based on a motor vehicle operator's license suspension when that suspension is pursuant to Title ~~29~~ 29-A, section ~~2241-G~~ 2472, subsection ~~2~~ 3, paragraph B, ~~subparagraph (2)~~, except in accordance with this section. If the person had a blood-alcohol level of at least 0.05%, but less than 0.08% by weight, the surcharge ~~shall be~~ is limited to 20%. If the person had a blood-alcohol level of at least 0.02% but less than 0.05% by weight, the surcharge ~~shall be~~ is limited to 10%. If the policy covers multiple vehicles, the

surcharge may ~~only~~ be applied only to that portion of the rate attributable to a single vehicle.

Sec. A-68. 24-A MRSA §2902, sub-§2, as amended by PL 1975, c. 676, is further amended to read:

2. The amount of coverage to be so provided ~~shall~~ may not be less than the minimum limits for bodily injury liability insurance provided for under Title ~~29~~ 29-A, section ~~787~~ 1605, subsection 1.

Sec. A-69. 24-A MRSA §2902-B, as reallocated by PL 1985, c. 737, Pt. A, §60, is amended to read:

§2902-B. Motorcycle passenger exclusion

No insurer may sell or renew, on or after January 1, 1986, a liability insurance policy covering a motorcycle, as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~4~~ 38, that excludes coverage for injuries sustained by passengers on the insured's motorcycle unless the insurer notifies the bureau in writing of its utilization of the exclusion, the insurer notifies each of its licensed agents within the State of its utilization of the exclusion and the exclusion is provided by a separate endorsement to the insured's policy. An exclusion that does not meet the requirements of this section ~~shall be~~ is invalid and of no effect.

Sec. A-70. 24-A MRSA §2909, sub-§§2 and 3, as enacted by PL 1989, c. 261, §1, are amended to read:

2. The superintendent ~~shall~~ may not approve any policy required pursuant to Title ~~29~~ 29-A, section ~~832~~ 1612, unless coverage is provided for both the owner and operator of the motor vehicle.

3. The owner's policy must provide primary coverage up to the limits specified in Title ~~29~~ 29-A, section ~~832~~ 1612. Any other valid and collectible insurance policy available to an operator who is not the owner must provide excess coverage.

Sec. A-71. 24-A MRSA §2914, sub-§4, as amended by PL 1993, c. 93, §2, is further amended to read:

4. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has a driver's license suspended, other than a first or 2nd suspension under Title ~~29~~ 29-A, section ~~2241-G~~ 2471, subsection ~~1 and 2~~ or section 2472, subsection ~~2, paragraph A~~ or a suspension under Title 28-A, section 2052, or revoked during the policy term or, if the policy is a renewal, during its term or the 180 days immediately preceding its effective date.

Sec. A-72. 24-A MRSA §2938-A, first ¶, as enacted by PL 1989, c. 192, §4, is amended to read:

The insurer shall file with the superintendent its underwriting rules pertaining to eligibility for the mass marketing plan. No insurer may use underwriting standards for individual risk selection in a mass marketing plan ~~which that~~ are, on the whole, more restrictive than the standards used by that insurer for individual risk selection in the sale of the same kind of insurance in this State other than pursuant to mass marketing plans. If an insurer does not sell that kind of insurance in this State other than pursuant to mass marketing plans, its underwriting standards for individual risk selection in those plans ~~shall~~, on the whole, may be no more restrictive than the standards used by its principal affiliate, if any, for individual risk selection in the sale of that kind of insurance in this State other than pursuant to mass marketing plans. With respect to motor vehicle insurance, all policies issued under the mass marketing plans ~~shall must~~ provide at least the financial responsibility limits of coverage stated in Title ~~29 29-A~~, section ~~781 1605~~, subsection 1, ~~paragraph D~~.

Sec. A-73. 25 MRSA §1541, sub-§4-A, as enacted by PL 1987, c. 512, §1, is amended to read:

4-A. Responsibility. The commanding officer shall collect and maintain fingerprints and other criminal history record information pertinent to the identification of individuals who have been arrested as fugitives from justice or who have been arrested or charged with any criminal offense under the laws of this State, except a violation of Title 12 or ~~29 29-A~~. The commanding officer may collect and maintain fingerprints and other criminal history record information that may be related to other offenses or to the performance of ~~his~~ the commanding officer's obligations under state laws and under agreements with agencies of the United States or any other jurisdiction.

Sec. A-74. 25 MRSA §1542-A, sub-§1, ¶A, as enacted by PL 1987, c. 512, §3, is amended to read:

A. Charged with the commission of a criminal offense other than a crime found in Title 12 or ~~29 29-A~~;

Sec. A-75. 25 MRSA §1542-A, sub-§5, ¶B, as enacted by PL 1987, c. 512, §3, is amended to read:

B. Charged with the commission of a criminal offense found in Title 12 or ~~29 29-A~~;

Sec. A-76. 25 MRSA §1547, as repealed and replaced by PL 1987, c. 281, §3, is amended to read:

§1547. Courts to submit criminal records to the State Bureau of Identification

At the conclusion of any prosecution for any criminal offense, except a violation of Title 12 or Title ~~29 29-A~~, the clerk of the court shall transmit to the State Bureau of Identification an abstract duly certified on the form provided by the bureau.

Sec. A-77. 25 MRSA §2005-A, sub-§3, as enacted by PL 1989, c. 917, §16, is amended to read:

3. Suspension in effect during pendency. The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV, or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title ~~29 29-A~~, section ~~1312 2521, 2522 or 2523~~, that the law enforcement officer did not have probable cause to require the permit holder to submit to chemical testing.

Sec. A-78. 25 MRSA §3902, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §2, is amended to read:

1. Enforcement duties. A liquor enforcement officer appointed under section 3901 shall enforce the provisions of Title 17, chapter 69, Title 28-A and of Title ~~29 29-A~~, section ~~2182 2102~~.

Sec. A-79. 28-A MRSA §706, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Acceptable identification. A licensee may refuse to serve liquor to any person who fails to display upon request an identification card issued under Title 5, section 88-A, or a motor vehicle operator's license bearing the photograph of the operator and issued under Title ~~29 29-A~~, chapter ~~7 11~~.

Sec. A-80. 28-A MRSA §2053, sub-§1, as repealed and replaced by PL 1993, c. 93, §4, is amended to read:

1. Court shall suspend license. The court shall suspend the operator's license or right to operate, or right to obtain a license, of a minor found in violation of section 2052 as follows:

- A. Thirty days for the first offense;
- B. Ninety days for the 2nd offense; and
- C. One year for any subsequent offense.

The court shall immediately forward the license to the Secretary of State together with the record of adjudi-

cation on the form furnished for reporting convictions and adjudications for violations of Title 29 29-A.

Sec. A-81. 28-A MRSA §2053, sub-§3, as amended by PL 1993, c. 93, §6, is further amended to read:

3. Secretary of State shall suspend license. Immediately upon receipt of the record, the Secretary of State shall suspend the license, or right to operate, or right to obtain a license, of the minor for the required period, without further hearing. The Secretary of State shall also assign demerit points according to Title 29 29-A, section ~~2244~~ 2458, subsection ~~2~~ 3.

Sec. A-82. 28-A MRSA §2212, as amended by PL 1987, c. 644, §1, is further amended to read:

§2212. State liquor enforcement officers' vehicles

Notwithstanding the provisions of Title 29 29-A, section ~~1362~~ 1903, motor vehicles operated by state liquor enforcement officers may be equipped with sirens. As provided in Title 29 29-A, section ~~1367-B~~ 2054, those vehicles may be equipped with lights ~~which~~ that emit a blue beam of light. The equipment permitted by this section may be used only to discharge law enforcement responsibilities in connection with this Title and Title 29 29-A, sections ~~1312 and 1312-B~~ section 2411.

Sec. A-83. 29-A MRSA §109, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Formal agreements. The Secretary of State, after determining that like privileges are granted by a ~~state~~ jurisdiction of the United States or province, shall enter into a written agreement with that ~~state~~ jurisdiction of the United States or province setting forth the conditions under which residents of that jurisdiction engaged in interstate commerce operations in and through this State are exempt from the registration and licensing laws of this State.

Sec. A-84. 29-A MRSA §154, sub-§6 is enacted to read:

6. Recovery of turnpike tolls. Upon receipt of an order of suspension from the court in accordance with Title 23, section 1980, subsection 2-A, paragraph G, the Secretary of State shall promptly mail a notice to the person liable under that subsection for unpaid Maine Turnpike Authority tolls, warning the person that, if the amount due the Maine Turnpike Authority is not paid within 10 days from the date of mailing the notice, suspension of the registration certificate and plates issued for the vehicle in question will result. If the person fails to pay the required amount within 10 days after mailing of the notice, the Secretary of State

shall suspend, pursuant to chapter 23, the registration certificate and plates issued for the vehicle in question. This subsection takes effect July 1, 1995.

Sec. A-85. 29-A MRSA §252, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Reports furnished to commercial users; fee. The Secretary of State shall furnish reports of records pertaining to convictions, adjudications, accidents, suspensions, revocations and other information required by commercial users to individuals for a fee of \$4 each. Certified copies are an additional \$1. A person receiving a report by electronic transmittal must pay the fee associated with that transmittal.

Sec. A-86. 29-A MRSA §451, sub-§4, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. A new registration plate must have:

- (1) A white background;
- (2) Identification numbers, ~~and~~ letters ~~and the border~~ distinctly navy blue; and
- (3) An illustration of a lobster distinctly lobster red.

Sec. A-87. 29-A MRSA §455, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Issuance of environmental registration plates. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, the registration fee required by this Title and the contribution to the Maine Environmental Trust Fund provided for in subsection 4, shall issue a registration certificate and a set of environmental registration plates to be used in lieu of regular registration plates. The Secretary of State may issue environmental registration plates to a vehicle in any registration class if the designated registration plate for that class does not preclude its use in conjunction with the environmental registration plate design. The Secretary of State may issue environmental registration plates to certain state-owned vehicles in accordance with section 517.

Sec. A-88. 29-A MRSA §455, sub-§6 is enacted to read:

6. Proceeds from sale of products using the environmental plate design. All proceeds from the sale of products using the environmental registration plate design must be deposited with the Treasurer of State and credited to the Maine Environmental Trust Fund.

Sec. A-89. 29-A MRSA §501, sub-§10, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by amending the first paragraph to read:

10. Off-highway vehicles. The Secretary of State may issue, on application and the payment of a fee of \$25, a special registration permit authorizing the limited operation on a way of trucks ~~and~~ truck tractors and Class B special mobile equipment that are otherwise used exclusively for off-highway purposes. The following provisions apply to registration permits issued pursuant to this subsection.

Sec. A-90. 29-A MRSA §504, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Federal heavy vehicle use tax; proof of payment required. Except as provided by 26 Code of Federal Regulations, Section 41.6001-2(b)(3), a registration certificate may not be issued for a motor vehicle subject to the use tax imposed by the ~~United States~~ Internal Revenue Code of ~~1954~~ 1986, ~~26 United States Code~~, Section 4481, until the applicant has presented proof of payment as prescribed by the Secretary of the United States Treasury.

The Secretary of State shall keep records and may issue evidence to comply with 26 Code of Federal Regulations, Part 41, revised as of May 23, 1985, and the ~~United States~~ Internal Revenue Code of ~~1954~~ 1986, ~~26 United States Code~~, Sections 4481, 4482 and 4483.

Pursuant to rule, the Secretary of State may certify that a vehicle qualifies for exemptions under 26 Code of Federal Regulations, Section 41.4483-3(g) or Section 41.4483-6(b), revised as of May 23, 1985.

Sec. A-91. 29-A MRSA §517, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Plates. The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Department of Inland Fisheries and Wildlife or the Department of Conservation with authorization from the department's commissioner. A state-owned vehicle issued environmental registration plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 455, subsection 4.

Sec. A-92. 29-A MRSA §522, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by repealing and replacing the headnote to read:

§522. Deaf and hard-of-hearing persons

Sec. A-93. 29-A MRSA §522, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Issuance of placard. The Secretary of State may issue a placard for ~~hearing impaired people~~ deaf and hard-of-hearing persons to a person who is ~~hearing-impaired deaf or hard-of-hearing~~ on receipt of a form from the Division of Deafness, ~~Bureau~~ Office of Rehabilitation Services, certified by a physician or an audiologist stating that the applicant is ~~hearing-impaired deaf or hard-of-hearing~~ and can not hear or understand normal speech.

Sec. A-94. 29-A MRSA §553, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Identification device required. Unless the primary purpose is to transport intrastate passengers in the motor vehicle for hire, a motor vehicle in intrastate-exempt commerce or commerce exempted by the Interstate Commerce Commission for which a license is required under this subchapter must display an identification device. Motor vehicles transporting passengers or property under authority issued by the Interstate Commerce Commission, as defined in 49 United States Code, must display identification prescribed and furnished by the Secretary of State in accordance with rules adopted by the Secretary of State. Motor vehicles in intrastate-exempt commerce or commerce exempted by the Interstate Commerce Commission must display identification as prescribed by the Secretary of State in accordance with the rules adopted by the Secretary of State.

Sec. A-95. 29-A MRSA §559, sub-§§1 and 2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Appointment of agent. A holder of a license issued under this subchapter shall file with the Secretary of State or the base state, in writing, an appointment of a resident of this State to be its representative on whom all lawful processes may be served, and who may be required to appear in court on behalf of the carrier as if the carrier were in court.

2. Assent. The written assent of the resident representative must be filed with the Secretary of State or the base state and is valid until revoked.

Sec. A-96. 29-A MRSA §668, sub-§5 is enacted to read:

5. Hearing, judicial review. A person aggrieved by an act or omission to act of the Secretary of State under this chapter is entitled, upon request, to a hearing before the Secretary of State or the secretary's deputies in accordance with sections 2483 and 2484. After a hearing, a person aggrieved by the final action taken by the Secretary of State is entitled to judicial review of that action, as provided in section 2485, subsection 5.

Sec. A-97. 29-A MRSA §903, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Procedures for hearing; appeals. The procedures of chapter 23, subchapter III, article 3 apply to a suspension.

Sec. A-98. 29-A MRSA §1108, sub-§1-A is enacted to read:

1-A. Appeal from action of the Secretary of State. Any person aggrieved by the act of the Secretary of State to refuse to grant or renew a license under this subchapter or to suspend or revoke a license or by any other act of the Secretary of State that the person alleges to be improper, unreasonable or unlawful under this subchapter may, within 30 days' notice of the decision, appeal to the Superior Court for a judicial review, as provided in Title 5, chapter 375, subchapter VII.

Sec. A-99. 29-A MRSA §1251, sub-§6, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A nonresident who is 16 years of age or older and who has in that person's possession a valid license or instruction permit issued by that person's state or ~~country of domicile~~ province. A nonresident operator shall adhere to all restrictions applied to the license or instruction permit issued by that person's state or province. A nonresident who is not yet 16 years of age may not operate a motor vehicle;

Sec. A-100. 29-A MRSA §1304, sub-§2, ¶E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

E. Failure to complete the driving test within ~~one year~~ 2 years from issue date requires reexamination for the instruction permit. In the case of a motorcycle or motor-driven cycle learner's permit, failure to complete the driving test within one year from issue date of the permit requires another completion of the motorcycle driver education course required by section 1352 before a subsequent permit is issued.

Sec. A-101. 29-A MRSA §1762, sub-§7 is enacted to read:

7. Hearing; appeals. If a person is aggrieved by the decision of the Chief of the State Police in refusing approval, that person may, within 30 days of notification of refusal to license, request a hearing before the Chief of the State Police. After the hearing, if an applicant is aggrieved by the final action of the chief, the applicant may appeal the decision in accordance with Title 5, Part 18.

Sec. A-102. 29-A MRSA §1851, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by adding at the end a new paragraph to read:

A vehicle abandoned on an island without road access to the mainland is subject to the provisions of section 1860.

Sec. A-103. 29-A MRSA §1858, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1858. Abandonment of vehicle on public way

Abandonment of a vehicle on a public way is a traffic infraction. A person who is found to have abandoned a vehicle under this ~~subsection~~ section is responsible for any towing charges that are directly related to the abandonment of the vehicle.

Sec. A-104. 29-A MRSA §1859, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1859. Removal of vehicle

Removal of a vehicle described in section 1851 or of any part or accessory from the vehicle without the written consent of the person in charge or the owner of the premises or property where the vehicle is located is a Class E crime. This ~~subsection~~ section applies to all persons, including the owner of the vehicle.

Sec. A-105. 29-A MRSA §1860 is enacted to read:

§1860. Abandonment on an island

A person may not abandon a motor vehicle on any property on an island without consent of the owner of the property. The State, municipality or other political subdivision having jurisdiction over the island may order the owner of a vehicle illegally abandoned on an island to remove it at the vehicle owner's expense. If the owner of the vehicle refuses to remove the motor vehicle, or if the owner is unknown, the State or political subdivision may cause the vehicle to be removed from the island and may

require reimbursement from the owner for the removal and the administrative and legal costs. Neither the State nor any political subdivision of the State is liable for any damage to the motor vehicle that may be caused by the removal. Failure to remove an illegally abandoned vehicle on an island within 30 days after written warning, or within 30 days of ice-out if ice prevents the island from being reasonably accessible, is a Class E crime.

Sec. A-106. 29-A MRSA §2074, sub-§4 is enacted to read:

4. Exception. This section does not apply to the operation of a vehicle:

A. In racing events and exhibitions at which the public does not have access to the operating area; or

B. On private land to which the public does not have access when used by or with authorization of the landowner.

Sec. A-107. 29-A MRSA §2081, sub-§4, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A person against whom enforcement action has been taken ~~is not guilty of~~ may not be adjudicated to have committed a subsequent violation of subsection 2 until 24 hours have elapsed from the date and time of the first violation indicated on the Violation Summons and Complaint.

Sec. A-108. 29-A MRSA §2082, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Placement of stickers on illegally parked vehicles. A person may not place a sticker or other device on the windshield of a motor vehicle parked in a manner that allegedly constitutes trespass by motor vehicle, as defined in Title 17-A, section 404, if the sticker or other device would obstruct the driver's forward view. A person who places a sticker in violation of this ~~paragraph~~ subsection commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged. This ~~paragraph~~ subsection does not apply to law enforcement officers engaged in the performance of official duties.

Sec. A-109. 29-A MRSA §2104, sub-§3 is enacted to read:

3. Manufacturing or reproduction of plates. A person commits a Class D crime if that person manufactures or reproduces registration plates without the consent of the Secretary of State.

Sec. A-110. 29-A MRSA §2308, sub-§5, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. The following are defenses to a violation of this subsection.

(1) If a person other than the owner is convicted of operating the vehicle at the time of the violation in violation of subsection 2, then the registered owner may not be found in violation of this subsection.

(2) If the registered owner is a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides the investigating officer with a copy of the lease agreement containing the information required by section ~~2308, subsection 5~~ 254, then the lessee and not the lessor may be charged under this subsection.

(3) If the vehicle is operated using a dealer or transporter registration plate and at the time of the violation the vehicle was operated by any person other than the dealer or transporter, and if the dealer or transporter provides the investigating officer with the name and address of the person who had control over the vehicle at the time of the violation, then that person and not the dealer or transporter may be charged under this subsection.

(4) If a report that the vehicle was stolen is given to a law enforcement officer or agency before the violation occurs or within a reasonable time after the violation occurs, then the registered owner may not be charged under this subsection.

Sec. A-111. 29-A MRSA §2361, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Penalty. Notwithstanding section 101, subsection 85, a fine equal to the applicable gross weight fine, increased by 50% for the first offense, and by 100% for the 2nd or subsequent offense during a 12-month period, is imposed. In the event that a larger fine would be due for an axle violation under section ~~2361~~ 2360, that larger fine must be imposed.

Sec. A-112. 29-A MRSA §2388, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Appeals. An appeal in writing may be taken to the Department of Transportation from an order or

decision of a municipal official under sections 2380 to 2382, 2387 and 2395.

The Department of Transportation may hear and decide the matter in a summary manner, modifying, affirming or vacating the action and may issue any order necessary to carry out its decision.

An appeal does not suspend the order or decision of the municipal official unless ordered by the Department of Transportation.

An appeal may be taken to the Public Utilities Commission from an action by a railroad corporation under section ~~2388~~ 2387 in respect to a highway bridge maintained by the corporation. The commission, after notice and hearing, may confirm or modify that action.

Sec. A-113. 29-A MRSA §2401, sub-§9, ¶¶D and E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

D. In a jurisdiction that is a party to the Driver License Compact established in chapter 11, subchapter V, an offense described in the compact, section 1454, subsection 1, paragraph B, or an offense that is similar as provided by section 1454, subsection 3; ~~or~~

E. In a tribal court of the Penobscot Nation or the Passamaquoddy Tribe, a court of the United States or a court of a state that is not a party to the compact, an offense for which punishment includes the possibility of incarceration, whether or not actually imposed, and the elements of the offense as provided in the law of that jurisdiction include operation of a motor vehicle while intoxicated, impaired or under the influence of alcohol, intoxicating liquor, or drugs or with a level of blood-alcohol sufficient for conviction under the laws of that jurisdiction; ~~or~~

Sec. A-114. 29-A MRSA §2401, sub-§9, ¶F is enacted to read:

F. An adjudication or other determination made under the juvenile laws of this State or of another jurisdiction for conduct that, if committed by an adult, would have been a conviction included in this subsection, including the conduct under Title 15, section 3103, subsection 1, paragraph F.

Sec. A-115. 29-A MRSA §2411, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Aggravated punishment category. If the State pleads and proves that the operator, while operating a motor vehicle in violation of this section, ~~the operator~~ in fact caused serious bodily injury as

defined in Title 17-A, section 2, subsection 23 to another person or in fact caused the death of another person, the offense is a Class C crime. The minimum penalties specified in subsection 5 apply, but the minimum period of suspension must be 18 months unless a longer minimum period applies.

Sec. A-116. 29-A MRSA §2412, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Procedures. The requirements under Title 15, section 757 of a separate reading of the allegation and a separate trial do not apply to a proceeding under this subsection.

Sec. A-117. 29-A MRSA §2431, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Statements by accused. A statement by a person as to name or date of birth, or the name or date of birth contained on a driver's license surrendered by that person, is admissible in a proceeding under this Title.

A statement of the person's name or date of birth constitutes sufficient proof by itself, without further proof of corpus delicti.

A statement by a defendant that the defendant was the operator of a motor vehicle is admissible in a proceeding under ~~section~~ sections 2411, 2412 and 2557, if it is made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the motor vehicle was operated by the defendant.

Sec. A-118. 29-A MRSA §2458, sub-§2, ¶¶M and N, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

M. Has violated a provision of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, or rules and regulations promulgated and adopted under that Act; ~~or~~

N. Has failed to surrender to the Secretary of State a commercial driver's license that has been suspended or revoked; ~~or~~

Sec. A-119. 29-A MRSA §2460, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Nonresident violator compacts. The Secretary of State may enter into and carry out the provisions of a nonresident violator compact with ~~another state~~ any jurisdiction of the United States or province.

Sec. A-120. 29-A MRSA §2485, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by repealing and replacing the headnote to read:

§2485. Decision; appeal

Sec. A-121. 29-A MRSA §2485, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Decision. After hearing, the Secretary of State may rescind, continue, modify or extend the suspension of a ~~driver's~~ license.

Sec. A-122. 29-A MRSA §2485, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Appeal; judicial review. The person whose license is suspended or other party may, within 30 days after receipt of the decision, appeal to the Superior Court as provided in Title 5, sections 11001 to 11008. If the court rescinds the suspension, it shall also order the Secretary of State to delete any record of the suspension.

Sec. A-123. 29-A MRSA §2502, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Issuance of special license. Following the expiration of the total period of suspension imposed on a first-time offender pursuant to Title 15, section 3314 or sections 2411, 2453, 2472 and 2521, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program as set out in Title 5, section 20073-A. First offenders with an aggravated offense as defined in Title 5, section 20071, subsection 4-B are entitled to ~~received~~ receive a special license after completion of the evaluation provided by the Office of Substance Abuse. First offenders who have registered for the completion of treatment programs as described in Title 5, section 20072, subsection 2 are entitled to receive a special license after completion of a minimum of 3 treatment sessions provided by a counselor or agency approved by the Office of Substance Abuse. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

Sec. A-124. 29-A MRSA §2552, first ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

Notwithstanding Title 4, section ~~4457~~ 1151, subsection 2, and Title 5, sections 10003 and 10051, the Secretary of State shall immediately revoke,

without preliminary hearing, the license to operate a motor vehicle of an habitual offender.

Sec. A-125. 29-A MRSA §2553, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Other procedures. Except as specifically provided in this section, the hearing procedures set forth in subchapter III, article 3 apply to hearings under this section.

Sec. A-126. 30-A MRSA §354, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Uniforms provided. Every county shall furnish one uniform to the sheriff and to each full-time deputy, sufficient to identify them as officers of the law. If the county commissioners approve, the county may provide more than one uniform for each. The sheriffs shall require each deputy, while engaged in the enforcement of Title ~~29~~ 29-A, section ~~2504~~ 105 or 1760, to wear a uniform as required by this section.

Sec. A-127. 30-A MRSA §3009, sub-§1, ¶C, as amended by PL 1991, c. 549, §16 and affected by §17, is further amended by amending subparagraph (4) to read:

(4) Any motor vehicle or motorcycle registered by a handicapped person is exempt from any parking meter fare when that vehicle properly displays special designating plates or a placard issued under Title ~~29~~ 29-A, ~~sections 252, 252-A and 252-C~~ section 521 or 523, and may park a length of time that does not exceed twice the time limit otherwise applicable.

Sec. A-128. 30-A MRSA §3009, sub-§1, ¶D, as amended by PL 1989, c. 394, §2, is further amended by amending subparagraph (3) to read:

(3) Any vehicle or motorcycle parked in a parking space clearly marked as a handicapped parking space and ~~which that~~ does not bear a special registration plate or placard issued under Title ~~29~~ 29-A, section ~~252, 252-A 521 or 252-C 523~~, or a similar plate issued by another state, ~~shall must~~ be cited for a forfeiture of not less than \$50. "Clearly marked" includes painted signs on pavement and vertical standing signs ~~which that~~ are visible in existing weather conditions.

Sec. A-129. 30-A MRSA §3009, sub-§1, ¶E, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

E. The municipal officers may provide for the regulation of motor vehicles as defined in Title ~~29 29-A~~, section ~~4 101~~, subsection ~~7 42~~ on icebound inland lakes during the hours from sunset to sunrise of the following day. The Maine Land Use Regulation Commission shall regulate motor vehicles on icebound inland lakes ~~which that~~ are completely encompassed by unorganized territories. Motor vehicles on icebound inland lakes ~~which that~~ are abutted by an unorganized territory and either one or more municipalities, village corporations or plantations, in any combination, ~~shall be~~ are regulated by those municipalities, village corporations or plantations, as provided in subparagraphs (1) and (2).

No ordinance authorized by this paragraph is valid unless:

(1) Each municipality abutting a lake has enacted an identical local ordinance, in which case the ordinance of any municipality is in effect on the entire lake and any law enforcement officer from any of those municipalities may enforce the ordinance on any portion of the lake; or

(2) In cases where a lake is divided by an easily identifiable boundary into 2 or more nearly separate bodies, each municipality abutting one of the distinguishable portions of the lake has enacted an identical local ordinance. The ordinance of any municipality is in effect only on that distinguishable portion of the lake and any law enforcement officer from any of those municipalities may enforce the ordinance anywhere on that portion of the lake.

Sec. A-130. 30-A MRSA §3752, sub-§1, as amended by PL 1991, c. 745, §1, is further amended to read:

1. Automobile graveyard. "Automobile graveyard" means a yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title ~~29 29-A~~, section ~~4 101~~, subsection ~~7 42~~, or parts of such vehicles.

A. "Automobile graveyard" does not include any area used for temporary storage by an establishment or place of business ~~which that~~ is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

B. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

Sec. A-131. 32 MRSA §1092-A, sub-§4, ¶D, as amended by PL 1993, c. 600, Pt. A, §75, is further amended to read:

D. There is not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law and nothing in this section may modify or affect the provisions of Title 22, sections 4011 to 4015 and Title ~~29 29-A~~, section ~~4342-E 2405~~.

Sec. A-132. 32 MRSA §8113-A, sub-§3, as enacted by PL 1989, c. 917, §17, is amended to read:

3. Suspension in effect during pendency. The suspension remains in effect until the entry of judgment if charges are filed of violating Title 17-A, section 1057 or of operating a motor vehicle, snowmobile, ATV or watercraft under the influence of intoxicating liquor or drugs, unless it is determined by the court in which the criminal charge or civil violation is pending, or by the Secretary of State if a hearing is held pursuant to Title ~~29 29-A~~, section ~~4342 2483~~, that the law enforcement officer did not have probable cause to require the licensee to submit to chemical testing.

Sec. A-133. 32 MRSA §9601, sub-§1, ¶C, as enacted by PL 1981, c. 456, Pt. A, §113, is amended to read:

C. A truck training supplement license ~~shall~~ may be granted only to a Class A school ~~which that~~ is authorized to provide driver education for Class ~~4 A~~ or ~~2 B~~ vehicles, as defined in Title ~~29 29-A~~, section ~~530 1252~~.

Sec. A-134. 32 MRSA §9601, sub-§2, as enacted by PL 1981, c. 456, Pt. A, §113, is amended to read:

2. Instructors' licenses. The following types of instructors' licenses may be issued by the board.

A. A Class A instructor's license entitles the holder to teach both the classroom and behind the wheel or road phases of driver education for Class ~~3 C~~ vehicles, as defined in Title ~~29 29-A~~, section ~~530 1252~~.

B. A Class B instructor's license entitles the holder to teach only the behind the wheel or road phases of driver education for Class ~~3 C~~ vehicles, as defined in Title ~~29 29-A~~, section ~~530 1252~~.

C. A truck training supplemental instructor's license entitles the holder to teach both the classroom and behind the wheel or road phases of driver education for Class ~~4 A~~ or ~~2 B~~ vehicles, as defined in Title ~~29 29-A~~, section ~~530 1252~~.

Sec. A-135. 32 MRSA §9602, sub-§3, as amended by PL 1985, c. 687, is further amended to read:

3. Training vehicles. Every vehicle used as a training vehicle ~~shall~~ must be maintained in safe mechanical condition at all times. Each Class ~~3 C~~ vehicle, as defined in Title ~~29 29-A~~, section ~~530 1252~~, ~~shall~~ must be equipped with dual foot brakes and, if the vehicle is not equipped with an automatic transmission, dual clutch pedals. While engaged in actual instruction, every vehicle must be equipped with an identification sign, listing the name of the school, and a student driver sign.

The following vehicles are exempt from this subsection, provided that they are equipped with dual controls as stated in this section and comply with any other requirements of this chapter:

A. Any vehicle, specially equipped for use by a handicapped person, ~~which~~ that is being used to instruct a handicapped person; and

B. Any vehicle ~~which~~ that is being used to instruct a person in possession of a valid Maine driver's license or instruction permit not provided by the driving school.

Sec. A-136. 34-B MRSA §1411, sub-§4, as repealed and replaced by PL 1991, c. 313, is amended to read:

4. Prohibited acts; forfeitures. A person who violates any rule adopted under this section commits a civil violation for which a forfeiture may be adjudged in an amount consistent with the amount charged for a similar violation by the municipality in which the institution is located, but not to exceed the maximum amount provided for a traffic infraction under Title ~~29 29-A~~, section ~~2303, subsection 1 2604~~. Notwithstanding any other law, the fines and costs of court paid under this section inure to the municipality in which the proceedings take place.

Sec. A-137. 36 MRSA §172, sub-§2, as enacted by PL 1981, c. 364, §11, is amended to read:

2. Motor vehicle dealer. If the taxpayer is a licensed motor vehicle dealer, to the Secretary of State, who shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's motor vehicle dealer license in accordance with Title ~~29 29-A~~, section ~~350-A 903~~.

Sec. A-138. 36 MRSA §1483, sub-§§10 and 12 are amended to read:

10. Certain nonresidents. Motor vehicles permitted to operate without Maine registration under Title ~~29 29-A~~, section ~~2243 109~~;

12. Certain veterans. Automobiles owned by veterans who are granted free registration of such vehicles by the Secretary of State under Title ~~29 29-A~~, section ~~251 523~~, subsection 1;

Sec. A-139. 36 MRSA §1486, first ¶ is amended to read:

No vehicle ~~shall~~ may be registered under Title ~~29 29-A~~ or Title 6 until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 1482 and 1484.

Sec. A-140. 36 MRSA §1752, sub-§7-A, as enacted by PL 1975, c. 702, §5, is amended to read:

7-A. Vehicle. "Vehicle" ~~shall have~~ has the same meaning ~~which is~~ ascribed to that term by Title ~~29 29-A~~, section ~~4 101~~, subsection 91.

Sec. A-141. 36 MRSA §1760, sub-§22 is amended to read:

22. Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title ~~29 29-A~~, section ~~251 523~~, subsection 1. Certificates of exemption or refunds of taxes paid ~~shall~~ must be granted under such rules or regulations as the State Tax Assessor may prescribe.

Sec. A-142. 36 MRSA §1760, sub-§45, ¶A, as repealed and replaced by PL 1987, c. 772, §22, is amended to read:

A. If the property is an automobile, as defined in Title ~~29 29-A~~, section ~~4 101~~, subsection 7, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

Sec. A-143. 36 MRSA §1952-A, as corrected by RR 1991, c. 1, §51, is amended to read:

§1952-A. Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft must, except where the dealer thereof has collected such tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of such vehicle or watercraft. In the case of vehicles except snowmobiles and all-terrain vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title ~~29 29-A~~, ~~chapter 5, subchapter 1-A~~ section ~~409~~. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as

provided by Title 12, sections 7793-A to 7793-E, 7824-A to 7824-E or 7854-A to 7854-E.

Sec. A-144. 36 MRSA §1955-A, as repealed and replaced by PL 1989, c. 878, Pt. A, §107, is amended to read:

§1955-A. Failure to pay tax on vehicles

If, after notice of assessment and demand for payment, any amount required to be paid for any vehicle is not paid as demanded within the 10-day period prescribed in section 171, the State Tax Assessor, in addition to enforcing collection by any method authorized by Part 1 or this Part, may immediately notify the Secretary of State who shall proceed in accordance with Title ~~29~~ 29-A, section ~~55-B~~ 154, subsection 5 to mail the required ~~5-day~~ 10-day notice and suspend any registration certificate and plates issued for the vehicle for which the tax remains unpaid at the expiration of the ~~5-day~~ 10-day period.

Sec. A-145. 36 MRSA §1955-B, as amended by PL 1989, c. 508, §14, is further amended to read:

§1955-B. Payment of tax on vehicles resulting in protest

Whenever the payment of the tax due for a vehicle results in a protest or is returned by the bank upon which it was drawn because of "Insufficient Funds," "Account Closed," "No Account" or a similar reason, the State Tax Assessor shall promptly mail a notice of dishonor, as defined in Title 11, section 3-508, to the person liable for the payment of the tax and warn that person that if payment is not made as demanded within 10 days after the mailing of the notice, suspension of the registration certificate and plates issued for the vehicle may result in accordance with Title ~~29~~ 29-A, section ~~55-B~~ 154, subsection 5. If that person fails to pay the amount due within 10 days after the mailing of the notice, the State Tax Assessor, in addition to enforcing collection by any method authorized by Part 1 or this Part, may immediately notify the Secretary of State who, in accordance with Title ~~29~~ 29-A, section ~~55-B~~ 154, subsection 5, shall proceed to mail the required ~~5-day~~ 10-day notice and suspend any registration certificate and plates issued for the vehicle for which the tax remains unpaid at the expiration of the ~~5-day~~ 10-day period.

Sec. A-146. 36 MRSA §1955-C, as corrected by RR 1991, c. 1, §52, is amended to read:

§1955-C. Assessment for vehicles

Certificates forwarded to the State Tax Assessor under Title ~~29~~ 29-A, section ~~204~~ 409, subsection 4 or Title 12, section 7793-C, 7824-C or 7854-C, must be

treated as returns filed under this Title for purposes of section 141.

Sec. A-147. 36 MRSA §3206, first ¶, as enacted by PL 1983, c. 94, Pt. D, §6, is amended to read:

It ~~shall be~~ is unlawful for any user to use or consume any special fuel within this State, unless that user is the holder of an uncanceled license issued by the State Tax Assessor. To produce that license, every user shall file with the State Tax Assessor an application in such form as the State Tax Assessor may prescribe, setting forth the name and address of the user. Any unlicensed user who purchases a fuel use identification decal, as required by Title ~~29~~ 29-A, section ~~246-A~~ 525, will must be registered by the State Tax Assessor and subject to this chapter and chapter 461.

Sec. A-148. 36 MRSA §3216, 3rd ¶, as enacted by PL 1989, c. 878, Pt. B, §33, is amended to read:

The Secretary of State shall suspend vehicle registrations in the name of that carrier, if any, and the right to operate as provided in Title ~~29~~ 29-A, section ~~224~~ 2458, and the Secretary of State shall refuse to issue or reissue authority required by Title ~~29~~ 29-A, chapter ~~25~~ 5, subchapter II.

Sec. A-149. 38 MRSA §423-C, sub-§4, ¶B, as enacted by PL 1991, c. 867, §1, is amended to read:

B. If the registered owner is a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee and the lessor provides the investigating officer with a copy of the lease agreement containing the information required by Title ~~29~~ 29-A, section ~~901~~ 254, the lessee and not the lessor may be charged under this section.

Sec. A-150. 38 MRSA §1606, sub-§1, ¶A, as enacted by PL 1989, c. 622, is amended to read:

A. "Motor vehicle" has the same meaning as defined in Title ~~29~~ 29-A, section ~~1~~ 101, subsection 7 42.

Sec. A-151. 38 MRSA §2401, sub-§6, as enacted by PL 1991, c. 818, §2, is amended to read:

6. Motor vehicle. "Motor vehicle" has the same meaning as provided under Title ~~29~~ 29-A, section ~~1~~ 101, subsection 7 42.

Sec. A-152. 38 MRSA §2402, sub-§4, ¶¶C and E, as enacted by PL 1991, c. 818, §2, are amended to read:

C. A motor vehicle exempt from safety inspection or requiring only a partial safety inspection under Title ~~29~~ 29-A, section ~~2506~~ 1752;

E. A motor vehicle registered as a street rod as defined in Title ~~29~~ 29-A, section ~~4~~ 101, subsection ~~45-C-4~~ 76;

Sec. A-153. Retroactivity. This Act applies retroactively to January 1, 1995.

PART B

Sec. B-1. 29-A MRSA §155, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. B-2. 29-A MRSA §158 is enacted to read:

§158. Asset forfeiture

Funds or assets forfeited pursuant to Title 15, chapter 517 may be awarded to the bureau. Funds or assets received in accordance with this section must be used for law enforcement training or for law enforcement equipment.

Sec. B-3. 29-A MRSA §507, 2nd and 3rd ¶¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

Temporary registered gross weight increases must be issued for at least 2 months and may not exceed 8 months, except that temporary registered gross weight increases may be issued for one month for registered farm vehicles. A temporary registered gross weight increase may not extend beyond the expiration of the regular registration.

The fee for a temporary registered gross weight increase is the difference between the annual fee for the original registration and the annual fee for the desired temporary registered gross weight multiplied by the percentage in the following table:

<u>One month (registered farm vehicle)</u>	20%
2 months	30%
3 months	40%
4 months	50%
5 months	60%
6 months	70%
7 months	75%
8 months	80%

Sec. B-4. 29-A MRSA §511, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Registration fees; trailers and semitrailers.

The following annual registration fee applies to trailers, semitrailers and camp trailers.

A. The fee is \$8.50 for a:

(1) Trailer, ~~camp trailer~~ or semitrailer not exceeding 2,000 pounds gross vehicle weight; or

(2) ~~Boat trailer not exceeding 4,000 pounds gross vehicle weight;~~

(3) Mobile home; ~~or~~

(4) ~~Farm trailer, whether semitrailer or 4 wheeled type, equipped with pneumatic tires, used for the sole purpose of transporting a load;~~

(a) ~~Of the owner's farm products, crops, fertilizers or farm tools and utensils;~~

(b) ~~Of no more than 4 tons; and~~

(c) ~~For no more than 20 miles one way.~~

B. The fee is \$16 for a camp trailer exceeding 2,000 pounds.

C. The fee is \$16 for a semitrailer exceeding 2,000 pounds.

D. Except as provided in paragraph A, a trailer exceeding 2,000 pounds must be registered on the basis of gross weight in accordance with the schedule under section 504.

Fees paid under this section and section 512 are administrative fees and nonapportionable. The Secretary of State may collect apportionable fees for trailers and semitrailers pursuant to the International Registration Plan.

Except for camp trailers, ~~trailer and semitrailer~~ registrations under this section may be issued for 2 years for a fee twice that of the annual registration fee.

Sec. B-5. 29-A MRSA §511, sub-§3 is enacted to read:

3. Converted semitrailers. A semitrailer that is temporarily converted to a full trailer by use of a converter dolly may be registered as a semitrailer.

Sec. B-6. 29-A MRSA §552, sub-§§1 and 2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. License required. A person transporting freight, merchandise, household goods or passengers

by motor vehicle for hire, or advertising the transportation of passengers by limousine, on public ways between points within this State, or points within and without the State, must obtain an operating authority license. A person licensed only to transport intrastate passengers for hire is not required to obtain a separate license as a freight and merchandise carrier.

2. Fee. The initial application fee for an ~~operating authority~~ intrastate-exempt license or a license exempted by the Interstate Commerce Commission is \$25. For a passenger carrier, the annual renewal fee is \$15.

Sec. B-7. 29-A MRSA §554, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§554. Lapse of license

If the holder of the intrastate-exempt license or the license exempted by the Interstate Commerce Commission fails to obtain an identification device within one year of obtaining a license or fails to renew an identification device for one year, the license lapses.

Sec. B-8. 29-A MRSA §556, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by amending the last blocked paragraph to read:

"For-profit car pooling and van pooling" means the business of organizing and operating a car pooling or van pooling system. In this context, "car pools and van pools" means any vehicle used in a continuing form of prearranged commuter transportation by a relatively fixed group of 15 persons or fewer for travel between their places of residence and their places of employment. The operation of for-profit car pools and van pools must be incidental to the livelihood or employment of the owner or operators. The business of organizing and operating a car pooling or van pooling system, including the selection and approval of cars, vans and drivers, the fixing and collection of fees, the establishment of routes and the provision of backup transportation, is exempt from rules under this chapter, except for sections 555, 558 and 560; ~~provided that the owner's name, the list of equipment and proof of adequate insurance coverage, as determined by the Secretary of State, is filed with the Secretary of State prior to commencing operation.~~

Sec. B-9. 29-A MRSA §603, sub-§3-A is enacted to read:

3-A. Immediate issuance of document. An applicant requesting the immediate issuance of a document described in subsection 1 or 2 must pay an additional fee of \$10 and state the reason for the request. The Secretary of State shall determine if an

immediate issuance is warranted and process the request accordingly.

Sec. B-10. 29-A MRSA §662, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Transfer of interest by owner. If an owner transfers an interest in a vehicle, other than by the creation of a security interest, the owner shall execute, at the time of delivery of the vehicle, an assignment and warranty of title to the transferee in the space provided on the certificate or as the Secretary of State prescribes. The warranty must include the odometer information required by section 752.

The owner shall deliver the certificate and assignment to the transferee or to the Secretary of State.

Except as provided in section 664, an owner must provide the transferee with a properly released certificate of lien if one was issued to a lienholder.

A transferee other than a dealer licensed under chapter 9 shall obtain a title in the transferee's name before transferring the vehicle to another person.

The Secretary of State may accept an application in lieu of a title when the application is accompanied by a prior title.

Sec. B-11. 29-A MRSA §1252, sub-§1, ~~¶C~~, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. A Class C license may be issued for the operation of a single vehicle ~~with a gross vehicle weight rating or registered weight of less than 26,001 pounds or such a vehicle towing a vehicle with a gross vehicle weight rating or gross weight not in excess of 10,000 pounds or a combination of vehicles that does not meet the definition of Class A or Class B license.~~

A holder of a Class C license may, with an appropriate endorsement, operate all vehicles in that class.

A Class C license authorizes:

- (1) A full-time or volunteer member of an organized municipal, state or federal fire department to operate fire apparatus;
- (2) A person to operate recreational vehicles for personal use;
- (3) A person to operate military vehicles including National Guard vehicles; or
- (4) A person to operate registered farm motor trucks bearing the letter "F;" on the

registration plate within 150 miles of the registered owner's farm.

Sec. B-12. 29-A MRSA §1304, sub-§2, ¶F, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. B-13. 29-A MRSA §1304, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Expiration. ~~Unless continuation is authorized by the Secretary of State, an instruction permit expires when the holder successfully passes a complete driving examination. The An expired permit must immediately be surrendered to the Secretary of State.~~

Sec. B-14. 29-A MRSA §1352, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Motorcycle driver education required. Notwithstanding any other provision of law, a motorcycle or motor-driven cycle instruction permit, license or endorsement may not be issued to a person, unless that person presents a certificate of successful completion of a motorcycle driver education program and examination approved by the Secretary of State, except as provided in this subsection. If a person is hearing-impaired and a course is not readily available to that person, the Secretary of State may arrange for that person to complete a motorcycle driver education program using an electronic communications system. The program must meet the requirements of this section.

Sec. B-15. 29-A MRSA §1401, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Fee. In addition to the license fee, the photograph fee is ~~\$2~~ \$3.

Sec. B-16. 29-A MRSA §1611, sub-§1, ¶¶B and C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. Presenting a good and sufficient indemnity bond, approved by the Secretary of State, bonding the applicant in an amount the Secretary of State prescribes and having as surety 2 responsible individuals or a surety company authorized to transact business in this State; ~~or~~

C. Presenting a declaratory judgment issued by the Interstate Commerce Commission authorizing the owner to self-insure; or

Sec. B-17. 29-A MRSA §1611, sub-§1, ¶D is enacted to read:

D. Presenting a valid and sufficient insurance policy or bond filed by an insurance company that may do business and is eligible as an excess or surplus lines insurer in a state in which business is written on behalf of those motor carriers that are certified by the Interstate Commerce Commission at the level required by 49 Code of Federal Regulations, Section 1043.2 and its exceptions.

Sec. B-18. 29-A MRSA §1611, sub-§2, ¶¶A and B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

A. ~~There~~ Except as provided in paragraph E, ~~there~~ is a \$350,000 combined single limit for rental vehicles, emergency vehicles and for-hire transportation vehicles for transporting freight or merchandise but not passengers in intrastate-exempt service or service exempted by the Interstate Commerce Commission.

B. For vehicles used exclusively to transport passengers for hire between points within the State, including motor vehicles under contract with the State, a municipality or a school district for the transportation of students, but not vehicles defined as school buses in section 2301, subsection 5, there is a combined single limit of:

(1) One hundred twenty-five thousand dollars, or split limits consisting of \$50,000 per person and \$100,000 per occurrence for bodily injury liability, and \$25,000 for property damage liability for vehicles not under contract with the State, a municipality or a school district for the transportation of students that are designed to carry no more than 3 passengers behind the driver's seat;

(2) Three hundred thousand dollars for vehicles that are designed to carry 4 to 7 passengers behind the driver's seat, ~~except as provided in subparagraph (4) including those vehicles under contract with the State, a municipality or a school district for the transportation of students;~~

(3) Seven hundred fifty thousand dollars for vehicles that are designed to carry 8 to 15 passengers behind the driver's seat;

(4) One million five hundred thousand dollars for vehicles that are designed to carry 16 to 30 passengers behind the driver's seat; and

(5) Two million dollars for vehicles that are designed to carry 31 or more passengers behind the driver's seat.

Sec. B-19. 29-A MRSA §1611, sub-§2, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. For school buses as defined in section 2301, subsection 5 there is a combined single limit of:

- (1) For school buses with up to 30 passengers behind the driver's seat, \$500,000; and
- (2) For school buses with 31 or more passengers behind the driver's seat, \$1,000,000.

Sec. B-20. 29-A MRSA §1611, sub-§2, ¶E is enacted to read:

E. For rental trucks with a registered gross weight of 26,000 pounds or less, rented or leased for fewer than 30 days:

- (1) There is a combined single limit of \$125,000; or
- (2) There is a split limit of \$50,000 per person or \$100,000 per occurrence for bodily injury liability and \$25,000 for property damage liability.

Sec. B-21. 29-A MRSA §1611, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Exemption. All vehicles owned by the State, a municipality or school district are exempt from the insurance requirements established in this section.

Sec. B-22. 29-A MRSA §2451, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

2. Suspension period. Unless a longer period of suspension is otherwise provided by law and imposed, the Secretary of State shall suspend the license of a person convicted of OUI for the following minimum periods:

A. Ninety days, if the person has one OUI conviction within a 6-year period;

B. One year, if the person has 2 OUI convictions, or one OUI conviction and one suspension for failure to comply with the duty to submit to a chemical test under section 2521 or former Title 29, section 1312, within a 6-year period; or

C. Two years, if the person has 3 or more OUI convictions within a 6-year period.

For the purposes of this subsection, a conviction or suspension has occurred within a 6-year period if the

date of the new conduct is within 6 years of the date of suspension or the docket entry of judgment of conviction.

Sec. B-23. 29-A MRSA §2458, sub-§2, ¶F, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

F. Has committed an offense in ~~another state~~ a jurisdiction of the United States or a province that, if committed in this State, would be grounds for suspension or revocation;

Sec. B-24. 29-A MRSA §2458, sub-§2, ¶O is enacted to read:

O. Has a license, permit or the privilege to apply for or obtain a license suspended or revoked by a jurisdiction of the United States or a province.

PART C

Sec. C-1. 29-A MRSA §154, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Recovery of fees or use taxes. Whenever the payment of a fee or use tax required to be collected by the Secretary of State results in a protest or is returned by the bank upon which it was drawn because of insufficient funds, closed account, no account or a similar reason, the Secretary of State may mail a notice of dishonor, as defined in Title 11, section ~~3-508~~ 3-1503, to the person liable, demanding payment and warning the person that if the amount due is not paid within 10 days after the mailing of the notice, suspension of the person's license and registration will result. If the person fails to pay the required amount within 10 days after the mailing of the notice, the Secretary of State may suspend all licenses, permits, certificates and registrations of the person liable for the fee, fees or tax.

Sec. C-2. 29-A MRSA §456, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. C-3. 29-A MRSA §501, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Automobiles; pickup trucks. The fee for an automobile or pickup truck used for the conveyance of passengers or interchangeably for passengers or property is \$22.

An automobile used for the conveyance of passengers or property is a "combination" vehicle and may be issued a special plate with the word "combination" instead of "Vacationland." A passenger vehicle used under contract with the State, a municipality or a

school district to transport students must be designated as "combination." A vehicle owned or operated by parents or legal guardians is exempt from this subsection.

Commercial plates may not be issued for or displayed on an automobile.

The gross weight of a pickup truck registered as provided by this subsection may not exceed 6,000 pounds. An owner of a pickup truck who operates the pickup truck with a gross weight in excess of 6,000 pounds or the pickup truck drawing a semitrailer with a combined gross weight in excess of 6,000 pounds must register the truck as provided in section 504.

Sec. C-4. 29-A MRSA §517, sub-§1, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. C-5. 29-A MRSA §517, sub-§1-A is enacted to read:

1-A. Vehicles owned or used by fire departments. Vehicles owned or used exclusively by municipal fire departments or volunteer fire associations as defined in Title 30-A, section 3151 are exempt from registration requirements and registration fees. The Secretary of State shall register vehicles owned or used exclusively by a municipal fire department or a volunteer fire association upon request of the municipality or volunteer fire association.

Vehicles owned or used by municipal fire departments or volunteer fire associations are not exempt from the inspection requirements of chapter 15, subchapter I.

Sec. C-6. 29-A MRSA §2054, sub-§2, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. The use of amber lights on vehicles is governed by the following.

(1) A vehicle engaged in highway maintenance or in emergency rescue operations by civil defense and public safety agencies and a public utility emergency service vehicle may be equipped with auxiliary lights that emit an amber light.

(2) A wrecker must be equipped with a flashing light mounted on top of the vehicle in such a manner as to emit an amber light over a 360° angle. The light must be in use on a public way or a place where public traffic may reasonably be anticipated when servicing, freeing, loading, unloading or towing a vehicle.

(3) A vehicle engaged in snow removal or sanding operations on a public way must be equipped with and display at least 2 auxiliary lights mounted on the highest practical point on the vehicle and provide visible light coverage over a 360° range. The lights must emit an amber beam of light, be at least 6 inches in diameter and be equipped with blinking attachments. In lieu of the lights specified, a vehicle may be equipped with at least one auxiliary rotating flashing light having 4-inch sealed beams and showing amber beams of light over a 360° range or an amber strobe, or combination of strobes, that emits at a minimum a beam of 1,000,000 candlepower and provides visible light coverage over a 360° range. When the left wing of a plow is in operation and extends over the center of the road, an auxiliary light must show the extreme end of the left wing. That light may be attached to the vehicle so that the beam of light points at the left wing. The light illuminating the left wing may be controlled by a separate switch or by the regular lighting system and must be in operation at all times when the vehicle is used for plowing snow on public ways.

(4) A vehicle equipped and used for plowing snow on other than public ways may be equipped with an auxiliary rotary flashing light that must be mounted on top of the vehicle in such a manner as to emit an amber beam of light over a 360° angle, or an amber strobe, or combination of strobes, that emits at a minimum a beam of 1,000,000 candlepower and provides visible light coverage over a 360° range. The light may be in use on a public way only when the vehicle is entering the public way in the course of plowing private driveways and other off-highway locations.

(5) A rural mail vehicle may be equipped with auxiliary lights.

(a) The lights used to the front must be white or amber, or any shade between white and amber.

(b) The lights used to the rear must be amber or red, or any shade between amber and red.

(c) The lights, whether used to the front or rear, must be mounted at the same level and as widely spaced laterally as possible.

(d) The lights, whether used to the front or rear, must flash simultaneously.

(e) The lights must be visible from a distance of at least 500 feet under normal atmospheric conditions at night.

(6) A vehicle used or provided by a contract security company to assist in traffic control and direction at construction or maintenance sites on a public way may be equipped with auxiliary lights. The Effective July 1, 1996, the auxiliary lights must be amber. Prior to July 1, 1996, the auxiliary lights must be green or amber.

Sec. C-7. 29-A MRSA §2356, sub-§§1, 2 and 3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Operation prohibited. A person commits a Class E crime if that person operates or causes operation of a vehicle in excess of its registered weight on a public way.

2. Prima facie evidence. Operation of a vehicle is prima facie evidence that the operation was caused by the person holding the ~~permit or certificate~~ operating authority license for that vehicle from the Secretary of State.

3. Exception. An operator who is employed by a carrier holding ~~a permit or certificate~~ an operating authority license and who has not participated in loading the vehicle is not subject to a penalty.

Sec. C-8. 29-A MRSA §2356, sub-§§7 and 8 are enacted to read:

7. Notice of failure to appear or noncompliance with orders. If a person after being ordered to appear to answer a violation fails to appear or after appearing fails to comply with an order issued pursuant to this section, the court shall notify the Secretary of State.

8. Suspension of operating authority license and registrations. After receiving notice pursuant to subsection 7, the Secretary of State shall suspend the person's operating authority license, all registration certificates and plates and the privilege to operate a motor vehicle in this State. The suspension remains in effect until the person appears in court and complies with a court order.

Sec. C-9. 29-A MRSA §2360, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Redistribution of load. ~~Notwithstanding any other provisions of this section subsections 1 to 6,~~ when an officer determines that a vehicle that is within the gross vehicle weight limit is in violation of an axle weight limit, the officer shall permit the operator to redistribute the load once before proceeding. If redistribution brings the vehicle into compliance with axle limits, then the fine is reduced as follows:

A. If the violation is less than 2,000 pounds, no penalty;

B. If the violation is less than 3,000 pounds, by 66%; and

C. If the violation is less than 4,000 pounds, by 50%.

Sec. C-10. 29-A MRSA §2360, sub-§§11 to 14 are enacted to read:

11. Prima facie evidence. Operation of a vehicle is prima facie evidence that the operation was caused by the person holding the operating authority license from the Secretary of State.

12. Exception. An operator who is employed by a carrier holding an operating authority license and who has not participated in loading the vehicle is not subject to a penalty.

13. Notice of failure to appear or noncompliance with orders. If a person after being ordered to appear to answer a violation fails to appear or after appearing fails to comply with an order issued pursuant to this section, the court shall notify the Secretary of State.

14. Suspension of operating authority license and registrations. After receiving notice pursuant to subsection 13, the Secretary of State shall suspend the person's operating authority license, all registration certificates and plates and the privilege to operate a motor vehicle in this State. The suspension remains in effect until the person appears in court and complies with a court order.

Sec. C-11. 29-A MRSA §2412, sub-§1, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. Has been sent written notice in accordance with section ~~2458~~ 2482 ~~or former Title 29, section 2241, subsection 4;~~ or

Sec. C-12. 29-A MRSA §2414, sub-§§2 and 3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

2. Failure to stop. A person commits a Class E crime if that person fails or refuses to stop a motor

vehicle on request or signal of a uniformed law enforcement officer.

3. Eluding an officer. A person commits a Class C crime if that person, after being requested or signaled to stop, attempts to elude a law enforcement officer by operating a motor vehicle at a reckless rate of speed that results in a high-speed chase between the operator's motor vehicle and a law enforcement vehicle using a blue light and siren.

Sec. C-13. 29-A MRSA §2557, sub-§1, ~~¶D~~, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. Is a person to whom written notice was sent in accordance with section ~~2458~~ 2482 or former Title 29, section 2241, subsection 4.

Sec. C-14. 29-A MRSA §2557, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Offense; penalty. Violation of this section is:

A. A Class D crime if:

(1) The person has no conviction for operating after revocation under this section or under former Title 29, section 2298 within the previous 5 years; and

(2) The person has no conviction for violating section 2411 or former Title 29, section 1312-B within the previous 5 years; and

B. A Class C crime if:

(1) The person has one or more convictions for operating after revocation under this section or under former Title 29, section 2298 within the previous 5 years; or

(2) The person has one or more convictions for violating section 2411 or former Title 29, section 1312-B within the previous 5 years.

The Secretary of State may not grant relief from habitual offender status under section 2554 until at least 3 years after the original date scheduled for eligibility to apply for relief of that status.

Sec. C-15. Retroactivity. This Act applies retroactively to January 1, 1995.

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

See title page for effective date.

CHAPTER 66

H.P. 158 - L.D. 205

An Act to Amend Provisions of Law Voiding a Lease for Premises Defined as a Common Nuisance

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

Sec. 1. 14 MRSA §6014, sub-§1, as enacted by PL 1981, c. 428, §8, is amended to read:

1. Illegal evictions. ~~Evictions which~~ Except as permitted by Title 15, chapter 517 or Title 17, chapter 91, evictions that are effected without resort to the provisions of this chapter are illegal and against public policy. Illegal evictions include, but are not limited to, the following.

A. No landlord may willfully cause, directly or indirectly, the interruption or termination of any utility service being supplied to the tenant including, but not limited to, water, heat, light, electricity, gas, telephone, sewerage, elevator or refrigeration, whether or not the utility service is under the control of the landlord, except for such temporary interruption as may be necessary while actual repairs are in process or during temporary emergencies.

B. No landlord may willfully seize, hold or otherwise directly or indirectly deny a tenant access to and possession of the tenant's rented or leased premises, other than through proper judicial process.

C. No landlord may willfully seize, hold or otherwise directly or indirectly deny a tenant access to and possession of the tenant's property, other than by proper judicial process.

Sec. 2. 17 MRSA §2741, first ¶, as amended by PL 1993, c. 98, §1, is further amended to read:

All places used as houses of ill fame or for the illegal sale or keeping of intoxicating liquors or scheduled drugs, or resorted to for lewdness or gambling; all houses, shops or places where intoxicating liquors are sold for tipping purposes; and all places of resort where intoxicating liquors are kept, sold, given away, drunk or dispensed in any manner not provided for by law are common nuisances. The

Superior Court has jurisdiction, upon information filed by the Attorney General or the district attorney or upon complaint filed by not less than 7 legal voters of that county setting forth any of the facts contained in this section, to restrain, enjoin or abate the same, and an injunction for ~~such purpose~~ those purposes may be issued by the court. ~~Such an injunction forever runs against the building or other place or structure while titled in the name of the same owner under which the nuisance was initially enjoined. The injunction ceases to run against the building or other place or structure upon transfer of ownership to a bona fide purchaser. Following the issuance of such an injunction, if the Attorney General or district attorney has reasonable grounds to question whether a transfer of ownership is to a bona fide purchaser, the Attorney General or district attorney, within one year from the date of transfer of ownership, shall move the court to reinstate the injunction against the title of the new owner. The injunction or order to restrain, enjoin or abate the common nuisance forever runs against the building or other place or structure, except that, upon motion of an owner filed not sooner than 6 months from the date of the injunction or order, the Superior Court may remove or modify the injunction or order upon a showing by the owner, by a preponderance of evidence, that the nuisance has abated. No dismissal of such information or complaint may prevent action upon any information or complaint subsequently filed covering the same subject matter.~~

Sec. 3. 17 MRSA §2742, as amended by PL 1991, c. 797, §4, is further amended to read:

§2742. Penalties

~~Whoever keeps or maintains such nuisance keeps, allows or maintains any building, place or structure declared by the Superior Court to be a common nuisance upon the filing of information pursuant to section 2741 commits a Class E crime. Default in payment of a fine imposed under this section is a separate Class E crime.~~

Sec. 4. 17 MRSA §2743 is amended to read:

§2743. Lease void; remedy of owner

~~If any tenant or occupant, under any lawful title, of any building or tenement not owned by him the tenant or occupant uses it the building or tenement or any part thereof of the building or tenement for any purpose named in section 2741, he the tenant or occupant forfeits his right thereto all rights to the building or tenement, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided in Title 14, chapter 709 of the building or tenement upon the commencement of an action under Title 14, chapter 709 may seek any remedy provided by chapter 709 or upon a declaration of a common nuisance by the~~

Superior Court upon the filing of information by the Attorney General, the district attorney or a prosecuting attorney assigned pursuant to Title 25, section 2955 may make immediate entry and take possession without further process of law or as otherwise ordered by the Superior Court.

Sec. 5. 17 MRSA §2744, as amended by PL 1991, c. 797, §4, is repealed.

See title page for effective date.

CHAPTER 67

H.P. 28 - L.D. 22

**An Act to Decrease the Minimum
Required Amount of Liability
Insurance for Certain Intrastate
Vehicles**

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

Whereas, current liability requirements are cost prohibitive for many users of explosives; and

Whereas, the construction season will soon begin; 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. 25 MRSA §2110 is enacted to read:

§2110. Financial responsibility

1. Requirement. A person who transports a division 1.1, 1.2 or 1.3 explosive intrastate in a vehicle with a gross vehicle weight rating of less than 10,000 pounds shall maintain a financial responsibility policy of liability insurance or a surety bond in an amount of not less than \$1,000,000. The Commissioner of Public Safety may not adopt a rule requiring a person transporting a division 1.1, 1.2 or 1.3 explosive intrastate in a vehicle with a gross vehicle weight rating of less than 10,000 pounds to maintain a financial responsibility policy of liability insurance or a surety bond in excess of \$1,000,000.

For purposes of this section, division 1.1, 1.2 and 1.3 explosives have the same meanings as found in 49 Code of Federal Regulations, Part 173.50.

2. Exception. This section does not apply to a farmer who transports a division 1.1, 1.2 or 1.3 explosive for the farmer's own use to and from the farm or field within a 20-mile radius.

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

Effective May 11, 1995.

CHAPTER 68

H.P. 326 - L.D. 447

An Act Regarding the Expansion of Certain Waste Disposal Facilities

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

Sec. 1. 38 MRSA §1310-X, sub-§3, ¶B, as repealed and replaced by PL 1991, c. 297, §1, is amended to read:

B. The department determines that the proposed expansion is contiguous with the existing facility and is located on property owned on December 31, 1989 by the licensee on September 30, 1989 or by a corporation or other business entity under common ownership or control with the licensee; and

See title page for effective date.

CHAPTER 69

S.P. 199 - L.D. 542

An Act to Include the Law Court's Imprisonment Sentencing Procedure in the Maine Criminal Code

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

Sec. 1. 17-A MRSA §1252-C is enacted to read:

§1252-C. Sentencing procedure relating to the imprisonment

In imposing a sentencing alternative pursuant to section 1152 that includes a term of imprisonment relative to murder, a Class A, Class B or Class C crime, in setting the appropriate length of that term as well as any unsuspended portion of that term accompanied by a period of probation, the court shall employ the following 3-step process:

1. The court shall first determine a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the offender.

2. The court shall next determine the maximum period of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to that case. These sentencing factors include, but are not limited to, the character of the offender and the offender's criminal history, the effect of the offense on the victim and the protection of the public interest.

3. The court shall finally determine what portion, if any, of the maximum period of imprisonment should be suspended and, if a suspension order is to be entered, determine the appropriate period of probation to accompany that suspension.

See title page for effective date.

CHAPTER 70

H.P. 12 - L.D. 6

An Act to Amend the Workers' Compensation Laws to Provide an Exemption from Coverage Requirements for Nonresident Employees

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

Sec. 1. 39-A MRSA §113 is enacted to read:

§113. Exemption for nonresident employees; reciprocity

1. Exemption. An employee who is employed in another state and that employee's employer are exempt from this Act with respect to that employee while the employee is temporarily in this State doing work for that employer if:

A. The employee is not a resident of this State and was not hired in this State;

B. The employer does not have a permanent place of business in the State;

C. The employee's presence in this State for purposes of conducting employment activities does not exceed any of the following periods:

(1) Five consecutive days;

(2) Ten days in any 30-day period; or

(3) Thirty days in any 360-day period;

D. The employer and employee are covered by the provisions of the workers' compensation laws or similar laws of the other state and that law applies to them while they are working in this State;

E. The employer has furnished workers' compensation insurance coverage under the workers' compensation laws or similar laws of the other state so as to cover the employee's employment while in this State;

F. The extraterritorial provisions of this Act covering employees in this State temporarily working in the other state are recognized in the other state; and

G. Employers and employees covered in this State are exempt from the application of the workers' compensation laws or similar laws of the other state under legislation comparable to this section.

2. Other state's laws prevail. If the exemption provided in subsection 1 applies, the workers' compensation laws or similar laws of the other state are the exclusive remedy against the employer in that state for any injury, whether resulting in death or not, received by an employee while working for that employer in this State.

3. Certificate of compliance. A certificate from a duly authorized official of the workers' compensation board or similar department or agency of the other state certifying that an employer is insured in that other state and has provided extraterritorial coverage insuring the employer's employees while working within this State is prima facie evidence that the employer carries such compensation insurance.

4. Reciprocal agreements. The board may enter into reciprocal agreements with workers' compensation agencies of other states adopting legislation similar to this section to ensure efficient administration of the Act.

See title page for effective date.

CHAPTER 71

H.P. 79 - L.D. 115

An Act to Require Insurance Companies to Provide Loss Information to Insured Groups

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

Sec. 1. 24 MRSA §2307-B is enacted to read:

§2307-B. Loss information

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

A. "Insurance policy" means the insurance policy relating to the loss information requested pursuant to this section.

B. "Loss information" means the aggregate claims experience of the group insurance policy or contract. "Loss information" includes the amount of premium received, the amount of claims paid and the loss ratio. "Loss information" does not include any information or data pertaining to the medical diagnosis, treatment or health status that identifies an individual covered under the group contract or policy.

C. "Loss ratio" means the ratio between the amount of premium received and the amount of claims paid by the insurer under the group insurance contract or policy.

2. Disclosure of loss information. Upon written request, every insurer shall provide loss information concerning a group policy or contract to its policyholder at least 60 days prior to renewal of the policy or contract and again 6 months from the date the policy becomes effective.

3. Transmittal of request. If a policyholder requests loss information from an insurance agent or other authorized representative, the representative or agent shall transmit the request for loss information to the insurer within 4 working days.

4. Exception. An insurer is not required to provide the loss information described in this section to a group with fewer than 25 members.

Sec. 2. 24-A MRSA §2803-A is enacted to read:

§2803-A. Loss information

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

A. "Insurance policy" means the insurance policy relating to the loss information requested pursuant to this section.

B. "Loss information" means the aggregate claims experience of the group insurance policy or contract. "Loss information" includes the amount of premium received, the amount of claims paid and the loss ratio. "Loss information" does not include any information or data pertaining to the medical diagnosis, treatment or

health status that identifies an individual covered under the group contract or policy.

C. "Loss ratio" means the ratio between the amount of premium received and the amount of claims paid by the insurer under the group insurance contract or policy.

2. Disclosure of loss information. Upon written request, every insurer shall provide loss information concerning a group policy or contract to its policyholder at least 60 days prior to renewal of the policy or contract and again 6 months from the date the policy becomes effective.

3. Transmittal of request. If a policyholder requests loss information from an insurance agent or other authorized representative, the representative or agent shall transmit the request for loss information to the insurer within 4 working days.

4. Exception. An insurer is not required to provide the loss information described in this section to a group with fewer than 25 members.

Sec. 3. 24-A MRSA §4224-A is enacted to read:

§4224-A. Loss information

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

A. "Insurance policy" means the insurance policy relating to the loss information requested pursuant to this section.

B. "Loss information" means the aggregate claims experience of the group insurance policy or contract. "Loss information" includes the amount of premium received, the amount of claims paid and the loss ratio. "Loss information" does not include any information or data pertaining to the medical diagnosis, treatment or health status that identifies an individual covered under the group contract or policy.

C. "Loss ratio" means the ratio between the amount of premium received and the amount of claims paid by the insurer under the group insurance contract or policy.

2. Disclosure of loss information. Upon written request, every insurer shall provide loss information concerning a group policy or contract to its policyholder at least 60 days prior to renewal of the policy or contract and again 6 months from the date the policy becomes effective.

3. Transmittal of request. If a policyholder requests loss information from an insurance agent or

other authorized representative, the representative or agent shall transmit the request for loss information to the insurer within 4 working days.

4. Exception. An insurer is not required to provide the loss information described in this section to a group with fewer than 25 members.

See title page for effective date.

CHAPTER 72

H.P. 131 - L.D. 179

An Act to Prohibit Visual Sexual Aggression Against a Child and Private Indecency

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

Sec. 1. 17-A MRSA §256 is enacted to read:

§256. Visual sexual aggression against a child

1. A person is guilty of visual sexual aggression against a child if, for the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age.

2. Visual sexual aggression against a child is a Class D crime.

Sec. 2. 17-A MRSA §854, as amended by PL 1989, c. 401, Pt. B, §§6 and 7, is further amended to read:

§854. Indecent conduct

1. A person is guilty of ~~public indecency~~ indecent conduct if:

A. In a public place:

(1) The actor engages in a sexual act, as defined in section 251; or

(2) The actor knowingly exposes the actor's genitals under circumstances ~~which~~ that, in fact, are likely to cause affront or alarm; ~~or~~

B. In a private place, the actor exposes the actor's genitals with the intention that the actor be seen from a public place or from another private place; ~~or~~

C. In a private place, the actor exposes the actor's genitals with the intention that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm.

2. For purposes of this section "public place" includes, but is not limited to, motor vehicles ~~which~~ that are on a public way.

2-A. It is a defense to prosecution under subsection 1, paragraph C, that the other person previously lived or currently is living in the same household as the actor.

3. ~~Public indecency~~ Indecent conduct is a Class E crime.

See title page for effective date.

CHAPTER 73

H.P. 176 - L.D. 224

An Act to Clarify the Laws Regarding the Location of Transfer Stations on Islands

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

Sec. 1. 38 MRSA §1310-N, sub-§2-D, ¶A, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed and the following enacted in its place:

A. For a transfer station on an island that is not connected to the mainland by a road, the department shall establish setback distances on a case-specific basis in accordance with this paragraph:

(1) No predetermined minimum setback from a property boundary, residence or public road established in statute or rule applies. A proposed setback from such a location must be reasonable and compatible with the abutting land use. If all abutting landowners give written approval to the location of the handling site, the department shall find that the proposed setback to a property boundary, residence or public road is reasonable and compatible with abutting land use. If all abutting landowners do not give written approval, the department shall make an independent determination of the reasonableness and the compatibility of the setback to a property boundary, residence or public road.

(2) No predetermined minimum setback from an active or closed landfill established

in statute or rule applies. The proposed setback from an active or closed landfill must be reasonable and compatible with the abutting land use. The department shall make an independent determination of the reasonableness and compatibility of the proposed setback to an active or closed landfill.

(3) To the fullest extent possible, the department shall ensure that the handling site of a transfer station on an island is located in a manner that minimizes any adverse impact on the island residents.

Sec. 2. 38 MRSA §1310-N, sub-§2-D, ¶B, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is amended to read:

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

(1) The department finds the use of the abutting property to be a conforming use compatible with the operation of a transfer station on the proposed location. If the department finds an use of the abutting property to be a conforming use compatible, the handling site may be within 250 feet of the boundary but not within 250 feet of any permanent structure on that abutting property; or

(2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site.

Sec. 3. Rules. By January 1, 1996, the Department of Environmental Protection shall adopt or amend rules as necessary to define a compatible use under section 2 of this Act.

See title page for effective date.

CHAPTER 74

H.P. 186 - L.D. 245

An Act to Ensure Children's Protection against Rabies by Requiring Proof of Rabies Vaccination of Pets at Day Care Facilities and Home Babysitting Services

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

Sec. 1. 22 MRSA §8302, sub-§5 is enacted to read:

5. Rules regarding rabies vaccinations for pets. The commissioner shall adopt rules regarding rabies vaccinations for pets residing on the premises of licensed day care facilities and registered home babysitting services to ensure that pets have current and appropriate rabies vaccinations.

See title page for effective date.

CHAPTER 75

H.P. 194 - L.D. 253

An Act Concerning Municipal Shellfish Conservation Program Penalties

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

Sec. 1. 12 MRSA §6671, sub-§10, ¶A, as enacted by PL 1993, c. 281, §4, is amended to read:

A. For harvesting shellfish from a closed area or digging shellfish without a license:

(1) For the first offense, a fine of not less than \$300 and not more than \$1,500; and

(2) For subsequent offenses, a fine of not less than \$500 and not more than \$1,500.

The court may not suspend a fine imposed under this paragraph or impose a penalty other than the monetary payment of a fine as provided in this paragraph; or

See title page for effective date.

CHAPTER 76

H.P. 226 - L.D. 304

An Act Concerning the Offset of Workers' Compensation Benefits by Social Security Benefits

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

Sec. 1. 39-A MRSA §221, sub-§3, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. The employer's obligation to pay or cause to be paid weekly benefits other than benefits under

section 212, subsection 2 or 3 is reduced by the following amounts:

(1) Fifty percent of the amount of the old-age insurance benefits received or being received under the United States Social Security Act. For injuries occurring on or after October 1, 1995, such a reduction may not be made if the old-age insurance benefits had started prior to the date of injury or if the benefits are spouse's benefits;

(2) The after-tax amount of the payments received or being received under a self-insurance plan or a wage continuation plan or under a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received if the employee did not contribute directly to the plan or to the payment of premiums regarding the disability insurance policy. If the self-insurance plans, wage continuation plans or disability insurance policies are entitled to repayment in the event of a workers' compensation benefit recovery, the insurance carrier shall satisfy the repayment out of funds the insurance carrier has received through the coordination of benefits provided for under this section;

(3) The proportional amount, based on the ratio of the employer's contributions to the total insurance premiums for the policy period involved, of the after-tax amount of the payments received or being received by the employee pursuant to a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received, if the employee did not contribute directly to the payment of premiums regarding the disability insurance policy;

(4) The after-tax amount of the pension or retirement payments received or being received pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, if the employee did not contribute directly to the pension or retirement plan or program;

(5) The proportional amount, based on the ratio of the employer's contributions to the total contributions to the plan or program, of the after-tax amount of the pension or retirement payments received or being received by the employee pursuant to a plan or program established or maintained by the same employer from whom benefits under section 212 or 213 are received, if the

employee did contribute directly to the pension or retirement plan or program; and

(6) For those employers who do not provide a pension plan, the proportional amount, based on the ratio of the employer's contributions to the total contributions made to a qualified profit sharing plan under the United States Internal Revenue Code, Section 401(a) or any successor to the United States Internal Revenue Code, Section 401(a) covering a profit sharing plan that provides for the payment of benefits only upon retirement, disability, death, or other separation of employment to the extent that benefits are vested under the plan.

See title page for effective date.

CHAPTER 77

S.P. 154 - L.D. 340

An Act to Require Insurance Companies to Reenroll Individuals Who Return to an Insurance Group as Though No Break in Coverage Occurred

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

Sec. 1. 24 MRSA §2349, sub-§3, ¶A, as amended by PL 1993, c. 477, Pt. A, §2 and affected by Pt. F, §1, is further amended to read:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract, or terminated coverage under the succeeding contract, because that individual was covered under a prior contract or policy and coverage under that contract or policy ceased due to termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce;

Sec. 2. 24-A MRSA §2849-B, sub-§3, ¶A, as amended by PL 1993, c. 477, Pt. A, §10 and affected by Pt. F, §1, is further amended to read:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract or policy, or terminated coverage under the succeeding contract, because that individual

was covered under a prior contract or policy and coverage under that contract or policy ceased due to termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce;

See title page for effective date.

CHAPTER 78

H.P. 245 - L.D. 347

An Act to Clarify the Requirements for Truck Widths

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

Sec. 1. 29-A MRSA §2380, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

3. Width exclusions. A portion of a vehicle or load may not project beyond the side of that vehicle to make a total width greater than 102 inches, except as provided in this subsection and subsection 4. Reflecting mirrors and turn signal lamps are excluded from measurement of width. The following conditions and appurtenances attached to a commercial motor vehicle are excluded from the measurement of width provided that they do not extend more than 3 inches from the side of a vehicle:

A. Corner caps;

B. Rear and side door hinges and their protective hardware;

C. Rain gutters;

D. Side lamp markers;

E. Lift pads for piggyback trailers;

F. Hazardous materials placards;

G. Tarps and tarp hardware;

H. Tiedown assemblies on platform trailers;

I. Weevil pins and sockets on lowbed trailers;

J. Steps and handholds for entry and egress;

K. Flexible fender extensions;

L. Mud flaps and splash and spray suppressant devices;

M. Refrigeration units or air compressors;

N. Load-induced tire bulge; and

O. Wall variation from true flat.

See title page for effective date.

CHAPTER 79

H.P. 248 - L.D. 350

An Act to Encourage Collaboration between Local School Units

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

Sec. 1. 20-A MRSA §17101, as amended by PL 1989, c. 700, Pt. A, §74, is further amended to read:

§17101. Intent

The intent of this chapter is to promote creative improvement in the schools of the State. The Commissioner of Education shall promote innovative projects by means of grants to teachers, school administrative units ~~or~~ private schools approved for tuition purposes or groups of school administrative units formed for the purpose of providing improved educational opportunity through the sharing of resources among the member units. A group of school administrative units seeking a grant in accordance with this chapter shall provide written verification to the commissioner that each school administrative unit comprising the group has agreed to the grant criteria established by the department. The group shall designate one school administrative unit to act as fiscal agent for the group. To promote the greatest possible benefits statewide, a school administrative unit is limited to one grant at a time, whether the grant is received separately or as part of a group. It is not the intent of this chapter to provide funds for programs or services normally provided by those school systems. Project dissemination will be accomplished through the department through instructional support group staff. The use of state, regional and national diffusion networks will be encouraged.

See title page for effective date.

CHAPTER 80

H.P. 259 - L.D. 361

An Act to Define a "Demonstrator" under the Board of Barbering and Cosmetology

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

Sec. 1. 32 MRSA §14202, sub-§3-A is enacted to read:

3-A. Demonstrator. "Demonstrator" means a person who is licensed to practice cosmetology, barbering, aesthetics or manicuring and engages in performing demonstrations outside establishments licensed by the board in the use of machines, articles or techniques pertaining to practices licensed under this chapter. The term "demonstrator" does not include one who performs demonstrations solely for persons currently licensed to practice cosmetology, barbering, aesthetics or manicuring under this chapter or under the licensing provision of any other state.

Sec. 2. 32 MRSA §14234, as enacted by PL 1991, c. 397, §6, is repealed and the following enacted in its place:

§14234. Demonstrators

A person may not perform demonstrations unless licensed by the board. The board shall adopt rules that describe the articles, machines or techniques that may be demonstrated outside the licensed establishment. All demonstrations must be performed in a safe and sanitary manner for the protection of the public. Licenses must be renewed on or before July 1st biennially. A license is not required for persons who perform demonstrations in a licensed establishment or solely to licensed persons.

See title page for effective date.

CHAPTER 81

H.P. 286 - L.D. 390

An Act to Clarify the Tax-exempt Status of Municipally Owned Solid Waste Disposal Facilities

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

Sec. 1. 38 MRSA §1304-B, sub-§5, as amended by PL 1989, c. 869, Pt. C, §10, is further amended to read:

5. Public waste disposal corporations. Notwithstanding any law, charter, ordinance provision or limitation to the contrary, pursuant to any interlocal agreement entered into in accordance with Title 30-A, chapter 115, any 2 or more municipalities may organize or cause to be organized or may participate in one or more corporations organized as nonprofit corporations under Title 13, chapter 81, or Title 13-B

for the purpose, among other permissible purposes, of owning or operating any one or more waste facilities described in subsection 4, paragraph A, and a subscribing municipality may agree in any such interlocal agreement to pay fees, assessments or other payments as described in subsection 4, paragraph B, for such term of years and on such other terms as the interlocal agreement may provide and may pledge the full faith and credit of the municipality to the same extent provided in subsection 4, paragraph C. A corporation described in this subsection is a public municipal corporation as that term is used in Title 36, section 651, subsection 1, paragraph D, and its real and personal property located in subscribing, participating and associate member municipalities is exempt from municipal property taxation to the extent provided by Title 36, section 651, subsection 1, paragraph D. The applicable interlocal agreement or the articles of incorporation or bylaws of the corporation must provide that:

A. The corporation ~~shall~~ must be organized and continuously thereafter operated as a nonprofit corporation, no part of the net earnings of which may inure to the benefit of any member, director, officer or other private person;

B. The directors of the corporation ~~shall~~ must be elected by the municipal officers of the municipalities participating in the corporation; and

C. Upon dissolution or liquidation of the corporation, title to all of its property ~~shall vest~~ vests in one or more of the municipalities participating in the corporation.

Any interlocal agreement complying with the requirements of this subsection and subsection 6 must be a properly authorized, legal, valid, binding and enforceable obligation of the municipality, regardless of whether the agreement was authorized, executed or delivered prior to or after the effective date of this subsection. Any corporation organized in a manner that satisfies the requirements set forth in this subsection and subsection 6, whether organized prior to or after the effective date of this subsection, ~~shall be~~ is deemed for all purposes as organized pursuant to this subsection. If so provided in the applicable interlocal agreement, any such corporation ~~shall have~~ has the power, in addition to any other powers that may be delegated under Title 30-A, chapter 115, to issue, on behalf of one or more of the municipalities participating in the corporation, in order to finance the facilities, revenue obligation securities issued in accordance with Title 10, chapter 110, subchapter IV, and any other bonds, notes or debt obligations ~~which that~~ that municipalities are authorized to issue by applicable law. For these purposes, the term "municipal officers" as used in Title 10, chapter 110, subchapter IV, means the board of directors of any corporation

described in this subsection. Title 10, section 1064, subsection 6, may not be construed to prohibit the assignment or pledge as collateral security of any contract of a municipality authorized by this section or of any or all of the payments under this section, regardless of whether the provisions of subsection 4, paragraph C, are applicable to the contract or payments. The provisions of Title 10, sections 1063 and 1064, subsection 1, paragraph A and paragraph C, subparagraph (4) do not apply to revenue obligation securities issued by any public waste disposal corporation described in this subsection.

See title page for effective date.

CHAPTER 82

H.P. 299 - L.D. 403

An Act to Allow a School District to Print the District's Name on School Buses

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

Sec. 1. 29-A MRSA §2311, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2311. Rules

The Commissioner of Education may adopt or amend rules consistent with this Title and in accordance with the Maine Administrative Procedure Act, concerning school bus construction, equipment ~~and~~ operation and identification.

See title page for effective date.

CHAPTER 83

H.P. 318 - L.D. 439

An Act Requiring That Disbursement Warrants Receive an Affirmative Vote by Municipal Officers

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 §5603, sub-§2, ¶A, as amended by PL 1993, c. 96, §2, is further amended to read:

A. Except as provided in subparagraphs (1) and (2), disburse money only on the authority of a warrant drawn for the purpose, affirmatively voted and signed by a majority of the municipal officers.

(1) The municipal officers may adopt a written policy to permit the disbursement of employees' wages and benefits when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers.

(2) The municipal officers may adopt a written policy to permit the disbursement of payments for municipal education costs when a disbursement warrant has been signed by the school superintendent and approved by a majority of the school board or by a finance committee appointed or duly elected by the school board. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers;

See title page for effective date.

CHAPTER 84

H.P. 420 - L.D. 577

An Act to Amend the Laws Governing Retail Credit Cards

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

Sec. 1. 9-A MRSA §1-301, sub-§31-A is enacted to read:

31-A. "Retail credit card" means a credit card issued by a seller who is not a supervised lender and who regularly engages as a seller in credit transactions of the same kind.

Sec. 2. 9-A MRSA §2-202, sub-§3, as enacted by PL 1973, c. 762, §1, is repealed and the following enacted in its place:

3. Except with respect to sales made pursuant to a credit card:

A. If the billing cycle is monthly, the charge may not exceed 1 1/2% of the amount pursuant to subsection 2; or

B. If the billing cycle is not monthly, the maximum charge is that percentage that bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30.

A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than 4 days from that date.

Sec. 3. 9-A MRSA §2-202, sub-§5, as enacted by PL 1977, c. 421, §2, is amended to read:

5. ~~No~~ Except when there is an outstanding balance from the prior billing cycle, a finance charge shall may not be imposed on purchases or leases of goods or services purchased during the billing cycle, provided that they are paid for not later than 25 days after the closing date of the billing cycle in which the purchase or lease occurred.

Sec. 4. 9-A MRSA §2-202, sub-§7 is enacted to read:

7. With respect to consumer credit sales made pursuant to an open-end credit agreement, a creditor may not impose a finance charge if it is in excess of that set forth in the agreement between the consumer and the creditor.

Sec. 5. 9-A MRSA §2-501, sub-§1, ¶E, as amended by PL 1993, c. 618, §3, is further amended to read:

E. An annual charge for the privilege of using a retail credit card or lender credit card;

Sec. 6. 9-A MRSA §2-501, sub-§3, as enacted by PL 1987, c. 129, §46, is amended to read:

3. Charges permitted under this section and any other charges specifically excluded from the definition of "finance charge" in section 1-301, subsection 19, are permissible charges in addition to, and excluded from the calculation of, maximum finance charges set forth in Parts 2 and 4. Unless otherwise expressly prohibited by this Act and except on retail credit card accounts, a creditor may contract for and receive additional charges not authorized by this section or by section 1-301, subsection 19, if such additional charges, together with all other finance charges applicable to a consumer credit transaction, do not exceed the applicable maximum finance charge under this Act.

See title page for effective date.

CHAPTER 85**H.P. 512 - L.D. 700****An Act Concerning Fraudulent Redemptions****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 32 MRSA §1866, sub-§8**, as enacted by PL 1993, c. 703, §1, is amended to read:

8. Application to containers originally sold in the State. The obligations to accept or take empty beverage containers and to pay the refund value and handling fees for such containers as described in subsections 1, 2, 3, 4 and 5 apply only to containers originally sold in this State as filled beverage containers. A person who, ~~for the purpose of obtaining a refund value or handling fee,~~ tenders to a dealer, distributor, redemption center or bottler more than ~~40~~ 48 empty beverage containers ~~in each case with 24~~ in each case that the person knows or has reason to know were not originally sold in this State as filled beverage containers is subject to the enforcement action and civil penalties set forth in this subsection. At each location where customers tender containers for redemption, dealers and redemption centers must conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering containers for redemption that were not originally purchased in this State may be subject to a fine of the greater of \$100 per container or \$25,000 for each tender. (32 MRSA Section 1866)." A person who violates the provisions of this subsection is subject to a civil penalty of the greater of \$100 for each container or \$25,000 for each tender of containers.

See title page for effective date.

CHAPTER 86**S.P. 274 - L.D. 724****An Act Regarding the Disclosure of Financial Information by Federally or State-chartered Credit Unions****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 9-B MRSA §161, sub-§2, ¶I**, as amended by PL 1989, c. 368, §1, is further amended to read:

I. Any disclosure of records made pursuant to Title 22, section 16 or 4314;

Sec. 2. 22 MRSA §4314, sub-§2, as amended by PL 1991, c. 626, §4, is further amended to read:

2. Financial institutions. A treasurer of any bank, federally or state-chartered credit union, trust company, benefit association, insurance company, safe deposit company or any corporation or association receiving deposits of money, except national banks, shall, on request in writing signed by the overseer of any municipality or its agents, or by the Commissioner of Human Services or the commissioner's agents or by the Commissioner of Defense and Veterans' Services or the commissioner's agents, inform that overseer or the Department of Human Services or the Division of Veterans' Services of the amount deposited in the corporation or association to the credit of the person named in the request, who is a charge upon the municipality or the State, or who has applied for support to the municipality or the State.

See title page for effective date.

CHAPTER 87**H.P. 163 - L.D. 211****An Act to Exempt Motor Homes from the Sunday Sales Law**

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

Whereas, motor homes are currently considered to be motor vehicles in terms of the law that forbids Sunday sales; and

Whereas, the Federal Government treats motor homes as homes in terms of tax deductions; and

Whereas, motor home dealers also sell travel trailers, which can be sold on Sundays; and

Whereas, the great majority of motor homes are sold in the spring and summer; 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. 17 MRSA §3203**, as amended by PL 1979, c. 127, §124, is further amended to read:

§3203. Sales of motor vehicles prohibited

~~Any~~ Except as provided in section 3203-A, any person who ~~shall carry~~ carries on or ~~engage~~ engages in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles; or who ~~shall open~~ opens any place of business or lot wherein ~~he~~ the person attempts to or does engage in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles; or who does buy, sell, exchange, deal or trade in new or used motor vehicles as a business on the first day of the week, commonly known and designated as Sunday, is a disorderly person. Such a disorderly person upon conviction for the first offense ~~shall~~ must be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days, or by both; and for the 2nd offense ~~shall~~ must be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days, or by both; and for the 3rd or each subsequent offense ~~shall~~ must be punished by a fine of not more than \$750 or by imprisonment for not more than 6 months, or by both. If the person is the holder of dealer or transporter registration plates under Title ~~29~~ 29-A, chapter ~~§ 2, subchapter III-A III~~, such person ~~shall be~~ is subject to the suspension or revocation of ~~said~~ those plates, as provided for in Title ~~29~~ 29-A, section ~~350-A~~ 903, for the violation of this section.

Sec. 2. 17 MRSA §3203-A is enacted to read:

§3203-A. Motor homes

A person who is licensed in accordance with Title 29-A, section 951 and whose primary business is the buying and selling of new motor homes is exempt from section 3203 as it relates to that person's primary business. A "motor home" means a motor vehicle that is primarily designed as temporary living quarters and:

1. Part of vehicle. Is built onto or is an integral part of the motor vehicle chassis; and

2. Contains living systems. Contains independent living systems that are part of the manufacturing process that include cooking facilities, plumbing with external evacuation or that is self-contained, electrical capabilities, a heating source powered separately from the engine and a water system that includes a sink and faucet.

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

Effective May 15, 1995.

CHAPTER 88**H.P. 291 - L.D. 395****An Act Concerning the Rights and Responsibilities of Innkeepers**

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

Sec. 1. 30-A MRSA §3821, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Availability for inspection. Both the register and the record ~~shall~~ must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the licensing authority or any full-time law enforcement officer as defined in Title 25, section 2805. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.

Sec. 2. 30-A MRSA §3822, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Registration required. All persons occupying a room or rooms in a hotel or lodging house must register or have themselves registered in the hotel or lodging house register. The innkeeper may require the registering guest to produce a valid driver's license, or other identification satisfactory to the innkeeper, setting forth the name and residence of the guest. If the guest is a minor, the innkeeper may require a parent of the guest to register and to accept in writing liability for the guest room costs, taxes, all charges incurred by the minor and any damages to the guest room or its furnishings caused by the minor while a guest at the hotel or lodging house.

Sec. 3. 30-A MRSA §3838 is enacted to read:

§3838. Refusal or denial of accommodations; ejection

An innkeeper may refuse or deny any accommodations, facilities or privileges of a hotel or lodging house to or may eject from the hotel or lodging house premises:

1. Person unwilling or unable to pay. Any person who is unwilling or unable to pay for accommodations and services of the hotel or lodging house. The innkeeper may require the prospective guest to demonstrate the ability to pay by cash, valid credit card or a validated check;

2. Minor. Any person who has not attained 18 years of age unless that person:

A. Presents a signed notification from a parent that the parent accepts liability of the guest room costs, taxes, all charges by the minor and any damages to the guest room or its furnishings caused by the minor while a guest at the hotel or lodging house; and

B. Provides the innkeeper with a valid credit card number or cash deposit to cover the guest room costs, taxes, charges by the minor and any damages to the guest room or its furnishings caused by the minor. Any cash deposit provided must be refunded to the extent not used to cover any charges or damages as determined by the innkeeper following room inspection at check-out;

3. Property dangerous to others. Any person the innkeeper reasonably believes is bringing in property that may be dangerous to other persons, such as firearms or explosives;

4. Limit on occupants exceeded. Any person or persons, if admitting that person or those persons would cause the limit on the number of persons who may occupy any particular guest room in the hotel or lodging house to be exceeded. For purposes of this subsection, the limit represents the number permitted by local ordinances or reasonable standards of the hotel or lodging house relating to health, safety or sanitation; or

5. Violates laws or rules; endangers others. Any person who:

A. Disturbs, threatens or endangers other guests;

B. Is a minor and possesses or uses alcohol;

C. Possesses or uses illegal drugs; or

D. Violates any rule of the hotel or lodging house that is posted in a conspicuous place and manner at the guest registration desk and in each guest room.

Nothing in this section authorizes an innkeeper to violate the Maine Human Rights Act, Title 5, chapter 337.

Sec. 4. 30-A MRSA §3851, sub-§1, ¶C, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

C. Keep a copy of this section printed in distinct type constantly and conspicuously posted in at least 10 conspicuous places in the inn, hotel or boardinghouse a conspicuous place at or near the guest registration desk and in each guest room.

See title page for effective date.

CHAPTER 89

H.P. 308 - L.D. 412

An Act Relating to Building Permit Ordinances

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

Sec. 1. 30-A MRSA §4101, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by adding at the end a new paragraph to read:

This subchapter does not apply to a zoning ordinance as defined in section 4301, subsection 15-A or to a shoreland zoning ordinance adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B.

See title page for effective date.

CHAPTER 90

H.P. 393 - L.D. 528

An Act to Amend the Site Location of Development Laws Relating to Former Military Bases

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

Sec. 1. 38 MRSA §488, sub-§15 is enacted to read:

15. Exemption for former military bases. Development on a military base at the time ownership of the military base is acquired by a state or local development authority is exempt from review under this article. Subsequent transfer of ownership of a former military base or any portion of a former military base by a state or local development authority to another entity does not affect the exemption granted under this subsection. Development proposed or occurring on a former military base after ownership of the military base is acquired by a state or local development authority is subject to review under this article.

For purposes of this subsection, "military base" means all property under the ownership or control of a federal military authority prior to the acquisition of ownership by a state or local development authority, the ownership of which is subsequently acquired by a state or local development authority. For purposes of this subsection, "ownership" means a fee interest or leasehold interest in property.

See title page for effective date.

CHAPTER 91**H.P. 419 - L.D. 576****An Act to Facilitate the Use of the
Installment Method for the
Collection of Sewer Assessments and
Charges****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 30-A MRSA §3444, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Payment over time. ~~The legislative body~~ municipal officers of a municipality may ~~enact an ordinance~~ adopt an order generally authorizing the assessors and the tax collector to assess and collect those assessments and charges over a period of time not exceeding 10 years, including expenses involved in the municipality's abatement of malfunctioning domestic waste water disposal units under section 3428, subsection 4.

A. The assessors and collector may exercise this authority only when the person assessed has agreed to that method of assessment and collection in writing and notice of that fact has been recorded in the appropriate registry of deeds.

B. The municipal officers shall annually file with the collector a list of installment payments due the municipality, which ~~shall~~ must be collected with interest at a rate determined by the municipal officers. If, within 30 days after written notice of the total amount of the assessments and charges, or annual installment payment and interest, the person assessed fails, neglects or refuses to pay the municipality the expense incurred, the municipal assessors may assess a special tax, equal to the amount of the total unpaid assessment and charges, upon each lot or parcel of land so assessed and buildings upon the lot or parcel of land. This assessment ~~shall~~ must be included in the next annual warrant to the tax collector for collection and ~~shall~~ must be collected in the same manner as state, county and municipal taxes are collected.

(1) Interest at the ~~rate of 12% per year~~ same rate used for delinquent property taxes as established by Title 36, section 505, subsection 4 on the unpaid portion of assessments and charges due the municipality ~~shall accrue~~ accrues from the 30th day after written notice to the person assessed and ~~shall~~ must be added to and ~~become~~ be-

comes part of the special tax when committed to the tax collector.

See title page for effective date.

CHAPTER 92**H.P. 452 - L.D. 618****An Act to Change the Definitions of
"River," "Stream" and "Brook" in
the Environmental Laws****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 38 MRSA §436-A, sub-§11-A, as amended by PL 1991, c. 346, §3, is further amended to read:

11-A. Stream. "Stream" means a free-flowing body of water from the outlet of a great pond or the point of confluence of 2 perennial streams as depicted by a solid blue line on the most recent edition of a United States Geological Survey 7.5-minute series topographic map; or, if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Sec. 2. 38 MRSA §480-B, sub-§9, as enacted by PL 1987, c. 809, §2, is repealed and the following enacted in its place:

9. River, stream or brook. "River, stream or brook" means a channel between defined banks and associated flood plain wetlands. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"River, stream or brook" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

See title page for effective date.

CHAPTER 93

H.P. 481 - L.D. 662

An Act to Amend the Municipal Subdivision Laws Regarding Application Requirements

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

Sec. 1. 30-A MRSA §4403, sub-§3, ¶D is enacted to read:

D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 121 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 13907.

See title page for effective date.

CHAPTER 94

S.P. 275 - L.D. 725

An Act to Clarify the Discharge of Mortgages

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

Sec. 1. 33 MRSA §553-A, sub-§5, as enacted by PL 1993, c. 534, §2, is amended to read:

5. Exception. A mortgage may not be discharged as provided by this section if the holder of the mortgage at the time a discharge is sought is a financial institution or credit union authorized to do business in the State as defined by in Title 9-B, section 131, subsection 12-A or 17-A.

See title page for effective date.

CHAPTER 95

H.P. 544 - L.D. 740

An Act Concerning Cocurricular Activity Eligibility for Students Identified under the Federal Individuals with Disabilities Education Act

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

Sec. 1. 20-A MRSA §7201, sub-§6 is enacted to read:

6. Participation in cocurricular activities. Eligibility for an exceptional student to participate in cocurricular activities may not be denied solely because the student is enrolled in a reduced course load when the reduced course load is due to the student's exceptionality, provided that the student is satisfactorily completing the requirements of the educational components of an individualized education plan and is otherwise in compliance with the plan. If the student is not satisfactorily completing the educational components of an individualized education plan or is not otherwise in compliance with the plan, the student's eligibility may be determined in the same manner as the eligibility of a nonexceptional student who is not satisfying the applicable academic standards.

See title page for effective date.

CHAPTER 96

H.P. 574 - L.D. 779

An Act to Allow the Maine Technical College System to Grant Utility Easements

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

Sec. 1. 20-A MRSA §12706, sub-§13, as amended by PL 1991, c. 246, §10, is further amended to read:

13. Property management. To acquire by purchase, gift, lease or rent any property, lands, buildings, structures, facilities or equipment necessary to fulfill the purposes of this chapter. The board of trustees shall manage, rent, lease, sell and dispose of property, including lands, buildings, structures, equipment and facilities. The purchase and installation of faucets, shower heads, toilets and urinals is subject to Title 5, section 1762-A. If the board of trustees proposes to sell or permanently transfer any

interest in real estate, the transaction must be approved by the Legislature before the interest is transferred. Any revenues derived from these uses are to be credited to a separate fund to be used for the purposes of this chapter. Notwithstanding any other provision of law, the board of trustees may grant or otherwise transfer utility easements without legislative approval;

See title page for effective date.

CHAPTER 97

S.P. 289 - L.D. 787

An Act to Expand the Membership of the State Employee Health Commission

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

Sec. 1. 5 MRSA §285-A, sub-§2, as amended by PL 1993, c. 68, §1, is further amended to read:

2. Membership. The State Employee Health Commission consists of ~~16~~ 18 labor and management members as follows:

A. One labor member from each bargaining unit recognized under Title 26, chapter 9-B, appointed by the employee organization certified to represent the unit;

B. One labor member from the largest bargaining unit recognized under Title 26, chapter 14, appointed by the employee organization authorized to represent the unit;

C. One labor member appointed by the retiree chapters of the Maine State Employees Association;

D. Four management members appointed by the Commissioner of Administrative and Financial Services;

E. One management member appointed by the Court Administrators;

F. The Executive Director of Health Insurance, ex officio; ~~and~~

G. One member representing retirees appointed by the Maine Association of Retirees;

H. One labor member from the Maine Technical College System faculty or administrative unit, appointed by the employee organization authorized to represent the units; and

I. One management member from the Maine Technical College System appointed by the President of the Maine Technical College System.

All appointed or elected members serve at the pleasure of their appointing or electing authorities.

See title page for effective date.

CHAPTER 98

H.P. 707 - L.D. 964

An Act Establishing Education as a Priority for the State by Expediting Consideration of the Education Budget

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

Sec. 1. 20-A MRSA §15607, first ¶, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to read:

The Legislature shall annually, prior to ~~April 1st~~ March 15th, enact legislation ~~which shall to do the following:~~

See title page for effective date.

CHAPTER 99

H.P. 1001 - L.D. 1412

An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1995

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable prior to July 1, 1995; 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. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal year ending June 30, 1995, to the departments listed, the following sums.

1994-95

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Office of the Commissioner - Administrative and Financial Services

All Other	\$13,000
Provides for the appropriation of funds through the transfer from the Bureau of Human Resources program to meet unanticipated expenditures.	

Administration - Human Resources

Personal Services	(106,952)
Provides for the deappropriation of funds through salary savings.	

Administration - Human Resources

All Other	(13,000)
Provides for the deappropriation of funds through a transfer to the office of the Commissioner of Administrative and Financial Services program to meet unanticipated expenditures. Funds are no longer required in this program.	

Accounts and Control - Bureau of - Systems Project

All Other	(500,000)
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Provides for the deappropriation of funds through savings in data processing.

Budget - Bureau of the

Personal Services	(40,000)
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Provides for the deappropriation of funds through salary savings.

Elderly Householders' Tax Refund

All Other	(127,908)
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Provides for the deappropriation of funds through a transfer to the Division of Financial and Personnel Services program in order to settle a federal audit finding. Funds are no longer needed in this account.

Financial and Personnel Services - Division of

All Other	200,000
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Provides for the appropriation of funds through a transfer from the Maine Residents Property Tax program to settle an audit finding with the Federal Government related to overcharges to federal accounts for health insurance.

Public Improvements - Planning/Construction - Administration

Personal Services	(10,000)
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Provides for the deappropriation of funds through salary savings.

Maine Residents Property Tax Program

All Other	(72,092)
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Provides for the deappropriation of funds

through the transfer to the Division of Financial and Personnel Services program in order to settle a federal audit finding. Funds are no longer needed in this program.		Personal Services	(20,000)
		Provides for the deappropriation of funds through salary savings.	
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<hr/> (656,952)	DEPARTMENT OF CONSERVATION TOTAL	<hr/> (20,000)
ATTORNEY GENERAL, DEPARTMENT OF THE Administration - Attorney General		DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF	
		Administration - Maine Emergency Management Agency	
Personal Services	(120,000)	Personal Services	(28,000)
Provides for the deappropriation of funds through salary savings.		Provides for the deappropriation of funds from salary savings due to vacancies.	
Human Services Division		Military Training and Operations	
Personal Services	(30,000)	Personal Services	(27,100)
Provides for the deappropriation of funds through salary savings.		All Other	63,600
Human Services Division		TOTAL	<hr/> 36,500
Personal Services	(12,000)	Provides for the appropriation of funds through the line category transfer of Personal Services savings generated through vacancies to All Other to cover increased workers' compensation obligations.	
Provides for the deappropriation of funds from available salary savings.		Military Training and Operations	
Chief Medical Examiner - Office of		All Other	255,000
All Other	12,000	Provides for the appropriation of funds to cover increased All Other expenses, and for repayment of the working capital advance from Public Law 1983, chapter 477, Part E, Subpart 12.	
Provides for the appropriation of funds to meet year-end projected costs.		Veterans Services	
DEPARTMENT OF THE ATTORNEY GENERAL TOTAL	<hr/> (150,000)	Personal Services	(6,200)
CONSERVATION, DEPARTMENT OF Engineering and Realty			

All Other	6,200	and Community Development to do so. These funds do not lapse but must be carried forward until June 30, 1996 for the same purposes.	
TOTAL	-0-		
Provides for the line category transfer of Personal Services savings to All Other to satisfy increased All Other obligations.			
Special Veterans Services		Energy Resources - Office of	
Personal Services	(8,500)	Personal Services	(20,558)
Provides for the deappropriation of funds from salary savings generated through extended vacancies.		Provides for the deappropriation of funds through salary savings.	
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES		DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT	
TOTAL	255,000	TOTAL	259,442
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		EDUCATION, DEPARTMENT OF	
Administration - Economic and Community Development		Administrative Services Unit	
All Other	252,500	All Other	(500)
Provides for the appropriation of funds for a shortage due to modular furniture, relocation and other costs.		Provides for the deappropriation of funds to be transferred to Preschool Handicapped.	
Contingent Account		Educational Restructuring and Improvements	
All Other	27,500	All Other	(14,600)
Provides for the appropriation of funds to pay certain rent obligations remaining in fiscal year 1994-95. Notwithstanding any other provision of law, the Department of Administrative and Financial Services, Bureau of General Services is not authorized to pay May or June 1995 rent payments until authorized by the Commissioner of Economic		Provides for the deappropriation of funds to be transferred to Preschool Handicapped.	
		Division of Higher Education	
		All Other	(800)
		Provides for the deappropriation of funds to be transferred to Preschool Handicapped.	
		Preschool Handicapped	
		All Other	398,400
		Provides for the appropriation of funds for preschool handicapped students requiring	

public education services for compliance with the federal Individuals with Disabilities Education Act.		Provides for the deappropriation of funds through salary savings.	
Reimbursement for State Mandates		EXECUTIVE DEPARTMENT TOTAL	<hr/> (102,302)
All Other	(2,500)	HUMAN SERVICES, DEPARTMENT OF	
Provides for the deappropriation of funds to be transferred to Preschool Handicapped.		Administration - Human Services	
		Personal Services	70,000
Division of School Business Services		Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.	
All Other	(50,000)	Administration - Regional - Human Services	
Provides for the deappropriation of funds to be transferred to Preschool Handicapped.		Personal Services	10,000
Division of Special Services		Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.	
All Other	(30,000)	Administration - Income Maintenance	
Provides for the deappropriation of funds to be transferred to Preschool Handicapped.		Personal Services	50,000
DEPARTMENT OF EDUCATION TOTAL	<hr/> 300,000	Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.	
EXECUTIVE DEPARTMENT		Administration - Social Services	
Blaine House		Personal Services	70,000
Personal Services	(25,157)	Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.	
Provides for the deappropriation of funds through salary savings.		Child Welfare Services	
Planning Office		All Other	1,020,000
Personal Services	(35,000)	Provides for the appropriation of funds to cover an anticipated shortfall in fiscal year 1994-95.	
Provides for the deappropriation of funds through salary savings.			
Office of Substance Abuse			
Personal Services	(42,145)		

**Elder and Adult Services -
Bureau of**

Personal Services 100,000

Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.

**Elder and Adult Services -
Bureau of**

Positions - Legislative Count (-1.0)
Personal Services (7,251)

Provides for the deappropriation of funds for the transfer of one Clerk Typist III position to the Bureau of Medical Services.

Health - Bureau of

All Other (170,000)

Provides for the deappropriation of funds from a claim for administrative case management through the federal Title XIX program.

**Income Maintenance -
Regional**

Personal Services 250,000

Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.

**Medical Care - Payments to
Providers**

All Other (250,000)

Provides for the deappropriation of funds due to reimbursement of early intervention funds from the Department of Education.

Medical Care Administration

All Other (1,150,000)

Provides for the deappropriation of funds due to

a retroactive claim through federal Title XIX for the Maine Health Program administration costs from January 1, 1993 to December 31, 1994.

Medical Care Administration

Personal Services 150,000

Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.

Medical Care Administration

Positions - Legislative Count (1.0)
Personal Services 7,251

Provides for the appropriation of funds for the transfer of one Clerk Typist III position from the Bureau of Elder and Adult Services.

Social Services - Regional

Personal Services 500,000

Provides for the appropriation of funds to cover an anticipated shortfall in Personal Services.

**State Supplement to Federal
Supplemental Security Income**

All Other 850,000

Provides for the appropriation of funds due to an anticipated shortfall.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

1,500,000
JUDICIAL DEPARTMENT**Courts - Supreme, Superior,
District and Administrative**

All Other 750,000

Provides for the appropriation of funds to meet general operating costs for the

remainder of fiscal year
1994-95.

shortages in the 4th quarter
payroll.

**JUDICIAL DEPARTMENT
TOTAL**

750,000

**MARINE RESOURCES,
DEPARTMENT OF**

**Administration - Marine
Resources**

Personal Services

5,500

Provides for the appropriation
of funds through the transfer
from the Bureau of Marine
Sciences program to meet a
projected shortage in the 4th
quarter payroll.

**Marine Development - Bureau
of**

Personal Services

2,000

Provides for the appropriation
of funds through a transfer
from the Bureau of Marine
Sciences program to meet a
projected shortage in the 4th
quarter payroll.

Marine Patrol - Bureau of

Personal Services

36,700

Provides for the appropriation
of funds through the transfer
from the Bureau of Marine
Sciences program. The
shortage is due to the excessive
separation costs associated
with 2 retirements.

Marine Sciences - Bureau of

Personal Services

(44,200)

Provides for the
deappropriation of funds
through the transfer to the
Bureau of Marine Patrol, the
Bureau of Marine
Development and the Marine
Resources Administration
programs to meet projected

**DEPARTMENT OF MARINE
RESOURCES
TOTAL**

-0-

**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**

**Medicaid Services - Mental
Retardation**

All Other

3,769,030

Provides for the appropriation
of funds to the Division of
Mental Retardation seed
account to cover the costs of
the weekly seed charges from
the Department of Human
Services for the remainder of
fiscal year 1994-95.

**Mental Health Services -
Community Medicaid**

All Other

(300,000)

Provides for the
deappropriation of funds from
the Division of Mental Health
seed account to transfer to the
Division of Mental Retardation
seed account to cover the cost
of the Medicaid seed for the
remainder of fiscal year
1994-95.

**Mental Health Services -
Children**

All Other

(50,000)

Provides for the
deappropriation of funds
through a transfer to the
Division of Mental Retardation
seed account to cover the cost
of the Medicaid seed for the
remainder of fiscal year
1994-95.

**Mental Retardation Services -
Community**

All Other	(300,000)
Provides for the deappropriation of funds from the Division of Mental Retardation operating fund All Other line category to be transferred to the Division of Mental Retardation seed account to cover the cost of the Medicaid seed for the remainder of fiscal year 1994-95.	
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION	
TOTAL	<hr/> 3,119,030
PROPERTY TAX REVIEW, STATE BOARD OF	
Property Tax Review - State Board of	
All Other	(55,000)
Provides for the deappropriation of funds through savings in professional services by the State.	
STATE BOARD OF PROPERTY TAX REVIEW	
TOTAL	<hr/> (55,000)
PUBLIC SAFETY, DEPARTMENT OF	
Administration - Public Safety	
Personal Services	(49,017)
Provides for the deappropriation of funds through salary savings.	
DEPARTMENT OF PUBLIC SAFETY	
TOTAL	<hr/> (49,017)
TREASURER OF STATE, OFFICE OF	
Debt Service - Treasury	

All Other	1,241,583
Provides for the appropriation of funds to meet debt service needs for fiscal year 1994-95. An additional \$1,482,414 will also be transferred from debt service earnings.	
OFFICE OF TREASURER OF STATE	
TOTAL	<hr/> 1,241,583
SECTION A-1	
TOTAL APPROPRIATIONS	<hr/> 6,391,784
Sec. A-2. Allocation. The following funds are allocated from the Highway Fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.	
	1994-95
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF	
Claims Board	
Personal Services	(8,000)
All Other	8,000
Provides for the allocation of funds through the line category transfer from Personal Services salary savings to All Other to meet unexpected court-related expenditures.	
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES	
TOTAL	<hr/> -0-
SECTION A-2	
TOTAL ALLOCATIONS	<hr/> -0-
Sec. A-3. Allocation. The following funds are allocated from the Federal Expenditures Fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.	
	1994-95
EDUCATION, DEPARTMENT OF	

School to Work Transition

All Other (150,000)

Provides for the deallocation of funds to be transferred to the Department of Labor, Job Training Partnership Program as part of the federal school-to-work opportunities project.

**DEPARTMENT OF
EDUCATION
TOTAL**

(150,000)

**HUMAN SERVICES,
DEPARTMENT OF**

**Elder and Adult Services -
Bureau of**

All Other 38,500
Capital Expenditures 1,500

TOTAL 40,000

Provides for the allocation of funds to support the Maine NET long-term care federal planning grant to design a capitated managed care system for long-term care services for the elderly.

**Elder and Adult Services -
Bureau of**

Positions - Other Count (1.0)
Personal Services 7,251

Provides for the allocation of funds for the transfer of one Clerk Typist III position from the Bureau of Medical Services.

Medical Care Administration

All Other 1,150,000

Provides for the allocation of funds for the transfer of administrative costs and subsequent reimbursement to the General Fund as a result of the recovery of administrative costs for the Maine Health

Program from the cost allocation claim to federal Title XIX.

Medical Care Administration

Positions - Other Count (-1.0)
Personal Services (7,251)

Provides for the deallocation of funds for the transfer of one Clerk Typist III position to the Bureau of Elder and Adult Services.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

1,190,000

LABOR, DEPARTMENT OF

**Job Training Partnership
Program**

Personal Services 50,000
All Other 100,000

Provides for the allocation of funds through the transfer from the Department of Education for the purpose of supporting the federal school-to-work opportunities project.

**DEPARTMENT OF LABOR
TOTAL**

150,000

SECTION A-3

TOTAL ALLOCATIONS 1,190,000

Sec. A-4. Allocation. The following funds are allocated from Other Special Revenue funds for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**EDUCATION,
DEPARTMENT OF**

**Administrative Office of the
Commissioner**

All Other 1,000

Provides for the allocation of funds for the Commissioner's

Task Force on Safe and Drug
Free Schools.

**DEPARTMENT OF
EDUCATION
TOTAL**

1,000

**SECTION A-4
TOTAL ALLOCATIONS**

1,000

Sec. A-5. Allocation. The following funds are allocated from the Federal Block Grant Fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**HUMAN SERVICES,
DEPARTMENT OF**

Risk Reduction

Personal Services	(20,000)
All Other	20,000

Provides for the allocation of funds through the line category transfer of Personal Services salary savings to All Other for consultant work on cholesterol site visits and workshops.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

-0-

**SECTION A-5
TOTAL ALLOCATIONS**

-0-

Sec. A-6. Allocation. The following funds are allocated from the Tree Harvesting Fund for the fiscal year ending June 30, 1995 to carry out the purposes of this Part.

1994-95

**BAXTER STATE PARK
AUTHORITY**

Tree Harvesting Fund

All Other	100,000
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Provides for the allocation of funds to raise the level of expenditures to meet higher than anticipated revenues.

**BAXTER STATE PARK
AUTHORITY
TOTAL**

100,000

**SECTION A-6
TOTAL ALLOCATIONS**

\$100,000

PART B

Sec. B-1. PL 1993, c. 410, Pt. EEE, §1 is repealed.

Sec. B-2. PL 1993, c. 410, Pt. EEE, §2 is repealed.

Sec. B-3. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, an amount not to exceed \$9,700,000 in fiscal year 1994-95 may be transferred from the available balance in the Maine Rainy Day Fund to the Departments and Agencies - Statewide program in the Department of Administrative and Financial 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 remodification of state employees' pay dates.

Allocations from the Highway Fund in section 6 of this Part are to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for remodification of state employees' pay dates for the affected Highway Fund accounts.

Sec. B-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1994-95

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services	\$9,700,000
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Provides for the appropriation of funds associated with a modification of Cycle A and Cycle B payrolls in accordance with this Part.

Rainy Day Fund Program

Unallocated	(\$9,700,000)
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**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

\$-0-

Sec. B-5. Deappropriation. It is the intent of the Legislature that \$9,700,000 be deappropriated from the Departments and Agencies - Statewide program in the Department of Administrative and Financial Services within the 1995-96 General Fund "Current Services" budget Act in order to ensure that identified surplus personal services funds are returned to the Maine Rainy Day Fund.

Sec. B-6. Allocation. The following funds are allocated from the Highway Fund to carry out the purpose of this Part.

1994-95

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services	\$4,500,000
Provides for the allocation of funds associated with the modification of Cycle A and Cycle B payrolls in accordance with this Part.	

PART C

Sec. C-1. PL 1993, c. 707, Pt. M, §1, as amended by PL 1995, c. 5, Part G, § 2, is further amended to read:

Sec. M-1. General Purpose Aid for Local Schools; lapsed balances. Notwithstanding any other provision of law, ~~\$348,406~~ \$368,406 in fiscal year 1994-95 in the General Purpose Aid for Local Schools account lapse to the General Fund as a result of construction audit recoveries and ~~\$600,000~~ \$880,000 lapse as the result of the calculation of individual school unit subsidies, the estimation of bond interest and the timing of bonding by school administration units for construction projects.

Sec. C-2. Carrying balance. Any balance remaining on June 30, 1995 in the General Fund "Public Improvements - Planning Constructions - Administration" program in the Department of Administrative and Financial Services may not lapse but must be carried forward until June 30, 1996 to be used for the same purpose.

Sec. C-3. Lapsed balances. Any balances remaining in the Blaine House Renovations and Repairs General Fund account within the Executive Department must lapse to the General Fund by June 30, 1995.

Sec. C-4. Lapsed balances. Any balances remaining in the Governor's Restructuring Commission General Fund account within the Executive Department must lapse to the General Fund by June 30, 1995.

Sec. C-5. Revenue reprojction. Notwithstanding the Maine Revised Statutes, Title 5, section 1513, subsection 1, the April 1995 increase of revenue estimates for the fiscal year 1994-95 during the First Regular Session of the 117th Legislature does not increase the appropriation to the Maine Rainy Day Fund.

Sec. C-6. Revenue reprojction. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5683, subsection 3, the April 1995 increase of revenue estimates for fiscal year 1994-95 during the First Regular Session of the 117th Legislature does not increase the appropriation to the Property Tax Relief Fund.

Sec. C-7. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Controller is authorized to transfer \$1,500,000 from AFDC Special Revenues, Account 014-10A-0138-01 to the General Fund as undedicated revenue no later than June 30, 1995.

Sec. C-8. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Controller is authorized to transfer \$900,000 from the Securities Division, Account 014-02A-0093-02 to the General Fund as undedicated revenue no later than June 30, 1995.

Sec. C-9. Working capital advance. The Department of Defense and Veterans' Services shall return the working capital advance in the amount of \$165,000, as authorized by Public Law 1983, chapter 477, Part E, subpart 12, to the General Fund no later than June 30, 1995.

PART D

Sec. D-1. Productivity initiatives. The intent of the productivity initiative is to expedite and facilitate the implementation of improvements in State Government operations through the realization of cost savings from increased productivity of state employees, more efficient delivery of services and the elimination of waste, duplication and unnecessary programs. The initiative is designed to provide incentives to state agencies and employees to participate through the sharing of any savings realized

among the General Fund, state department budgets and employees according to a predetermined formula. The intent of this Part is to develop a mechanism so as to achieve \$45,346,780 in savings to the General Fund in the 1996-97 biennium as identified in the 1996-97 General Fund current services budget Act.

Sec. D-2. Productivity Realization Task Force.

1. Task force established. The Productivity Realization Task Force, referred to in this Part as the "task force," is established to advise and assist the Governor and the Legislature in the design and implementation of changes in State Government operations intended to improve the productivity of the work force and the efficiency of state services. The task force is solely an advisory group and has no independent authority.

2. Membership; chair. The task force consists of 13 members. The Governor shall appoint 6 members, to include 2 members from the Governor's cabinet, one member representing the business sector, one member representing employee unions and one state employee; the Speaker of the House shall appoint 3 members, to include at least one Representative and one member representing the public sector; the President of the Senate shall appoint 3 members, to include one Senator and one member representing the private sector; and the Chief Justice of the Supreme Judicial Court or the chief justice's designee is a member. The Governor, the President of the Senate and the Speaker of the House shall jointly select a chair of the task force from among the 13 members.

3. Appointment deadline; first meeting. Task force members must be appointed within 48 hours of the effective date of this Part. The first meeting of the task force must be called by the chair within 16 days after the effective date of this Part.

4. Expenses. Members of the task force may not receive any compensation or reimbursement for expenses. The Legislative Council shall absorb the costs of the legislative members of the task force within existing resources.

5. Staff. Upon request of the task force, the Legislative Council, the Administrative Office of the Courts, the Bureau of the Budget and the State Planning Office and other bureaus within the Department of Administrative and Financial Services shall provide assistance and staff to the task force, within existing resources.

Sec. D-3. Task force authorization.

1. Scope of study. The task force shall consider all reasonable productivity improvements throughout State Government, including, but not limited to:

- A. Position reductions through attrition to the extent feasible;
- B. Administration;
- C. Changes in supervisory and management roles and responsibilities including span of control;
- D. Redundant tasks and functions;
- E. Position enlargements and restructuring;
- F. Use of technology;
- G. Changes in agency and program missions and objectives and the relevance of programs to enabling legislation;
- H. Program restructuring; and
- I. Alternative systems of service delivery including the potential, when applicable, for privatization.

Within the scope of its work, the task force shall utilize all concepts, approaches and methodologies accepted by State Government for the implementation of strategic performance budgeting and receive and consider the recommendations of any task force or commission authorized by law to guide and implement performance-based budgeting in State Government.

2. Recommendations to Executive and Legislature. The task force shall recommend that the Governor reduce, eliminate or otherwise alter current state programs and operations in order to achieve the deappropriations to be authorized in fiscal year 1995-96 and fiscal year 1996-97. The task force is authorized to recommend that the Legislature eliminate positions in State Government or reduce, eliminate or otherwise alter state programs and operations in order to make permanent the Governor's implementation of task force recommendations pursuant to authorized deappropriation levels during the prior fiscal year, or to implement other task force recommendations.

3. Reports. The task force shall report its findings, recommendations and accomplishments to the Governor, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on State and Local Government no later than December 31st of each fiscal year. The task force report must be submitted to the Governor for review and comment prior to submission to the legislative committees. The Governor shall prepare and submit legislation necessary to implement any accepted findings and recommendations of the task force. The task force also shall provide a monthly report to the Governor, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint

Standing Committee on State and Local Government recommending position reductions with cost-saving estimates for each fiscal year of the biennium by position and department, and recommend measures to reduce, eliminate or otherwise alter state programs and operations in order to meet the deappropriation to be authorized in fiscal year 1995-96 and fiscal year 1996-97.

Sec. D-4. Implementation of task force recommendations by Governor. The Governor shall review the recommendations of the task force as presented throughout the fiscal year. Nothing in this Part may be construed to constrain the Governor's authority to exercise the powers granted by the Constitution of Maine or statutes to execute the laws of the State.

Any recommendation of the task force that requires a change to the Maine Revised Statutes, a Public Law or a Private and Special Law enacted by the Legislature, except as expressly authorized by section 5 of this Part, and that the Governor seeks to implement requires the following.

1. The Governor shall immediately notify the Legislature of the specific recommendation or recommendations that require legislation to implement; the departments, programs and positions to be affected; and the projected savings and deappropriations required in fiscal year 1995-96 and fiscal year 1996-97.

2. After having provided at least 2 weeks' notice to the President of the Senate and the Speaker of the House, the Governor shall convene the Legislature into special session to address legislation to implement the specific recommendation or recommendations identified by the Governor in subsection 1. Should the Legislature be in regular session, the Governor shall immediately submit legislation to implement the specific recommendation or recommendations identified by the Governor in subsection 1.

3. Once that legislation has been submitted to the Office of the Revisor of Statutes, the Legislature has 3 calendar days, excluding holidays and weekends, to enact legislation that achieves the same amount of projected savings and deappropriations in fiscal year 1995-96 and fiscal year 1996-97 as those identified by the Governor in subsection 1. Those savings and deappropriations may not be achieved by increasing revenue. If the Legislature fails to enact legislation that achieves the same amount of projected savings or deappropriations in fiscal year 1995-96 and fiscal year 1996-97 as those identified by the Governor in subsection 1, the Governor is authorized to achieve the savings through use of the temporary curtailment of allotment power specified in the Maine Revised Statutes, Title 5, section 1668, in addition to

the temporary powers granted by section 5 of this Part, provided that the Governor may not curtail allotments under this section in the General Purpose Aid for Local Schools Program and the Local Government Fund.

4. Notwithstanding the Maine Revised Statutes, Title 3, section 2, 6th paragraph, the members of the Senate and House of Representatives must each be compensated \$55 for every day's attendance, expenses and mileage pursuant to Title 3, section 2, 10th paragraph.

Sec. D-5. Appropriation and position transfers. Notwithstanding any other provision of law, the Governor is authorized by financial order to transfer positions authorized by the Legislature between General Fund accounts and between departments and to transfer the available balances of any General Fund appropriation between line categories, accounts and departments in order to achieve the savings necessary to meet the lump-sum deappropriations to be authorized in fiscal year 1995-96 and fiscal year 1996-97. When the Governor determines that the transfer of a position is necessary, any incumbent in the transferred position at the time of transfer must be transferred along with the position. In exercising the Governor's delegated authority under this section, the Governor shall ensure that the Governor's actions are designed to achieve the goals set forth in section 1 of this Part and conform to the following standards:

1. Improvement of the effectiveness with which General Fund dollars available in the biennium are spent;

2. Reduction of the ratio of management, administrative, clerical and supervisory personnel of a department or agency to the front-line personnel;

3. Consolidation or restructuring of redundant State Government services, programs and operations where possible;

4. Integration of the effective use of technology into state departments, agencies, programs and operations; and

5. Achievement of the most effective delivery of services to Maine citizens.

Sec. D-6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1994-95

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Productivity Realization Task Force

All Other \$250,000

Provides for the necessary expenses, including consulting fees, of the Productivity Realization Task Force.

LEGISLATURE**Legislature**

Personal Services (\$250,000)

Provides for the deappropriation of funds from available balances.

TOTAL APPROPRIATIONS \$-0-

Sec. D-7. Repeal. This Part is repealed June 30, 1997.

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

Effective May 15, 1995.

CHAPTER 100

S.P. 169 - L.D. 430

An Act to Prohibit State Legislative Employees from Using State Time or Property for Campaigning

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

Sec. 1. 3 MRSA §§170 and 170-A are enacted to read:

§170. Partisan employees; restricted activities

Partisan legislative employees who assume active roles in campaigns shall either limit their activities to evenings and weekends or take leave to pursue these activities if they occur during the Legislature's regular business day, which is 8 a.m. to 5 p.m. This includes fund raising for campaign efforts as well as other activities that are directly related to election or reelection efforts.

§170-A. Use of legislative equipment and resources

Legislative employees are prohibited from at any time using the computer system, telephones, copying machines and other legislative equipment for work related to campaigns.

See title page for effective date.

CHAPTER 101

S.P. 235 - L.D. 600

An Act to Clarify Credit Union Common Bond Requirements

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

Sec. 1. 9-B MRSA §814, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Field of membership. "Field of membership" of a credit union means those persons having a common bond of occupation or association; residence or employment within a well-defined neighborhood, community or rural district; employment by a common employer or by employers located within a well-defined industrial park or community; membership in a bona fide fraternal, religious, cooperative, labor, rural, educational or similar organization; and members of the immediate families of such persons.

Sec. 2. 9-B MRSA §814, sub-§1, ¶¶A and B are enacted to read:

A. When determining whether a credit union's proposed field of membership meets the requirements of this section, the superintendent shall consider all guidelines established by the National Credit Union Administration that address the issues of common bond, overlapping fields of membership, expansions or conversions of field of membership and the documentation required for amending a field of membership.

B. The superintendent shall provide notice to interested parties of a bylaw amendment sought by a credit union that proposes a change in field of membership.

See title page for effective date.

CHAPTER 102

H.P. 471 - L.D. 652

An Act Pertaining to the Signing of Petitions

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

Sec. 1. 30-A MRSA §2528, sub-§4, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

(1) Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

- (a) Not less than 3 nor more than 10 in towns with a population of 200 or less;
- (b) Not less than 10 nor more than 25 in towns with a population of 201 to 500; and
- (c) Not less than 25 nor more than 100 in towns with a population of more than 500.

(2) Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign ~~only~~ as many nomination papers for each office as ~~there are the voter chooses, regardless of the number of vacancies to be filled. If a voter signs more nomination papers for an office than there are vacancies to be filled, any signatures of that voter on nomination papers, submitted after the clerk has received a number of nomination papers bearing that voter's signature which equals the number of vacancies to be filled, are not valid.~~

See title page for effective date.

CHAPTER 103

S.P. 292 - L.D. 790

An Act to Allow the Workers' Compensation Board to Submit Legislative Proposals Annually

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

Sec. 1. 39-A MRSA §152, sub-§11, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

11. Recommending legislative change. The board shall consider and recommend to the Legislature changes in this Act. Recommended changes must be forwarded to the Legislature annually on or before December 1st ~~of each even-numbered year.~~

See title page for effective date.

CHAPTER 104

H.P. 616 - L.D. 826

An Act to Amend the Sexual Abuse Laws by Including 16-year-olds and 17-year-olds Who Are Still in School in the Provisions for Sexual Abuse of Minors

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

Sec. 1. 17-A MRSA §254, sub-§1, ¶A, as amended by PL 1989, c. 401, Pt. A, §5, is further amended to read:

A. Having attained the age of 19 years, the person engages in a sexual act with another person, not the actor's spouse, who has attained the age of 14 years but has not attained the age of 16 years, provided that the actor is at least 5 years older than the other person; ~~or~~

Sec. 2. 17-A MRSA §254, sub-§1, ¶C is enacted to read:

C. Having attained the age of 21 years, the person engages in a sexual act with another person, not the actor's spouse, who has attained the age of 16 years but not the age of 18 years, and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled.

Sec. 3. 17-A MRSA §254, sub-§3, as amended by PL 1993, c. 451, §1, is repealed and the following enacted in its place:

3. Violation of subsection 1, paragraph A is a Class D crime; and violation of subsection 1, paragraph C is a Class E crime; except that the sentencing class for a violation of subsection 1 is one class higher if the State pleads and proves:

A. The actor was more than 10 years older than the other person;

B. The actor knew the other person was related to the actor within the 2nd degree of consanguinity; or

C. The actor has 2 or more prior Maine convictions for violations of this section. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 4. 17-A MRSA §255, sub-§1, ¶H, as amended by PL 1993, c. 687, §5, is further amended to read:

H. The other person submits as a result of compulsion; ~~or~~

Sec. 5. 17-A MRSA §255, sub-§1, ¶I, as enacted by PL 1993, c. 687, §6, is amended to read:

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Mental Health and Mental Retardation or the Department of Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that person as a person with mental retardation. It is an affirmative defense to prosecution under this paragraph that the actor receives services for mental retardation or is a person with mental retardation as defined in Title 34-B, section 5001, subsection 3-; or

Sec. 6. 17-A MRSA §255, sub-§1, ¶J is enacted to read:

J. The other person, not the actor's spouse, has not in fact attained the age of 18 years and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, having attained the age of 21 years, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled.

Sec. 7. 17-A MRSA §255, sub-§2, as repealed and replaced by PL 1993, c. 687, §7, is amended to read:

2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph J is a Class E crime and except that a violation of subsection 1, paragraph C, G or H is a Class C crime, and a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section is a Class C crime. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

See title page for effective date.

CHAPTER 105

S.P. 300 - L.D. 839

An Act to Allow the Workers' Compensation Board to Regulate Nonfinancial Aspects of Workers' Compensation Arbitration

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

Sec. 1. 39-A MRSA §314, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 and 11, is amended to read:

7. **Fee; rules.** The board shall by rule provide for the amount of the fee to be paid to the arbitrator by the board and establish administrative processes to review, adopt and monitor arbitration plans.

See title page for effective date.

CHAPTER 106

S.P. 320 - L.D. 901

An Act to Clarify the Use of the Power of Sale Foreclosures Regarding Limited Liability Corporations

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

Sec. 1. 14 MRSA §6203-A, first ¶, as amended by PL 1993, c. 277, §1 and affected by §5, is further amended to read:

Any holder of a mortgage on real estate that is granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust and that contains a power of sale, or a person authorized by the power of sale, or an attorney duly authorized by a writing under seal, or a person acting in the name of the holder of such mortgage or any such authorized person, may, upon breach of condition and without action, do all the acts authorized or required by the power; except that a sale under the power is not effectual to foreclose a mortgage unless, previous to the sale, notice has been published once in each of 3 successive weeks, the first publication to be not less than 21 days before the day of the sale in a newspaper of general circulation in the town where the land lies. This provision is implied in every power of sale mortgage in which it is not expressly set forth. For mortgage deeds executed on or after October 1, 1993, the power of sale may be used only if the mortgage deed states that it is given primarily for a business, commercial or agricultural purpose. A copy of the notice must be served on the mortgagor or its representative in interest, or may be sent by registered mail addressed to it or the representative at its last known address, or to the person and to the address as may be agreed upon in the mortgage, at least 21 days before the date of the sale under the power in the mortgage. Any power of sale incorporated into a mortgage is not affected by the subsequent transfer of the mortgaged premises from the corporation, partnership, including a limited partnership, limited liability company or trustee of the trust to any other type of organization or to an individual or individuals. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate is used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale. The method of foreclosure of real estate mortgages provided by this section is specifically subject to the order of priorities set out in section 6205.

Sec. 2. 33 MRSA §501-A, first ¶, as amended by PL 1993, c. 277, §3 and affected by §5, is further amended to read:

The following "power" is known as "The Statutory Power of Sale" and may be included in any mortgage or incorporated by reference in any mortgage granted by a corporation, partnership, including a limited partnership, limited liability company or trustee of a trust. The power of sale may not be used to foreclose a mortgage deed granted by a trustee of a trust if at the time the mortgage deed is given the real estate is used exclusively for residential purposes, the real estate has 4 or fewer residential units and one of the units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust. If the mortgage deed contains a statement that at the time the mortgage deed is given the real estate is used exclusively for residential purposes, that the real estate has more than 4 residential units or that none of the residential units is the principal residence of the owner of at least 1/2 of the beneficial interest in the trust, the statement conclusively establishes these facts and the mortgage deed may be foreclosed by the power of sale.

See title page for effective date.

CHAPTER 107

H.P. 711 - L.D. 968

An Act to Protect the Integrity of the Maine Cellular Telecommunications Network

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

Sec. 1. 17-A MRSA §357, sub-§3, as amended by PL 1989, c. 138, is further amended to read:

3. As used in this section, "services" includes, but is not necessarily limited to, labor, professional service, public utility and transportation service, ski lift service, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone, cellular telephone, telegraph, cable television or computer service, gas, electricity, water or steam, admission to entertainment, exhibitions, sporting events or other events or services for which a charge is made.

See title page for effective date.

CHAPTER 108**H.P. 847 - L.D. 1178****An Act Regarding Designation by the Commissioner of Transportation of a Deputy or Another Staff Member to Represent the Commissioner of Transportation at Maine Turnpike Authority Meetings****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 23 MRSA §1965, sub-§2, ¶A, as amended by PL 1987, c. 433, §1, is further amended to read:

A. The authority ~~shall consist~~ consists of 4 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over transportation and subject to confirmation by the Legislature. The Commissioner of Transportation ~~shall be~~ is a member ex officio. The Commissioner of Transportation may designate a deputy, director, assistant or other officer or employee of the department to represent the Commissioner of Transportation at meetings of the authority with full power to act and vote on behalf of the Commissioner of Transportation. Upon the expiration of the term of office of any member, the Governor shall appoint a new member who ~~shall serve~~ serves in office for a term of 7 years and until ~~his~~ a successor is duly appointed and qualified, and any member of the authority ~~shall be~~ is eligible for reappointment. In the event of a vacancy in the membership of the authority caused by the death, incapacity, resignation or removal of a member, the Governor shall appoint a member to fill that vacancy only for the unexpired term of office of the member whose death, incapacity, resignation or removal created the vacancy, but the newly appointed member may be reappointed at the end of the unexpired term in accordance with this subsection. In all events, ~~no~~ a member may not be appointed to the authority who is not a resident of the State at the time of ~~his~~ the appointment and qualification, or who has not been a qualified voter in the State for a period of at least one year next preceding ~~his~~ the appointment.

See title page for effective date.

CHAPTER 109**S.P. 431 - L.D. 1199****An Act to Amend the Maine Criminal Code by Correcting References to Committee Structure****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 17-A MRSA §1353, sub-§1, as enacted by PL 1975, c. 740, §124, is amended to read:

1. The Senate and House ~~chairmen~~ chairs of the ~~Judiciary Committee~~ joint standing committee of the Legislature having jurisdiction over the Maine Criminal Code and the Maine Juvenile Code, or their designees, ~~shall~~ shall serve as consultants to the commission. The Chief Justice of the Supreme Judicial Court shall appoint 4 consultants to the commission, at least one of whom ~~shall~~ must be an active member of the Superior Court and at least one of whom ~~shall~~ must be an active member of the District Court.

See title page for effective date.

CHAPTER 110**S.P. 435 - L.D. 1203****An Act to Rename the Crime of Endangering the Welfare of an Incompetent Person****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 17-A MRSA §555, as enacted by PL 1975, C. 499, §1, is amended to read:

§555. Endangering welfare of a dependent person

1. A person is guilty of endangering the welfare of ~~an incompetent a dependent person~~ if he that person knowingly endangers the health, safety or mental welfare of a person who is unable to ~~care for himself~~ perform self-care because of advanced age, physical or mental disease, disorder or defect.

2. As used in this section "endangers" includes a failure to act only when the defendant had a legal duty to protect the health, safety or mental welfare of the ~~incompetent dependent~~ dependent person.

3. Endangering the welfare of ~~an incompetent a dependent person~~ is a Class D crime.

Sec. 2. 17-A MRSA §557, as enacted by PL 1975, c. 499, §1, is amended to read:

§557. Other defenses

For the purposes of this chapter, a person who in good faith provides treatment for a child or ~~incompetent dependent~~ dependent person by spiritual means through prayer alone ~~shall~~ may not for that reason alone be deemed to have knowingly endangered the welfare of ~~such that~~ that child or ~~incompetent dependent~~ dependent person.

See title page for effective date.

CHAPTER 111

H.P. 654 - L.D. 877

**An Act to Change the Department of
Corrections' Lease Provisions to
Conform with Statutes Regarding
Leases of State Buildings by Other
Departments**

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

Sec. 1. 34-A MRSA §1403, sub-§5, as amended by PL 1991, c. 314, §24, is further amended to read:

5. Lease of unused buildings. The commissioner may, with the approval of the Director of ~~Public Improvements~~ the Bureau of General Services, lease unused buildings at the correctional and detention facilities for the purposes of providing services to clients.

A. The leases must be for a period not to exceed ~~one year~~ 2 years and may be extended, with the approval of the Director of the Bureau of General Services, for 3 more 2-year periods.

B. The commissioner shall submit a plan of the proposed leases and their impact on the correctional and detention facilities and clients to the joint standing committee of the Legislature having jurisdiction over corrections no later than January 31st of each year.

See title page for effective date.

CHAPTER 112

S.P. 388 - L.D. 1065

**An Act to Clarify
Detention Responsibilities**

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

Sec. 1. 34-A MRSA §4110, as amended by PL 1993, c. 354, §15, is further amended to read:

§4110. State responsible for detention

Notwithstanding any other provision of law, on the date that the Northern Maine Regional Juvenile Detention Facility begins operating, the State is responsible for all physically restrictive juvenile detention statewide, except that the detention provided under Title 15, section 3203-A, subsection 1 remains the responsibility of the counties. This provision does not apply to a juvenile who is held in an adult section of a jail pursuant to court order under Title 15, section 3101, subsection 4, paragraph E-1, Title 15, section 3203-A, subsection 7 paragraph C or D or Title 15, section 3205, subsection 2.

See title page for effective date.

CHAPTER 113

H.P. 687 - L.D. 938

**An Act to Provide for the Timely
Passage of the State Budget**

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

Sec. 1. 5 MRSA §1666-A is enacted to read:

§1666-A. Enactment of budget

The Legislature shall review a biennial or supplemental budget submitted to it in accordance with this chapter and enact a budget no later than 30 days prior to the date of adjournment prescribed in Title 3, section 2, except that, during the first year in office of a Governor-elect, the Legislature shall enact a budget no later than the first Friday in June.

See title page for effective date.

CHAPTER 114

S.P. 30 - L.D. 60

**An Act to Allow Plumbers and
Pump Installers to Install
Wiring on Replacement Water
Heaters and Water Pumps in
Residential Property**

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

Sec. 1. 32 MRSA §1102, sub-§5, as amended by PL 1991, c. 531, §1, is further amended to read:

5. Oil burner technicians. Any person duly licensed under chapter 33 subject to the restrictions of the license as issued; ~~or~~

Sec. 2. 32 MRSA §1102, sub-§6, as amended by PL 1991, c. 531, §2, is further amended to read:

6. Elevator mechanics. Any person licensed under Title 26, sections 484 to 487 subject to the restrictions of the license as issued; ~~;~~

Sec. 3. 32 MRSA §1102, sub-§8, as enacted by PL 1993, c. 659, Pt. A, §2, is amended to read:

8. Gas installers. A person duly licensed under chapter 33 or chapter 49 when installing natural gas utilization equipment, subject to the restrictions of that person's license; ~~;~~

Sec. 4. 32 MRSA §1102, sub-§§9 and 10 are enacted to read:

9. Plumbers. A person licensed under chapter 49, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps and water heaters of the same or smaller size in residential properties; or

10. Pump installers. A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties.

See title page for effective date.

CHAPTER 115

S.P. 213 - L.D. 555

An Act to Increase the Time Period for Veterans Serving in Desert Storm Recognized in the Veterans Preference Program

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

Sec. 1. 5 MRSA §7054, sub-§1, ¶D, as amended by PL 1993, c. 427, §1, is further amended to read:

D. "War, campaign or expedition" means any of the following periods:

- (1) April 6, 1917 to November 10, 1918;
- (2) December 7, 1941 to September 1, 1945;
- (3) June 27, 1950 to January 31, 1955;
- (4) August 5, 1964 to May 7, 1975; and
- (5) August 7, 1990 to ~~April 11~~ August 7, 1991.

See title page for effective date.

CHAPTER 116

S.P. 163 - L.D. 424

An Act Concerning Juveniles Hunting without Adult Supervision

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

Sec. 1. 12 MRSA §7406, sub-§21 is enacted to read:

21. Allowing a junior hunter to hunt without adult supervision. A person is guilty of allowing a junior hunter to hunt without adult supervision if that person, who is the adult supervisor, parent or guardian of a holder of a junior hunting license under the age of 16, allows that junior hunter to hunt other than in the presence of, and under the supervision of, an adult.

See title page for effective date.

CHAPTER 117

H.P. 835 - L.D. 1166

An Act to Provide for Certain Amendments to Laws Affecting the Finance Authority of Maine

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

Whereas, this legislation in part corrects an unintended sunset of authority of the Finance Authority of Maine to oversee and administer student financial assistance programs; and

Whereas, there is an immediate need for assistance to the many students who rely on the student financial assistance programs to access the financing they need to pursue educational opportunities; and

Whereas, there is an immediate need to correct the law to make it clear that money from the Economic Recovery Program Fund may be used for the Capital Access Program; and

Whereas, there is an immediate need to recruit more teachers and to create additional incentives for primary care physicians to practice in this State; and

Whereas, this legislation will preserve and create job opportunities and increase the number of primary care physicians and teachers in this State; 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. 1 MRSA §2501, sub-§10, as enacted by PL 1989, c. 698, §§1 and 76, is repealed.

Sec. A-2. Retroactivity. This Part applies retroactively to June 30, 1992.

PART B

Sec. B-1. 10 MRSA §1023-I, sub-§3, as amended by PL 1993, c. 722, Pt. B, §1 and affected by §3, is further amended to read:

3. Application of the fund. Money in the fund, except money in the 1994 Bond Proceeds Account, may be applied to carry out any power of the authority under or in connection with section 1026-J or to pay obligations incurred in connection with the fund. Money in the 1994 Bond Proceeds Account may be applied to carry out any power of the authority under or in connection with section 1026-J or ~~1026-K~~ 1026-L or to pay obligations incurred in connection with the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.

Sec. B-2. Retroactivity. This Part applies retroactively to July 14, 1994.

PART C

Sec. C-1. 10 MRSA §971, as amended by PL 1985, c. 714, §8, is further amended to read:

§971. Actions of the members

Seven members of the authority ~~shall~~ constitute a quorum of the members. The affirmative vote of the greater of 5 members, present and voting, or a majority of those members present and voting ~~shall be~~ is necessary for any action taken by the members. No vacancy in the membership of the authority may impair the right of the quorum to exercise all powers and perform all duties of the members.

Notwithstanding any other provision of law, in a situation determined by the chief executive officer to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by telephone in accordance with the following.

1. Placement of call. A conference call to the members must be placed by ordinary commercial means at an appointed time.

2. Record of call. The authority shall arrange for recordation of the conference call when appropriate and prepare minutes of the emergency meeting.

3. Notice of emergency meeting. Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

PART D

Sec. D-1. 20-A MRSA §12101, sub-§8, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

8. Primary health care. "Primary health care" means ~~the practice of general or family medicine~~ practice of medicine, general internal medicine, general pediatrics, general dentistry and obstetrics and gynecology.

Sec. D-2. 20-A MRSA §12104, sub-§5, ¶A, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

A. Upon completion of professional education the student shall repay the loan in accordance with the following schedule.

(1) A loan recipient who does not obtain loan forgiveness pursuant to this section shall repay the entire principal portion of the loan plus simple interest at a rate to be determined by rule of the authority. Inter-

est does not begin to accrue until the loan recipient completes medical education, including residency and internship. The authority may establish differing interest rates to encourage loan recipients to practice primary health care medicine in the State.

(2) Primary health care physicians and dentists practicing in a designated health professional shortage area, any physician practicing in an underserved specialty or any physician providing services to a designated underserved group are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

Primary health care physicians and dentists practicing in the State, but not practicing in a designated health professional shortage area, are forgiven the larger of 12.5% of the original outstanding indebtedness plus any accrued interest or \$3,750 for each year of practice.

(3) Veterinarians providing services to Maine residents with insufficient veterinary services are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

(4) Any student ~~electing to complete~~ completing an entire residency at any ~~family practice~~ primary health care residency program in the State is forgiven 50% of the original outstanding indebtedness for each year of practice in a designated health professional shortage area ~~or~~, as a physician practicing in an underserved specialty or as a physician providing services to an underserved group or 25% of the original outstanding indebtedness for each year of primary health care practice in the State.

Sec. D-3. Retroactivity. This Part applies retroactively to January 1, 1993.

PART E

Sec. E-1. 20-A MRSA c. 428 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 428

TEACHERS FOR MAINE PROGRAM

Sec. E-2. 20-A MRSA §12501, sub-§1, as amended by PL 1991, c. 553, §1, is further amended to read:

1. Academic achievement. "Academic achievement" ~~"Academic achievement"~~ means graduation in the top ~~4/2~~ 25% of the class for graduating high school seniors, or earning a grade point average of 3.0 or more, based on a 4.0 grade point system, or the equivalent, for currently enrolled college students and all other postsecondary applicants. Eligibility for applicants not currently enrolled must be based upon their most recent cumulative grade point average.

Sec. E-3. 20-A MRSA §12501, sub-§6-B is enacted to read:

6-B. Teacher shortage area. "Teacher shortage area" means a geographic region of the State for which there is an insufficient supply of teachers, as determined by the chief executive officer in consultation with the Commissioner of Education.

Sec. E-4. 20-A MRSA §12501, sub-§7, as enacted by PL 1983, c. 859, Pt. F, §§1 and 2, is amended to read:

7. Underserved subject areas. "Underserved subject areas" means those subjects or programs, required or authorized to be taught in the public schools for which there is an insufficient supply of teachers, as ~~may be determined by the commissioner, including but not limited to, special education, computer studies, science and math~~ chief executive officer in consultation with the Commissioner of Education.

Sec. E-5. 20-A MRSA §12502, as repealed and replaced by PL 1991, c. 664, §1, is amended to read:

§12502. Teachers for Maine Program

There is established the ~~Blaine House Scholars and Financial Assistance~~ Teachers for Maine Program ~~to recognize graduates from Maine high schools or the equivalent who attain high academic achievement and to provide financial assistance to college students and, graduating high school seniors and students pursuing postbaccalaureate teacher certification who demonstrate an interest in pursuing a career in teaching in this State~~ for postsecondary education and to teachers for advanced degree or continued study. The program recognizes outstanding graduating high school seniors, college students and students pursuing postbaccalaureate teacher certification ~~as described in section 12503 and disburses loans as described in section 12504.~~ The chief executive officer shall administer the program and shall establish by rule the rates of interest or fees to be charged.

Sec. E-6. 20-A MRSA §12503, as amended by PL 1991, c. 553, §4, is further amended to read:

§12503. Teachers for Maine loan recipients

Each year graduating high school seniors, college students and students pursuing postbaccalaureate teacher certification who show evidence of academic achievement ~~must~~ may be considered for recognition as ~~Blaine House scholars~~ Teachers for Maine loan recipients. ~~Nominations and applications~~ Applications must be submitted to the chief executive officer at a time and in a format to be determined by rule of the chief executive officer.

The Governor, after consultation with the chief executive officer, shall announce the names of those individuals selected by the chief executive officer to be ~~Blaine House scholars~~ Teachers for Maine loan recipients.

Sec. E-7. 20-A MRSA §12504, as amended by PL 1991, c. 553, §5, is further amended to read:

§12504. Allocation of funds

~~Funds available under this chapter must be allocated as follows: up to 50% for Blaine House scholars entering preservice; up to 25% for teachers engaged in graduate study or continuing education; up to 25% for Blaine House scholars not entering preservice; and up to 15% for Blaine House scholars who are students pursuing postbaccalaureate teacher certification.~~

The chief executive officer shall establish by rule the allocation of funds available under this chapter.

Loans of up to \$1,500 per academic year or \$6,000 total may be made to eligible ~~individuals~~ teachers engaged in graduate study or continuing education and students pursuing postbaccalaureate teacher certification. Loans of up to \$3,000 per academic year or \$12,000 total may be made to eligible graduating high school seniors and college students. ~~Individuals~~ An individual who has received a Blaine House scholars Teachers for Maine loan or a Blaine House Scholars Program loan as an undergraduate a graduating high school senior or as a college student may also receive a loan for students pursuing postbaccalaureate teacher certification or as a loan for teachers teacher engaged in graduate education or continuing education. In no event may an individual receive more than ~~\$12,000~~ \$18,000 in total. Loans for undergraduate students and postbaccalaureate recipients are for one academic year and are automatically renewed if the recipient maintains a grade point average of 2.5 based on a 4.0 grade point system or the equivalent. Loans for teachers are automatically renewable only if the applicant is

pursuing a continuing course of study approved at the time of the initial application.

An eligible individual who has received a loan as a student pursuing postbaccalaureate teacher certification may subsequently receive a loan as a teacher engaged in graduate study or continuing education, including undergraduate courses. However, in no event may an individual receive ~~Blaine House Teachers for Maine loans or Blaine House Scholars Program loans~~ totaling more than \$6,000 for students pursuing postbaccalaureate teacher certification and teachers engaged in graduate education or continuing education.

Sec. E-8. 20-A MRSA §12505, sub-§1, as amended by PL 1991, c. 553, §6, is further amended to read:

1. Eligibility for postsecondary education loans. A postsecondary education loan may be given only to a high school graduate, or the equivalent, who is a resident of the State, who has been recognized as a ~~Blaine House scholar~~ Teachers for Maine loan recipient and who has met other eligibility criteria established by rule of the authority. Preference must be given to students enrolled in a program ~~which that~~ has been determined to be an underserved subject area.

Sec. E-9. 20-A MRSA §12507, as amended by PL 1991, c. 664, §2, is further amended to read:

§12507. Repayment and return service provisions; preservice teacher preparation

Each ~~recipient of~~ graduating high school senior or college student who receives a loan may cancel the total amount of the loan by completing ~~4 years~~ one year of return services in the public schools or private schools approved for tuition purposes in the State for each year the individual receives a loan. ~~The repayment period shall be 2 years~~ return service requirement is one year for every 2 years or less that the individual receives a loan if return service is performed in underserved subject areas or in geographically isolated teacher shortage areas as determined by the commissioner. ~~Return service may also cancel the loan on a proportional basis, reducing the total amount of the debt by 25% for each year of return service.~~ Return service for this purpose shall must be performed within 5 years of graduation from the institution of higher education. If the chief executive officer grants a deferment, the time period for performance of return service may be extended for the same period as the deferment. Return service may not be credited for the same semester for which an individual receives a loan pursuant to this chapter. Failure to fulfill the return service option will necessitate necessitates repayment to the authority as follows.

1. Debt calculation. The debt ~~shall~~ must include ~~the~~ total amount of the loan less the amount, if any, ~~which that~~ has been cancelled by return service.

2. Time for repayment. The total debt must be repaid to the authority within ~~5~~ 10 years of graduation from the institution of higher education according to a schedule established by the chief executive officer. Due dates for repayments are set by the chief executive officer and may be extended for the same period of any deferment granted by the chief executive officer.

3. Deferment. A recipient of a loan may seek a deferment of the annual payments for a period or periods as established by rule of the authority. A request for deferment must be made to the chief executive officer who shall make a determination on a case-by-case basis. The chief executive officer may grant a deferment in the event that a recipient of a loan evidences intent to teach and inability to secure employment necessary to obtain forgiveness of the loan at the time the deferment is sought. The chief executive officer shall require certification of ~~such~~ the intent annually and ~~shall~~ grant a one-year deferment for each successful request for deferment. A recipient may not receive ~~no~~ more than 5 one-year deferments. The decision of the chief executive officer is final.

Sec. E-10. 20-A MRSA §12508, as amended by PL 1991, c. 664, §3, is further amended to read:

§12508. Repayment and return service provisions - loans for teachers and students pursuing postbaccalaureate teacher certification

Each recipient of a loan designated for teachers pursuing graduate study or continuing education or for students pursuing postbaccalaureate teacher certification may cancel the total amount of the loan by completing ~~2 years~~ one year of return service for each year a loan is received in the public schools or private schools approved for tuition purposes in the State. The ~~repayment period~~ return service requirement is one year of return service for 2 loans received if return service is performed in underserved subject areas or in ~~geographically isolated teacher shortage areas as determined by the commissioner.~~ Return service may also cancel the loan on a proportional basis, reducing the total amount of the debt by 50% for each year of return service. Return service for this purpose must be performed within 3 years of graduation from the institution of higher education or completion of the course or courses for which the funds were given. In no event may return service be credited for the same semester for which an individual receives a loan pursuant to this chapter. An individual receiving loan forgiveness for a loan for a teacher pursuing graduate study or continuing education or a postbaccalaureate teacher certification loan may not receive loan

forgiveness for any undergraduate loan simultaneously. If the chief executive officer grants a deferment, the time period for performance of return service may be extended for the same period as the deferment. Failure to fulfill the return service option will necessitate repayment to the authority as follows.

1. Debt calculation. The debt must include the total amount of the loan less the amount, if any, that has been canceled by return service.

2. Time for repayment. The total debt must be repaid to the authority within 3 years of graduation from the institution of higher education or courses for which the funds were given or within 3 years of repayment of any other loans made pursuant to this chapter. If the chief executive officer grants a deferment, the time period may be extended up to the period of the deferment. A repayment schedule including due dates must be set by the chief executive officer.

3. Deferment. A recipient of a loan may seek a deferment of the annual payments for a period or periods as established by the chief executive officer who shall make a determination on a case-by-case basis. The chief executive officer may grant a deferment in the event that a recipient of a loan evidences intent to teach and inability to secure employment necessary to obtain forgiveness of the loan at the time the deferment is sought. The chief executive officer shall require certification of ~~such~~ the intent annually and ~~shall~~ grant a one-year deferment for each successful request for deferment. A recipient may not receive ~~no~~ more than 5 one-year deferments. The decision of the chief executive officer is final.

Sec. E-11. 20-A MRSA §12509, as amended by PL 1993, c. 410, Pt. EEEE, §4, is further amended to read:

§12509. Nonlapsing revolving fund

The ~~Blaine House Scholars Fund~~ Teachers for Maine fund is created under the jurisdiction of the authority as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this chapter. Any unexpended balance in the Teachers for Maine fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the ~~fund~~ funds, money from gifts, grants, bequests, loans, including loans obtained pursuant to chapter 417-B, and donations, in addition to money appropriated or allocated by the State. Loan repayments under this section or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance

administrative costs incurred by the authority as determined appropriate by the authority.

Sec. E-12. Transition. The Teachers for Maine fund established in the Maine Revised Statutes, Title 20-A, section 12509 is the successor to the Blaine House Scholars Fund. The fund may be used to provide renewal loans to individuals who received a Blaine House scholars loan and are eligible for renewal of that loan under law in effect at the time the loan was made. Any unexpended balance in the Blaine House Scholars Fund must be carried over for use in the Teachers for Maine fund and repayments required to be made to the Blaine House Scholars Fund must be made to the Teachers for Maine fund.

Sec. E-13. Application. This Part applies only to individuals receiving a first loan in any category on or after January 1, 1996. This Part does not apply to applications for renewals of loans, which are governed by the law in effect when the initial loan was granted.

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

Effective May 17, 1995.

CHAPTER 118

H.P. 626 - L.D. 851

An Act to Conform the Maine Tax Laws for 1994 with the United States Internal Revenue Code

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

Whereas, the 90-day period would delay the processing of 1994 income tax returns; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the Maine Income Tax Law and certain other state tax laws; 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. 36 MRSA §111, sub-§1-A, as amended by PL 1993, c. 504, §1 and affected by §2, is further amended to read:

1-A. Code. "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~1993~~ 1994.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 1994.

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

Effective May 17, 1995.

CHAPTER 119

S.P. 290 - L.D. 788

An Act to Amend the Purchasing Laws

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

Sec. 1. 5 MRSA §1825-B, sub-§2, ¶B, as amended by PL 1991, c. 780, Pt. Y, §70, is further amended to read:

B. The Director of the Bureau of General Services is authorized by the Governor or the Governor's designee to make purchases without competitive bidding because in the opinion of the Governor or the Governor's designee an emergency exists that requires the immediate procurement of goods or services;

Sec. 2. 5 MRSA §1825-B, sub-§2, ¶E, as enacted by PL 1989, c. 785, §2, is amended to read:

E. The purchase is part of a cooperative project between the State and the University of Maine System involving:

(1) An activity assisting a state agency and enhancing the ability of the university system to fulfill its mission of teaching, research and public service; and

(2) A sharing of project responsibilities and, when appropriate, costs; ~~or~~

Sec. 3. 5 MRSA §1825-B, sub-§2, ¶F, as amended by PL 1991, c. 780, Pt. Y, §70, is further amended to read:

F. The procurement of goods or services involves expenditures of \$2,500 or less, in which case the Director of the Bureau of General Ser-

vices may accept oral proposals or invitations to bid; or

Sec. 4. 5 MRSA §1825-B, sub-§2, ¶G is enacted to read:

G. The procurement of goods or services involves expenditures of \$5,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.

See title page for effective date.

CHAPTER 120

H.P. 1037 - L.D. 1456

An Act to Further Encourage Electric Rate Stabilization

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

Whereas, there is an immediate need to increase amounts available that may be used for electric rate stabilization projects; 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. 10 MRSA §1053, sub-§6, as amended by PL 1995, c. 4, §8, is further amended to read:

6. Securities outstanding. The authority may not have at any one time outstanding revenue obligation securities to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding an amount equal to \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032. Notwithstanding any other provision of this subsection, the authority may additionally have outstanding at any one time up to ~~\$120,000,000~~ \$264,000,000 of bonds under this subchapter relating to loans for electric rate stabilization projects, consisting of not more than \$220,000,000 for loans and up to \$44,000,000 for use of bond proceeds to fund capital reserve funds and \$120,000,000 of bonds under this subchapter relating to loans for major business expansion projects, in each

~~ease~~ consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds. The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 2. 35-A MRSA §3156, first and last ¶¶, as enacted by PL 1993, c. 712, §6, are amended to read:

The commission may issue a certificate of approval for an electric rate stabilization agreement, following submission to it of an application for approval, in the form and with any supporting data as the commission may require. The commission shall issue or deny the certification within ~~30~~ 60 days of receipt of an application.

A certificate may not be issued under this section after ~~May 1, 1995~~ February 1, 1996.

Sec. 3. PL 1993, c. 712, §8 is amended to read:

Sec. 8. Loans authorized. The Finance Authority of Maine may make loans to electric utilities for electric rate stabilization projects, as defined in the Maine Revised Statutes, Title 10, section 963-A from up to ~~\$100,000,000~~ \$220,000,000 of the proceeds of revenue obligation securities secured by capital reserve funds pursuant to Title 10, section 1053. Notwithstanding any provision of Title 10, chapter 110, loans may aggregate up to ~~\$100,000,000~~ \$220,000,000 plus an amount determined by the Finance Authority of Maine of up to an additional aggregate of ~~\$20,000,000~~ \$44,000,000 to fund any capital reserve fund established by the authority for these loans. Revenue obligation securities secured by capital reserve funds pursuant to Title 10, section 1053 relating to such loans may not be issued for an electric rate stabilization agreement, as defined in Title 35-A, section 3156, executed after May 1, ~~1995~~ 1996. Any revenue obligation securities issued for electric rate stabilization projects secured by capital reserve funds pursuant to Title 10, section 1053 are limited obligations of the Finance Authority of Maine payable from revenues from borrowers and any capital reserve funds pledged for those securities as those funds are

administered under Title 10, chapter 110, subchapter III and are not payable from any other assets or funds of the Finance Authority of Maine. In addition to all other applicable provisions, the requirements of Title 10, section 1045-A apply to loans for electric rate stabilization projects.

Sec. 4. PL 1993, c. 712, §9 is amended to read:

Sec. 9. Reports. The Finance Authority of Maine shall report by ~~April 15, 1995~~ February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all loans made to electric utilities for electric rate stabilization projects, as defined in the Maine Revised Statutes, Title 10, section 963-A. The report must identify each loan made, to whom the loan was made, the amount of the loan and the general description of the electric rate stabilization project for which the loan was made. The report may include recommendations for extending the period during which loans to electric utilities may be made or any other suggestions for changes to the provisions of this Act. The Public Utilities Commission shall report by ~~April 15, 1995~~ February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over utilities matters on all electric rate stabilization agreements for which an application for a certificate of approval has been processed pursuant to Title 35-A, section 3156. The report must identify the number of applications received by the commission, the identity of the applicants, a general description of each application and, for each application, whether the application was approved or denied. The report may include recommendations for extending the period during which certificates of approval may be issued to electric utilities or any other suggestions for changes to the provisions of this Act.

Sec. 5. Retroactivity. This Act applies retroactively to May 1, 1995.

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

Effective May 17, 1995.

CHAPTER 121

H.P. 1086 - L.D. 1529

An Act to Prohibit the Stocking of Alewives in Hogan Pond and Whitney Pond in the Town of Oxford

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

Whereas, the Department of Marine Resources and the Department of Inland Fisheries and Wildlife are conducting a stocking program in the waters affected by this legislation; and

Whereas, the next introduction of alewives into those waters is scheduled to occur June 1, 1995; 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. 12 MRSA §7775 is enacted to read:

§7775. Certain stocking prohibited

1. Alewives. Alewives may not be stocked in Hogan Pond or Whitney Pond in the Town of Oxford.

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

Effective May 17, 1995.

CHAPTER 122

S.P. 25 - L.D. 56

An Act to Protect Forest Management as a Viable Land Use

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

Sec. 1. 12 MRSA §8869, sub-§8, as amended by PL 1991, c. 863, §1, is further amended to read:

8. Relationship to municipal rules and regulations. Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with forestry terms adopted by the commissioner pursuant to this subchapter. A municipality may not adopt an ordinance that regulates timber harvesting unless ~~the ordinance is developed in consultation with the department and is reviewed by a professional forester prior to adoption.~~ the following process is followed in the development and review of the ordinance:

A. A licensed professional forester must participate in the development of the ordinance;

B. A face-to-face meeting must take place during the development of the ordinance between representatives of the department and municipal officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the timber harvesting goals of the municipality;

C. The municipality shall hold a public hearing to review a proposed ordinance at least 45 days before a vote is held on the ordinance. The municipality shall provide public notice of the hearing according to the method the municipality uses for its regular public meetings; and

D. The municipality shall notify the department of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

The proposed ordinance may be revised after the public hearing. The revised ordinance or the proposed ordinance, if no changes are made following the public hearing, must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

The department must provide a municipality guidance on how the municipality may use sound forestry practices to achieve its timber harvesting goals.

Sec. 2. Application. This Act applies to municipal ordinances enacted after the effective date of this Act. This Act applies to the portions of existing ordinances that are amended after the effective date of this Act, but not to the portions of existing ordinances that are not amended.

See title page for effective date.

CHAPTER 123

H.P. 167 - L.D. 215

An Act to Amend the Laws Regarding Consent Agreements of the Department of Environmental Protection

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

Sec. 1. 4 MRSA §18, sub-§6, as amended by PL 1989, c. 702, Pt. E, §1, is further amended to read:

6. Fees. When the court refers parties to the Court Mediation Service after the filing of a complaint or petition under Title 19, section 214 or 581, or Title 19, chapter 13, the court shall assess the parties a fee to be apportioned equally between the parties, unless the court otherwise directs. The court may not assess the parties any fees beyond the initial fee, unless one or both of the parties files under Title 19, section 214 or 581, or Title 19, chapter 13, a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt. When the court refers the parties to the Court Mediation Service after the filing under Title 19, section 214 or 581, or Title 19, chapter 13, of a motion to amend a final decree, a motion to enforce a final decree or a motion for contempt, the court shall assess the parties another fee to be apportioned equally between the parties, unless the court otherwise directs.

A party may file an in forma pauperis application for waiver of a fee. If the court finds that the party does not have sufficient funds to pay the fee, it shall order the fee waived.

When the court refers parties to the Court Mediation Service pursuant to Title 38, section 347-A, subsection 4, paragraph E, the court shall assess a fee to be apportioned equally among the parties. The fee must be deposited in the dedicated account created in subsection 6-A. The court shall set the fees at a level sufficient to cover the full cost of mediation services provided pursuant to Title 38, section 347-A, subsection 4, paragraph E.

Sec. 2. 4 MRSA §18, sub-§6-A is enacted to read:

6-A. Environmental Mediation Fund. The Environmental Mediation Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services rendered pursuant to Title 38, section 347-A, subsection 4, paragraph E must be deposited in the fund. The Administrative Office of the Courts shall use resources in the fund to cover the costs of providing mediation services as required under that law.

Sec. 3. 38 MRSA §347-A, sub-§4, ¶B, as enacted by PL 1993, c. 204, §2, is amended to read:

B. All proposed administrative consent agreements sent to the alleged violator must be accompanied by written correspondence from the department, in language reasonably understandable to a citizen, explaining the alleged violator's rights and responsibilities with respect to the proposed administrative consent agreement. The correspondence must include an explanation of the factors considered by the commissioner in determining the proposed civil penalty, a state-

ment indicating that the administrative consent agreement process is a voluntary mechanism for resolving enforcement matters without the need for litigation and an explanation of the department's procedures for handling administrative consent agreements. The correspondence must also specify a reasonable time period for the alleged violator to respond to the proposed administrative consent agreement and offer the opportunity for a meeting with department staff to discuss the proposed agreement. Consent agreements shall, to the greatest extent possible, clearly set forth all the specific requirements or conditions with which the alleged violator must comply.

Sec. 4. 38 MRSA §347-A, sub-§4, ¶E is enacted to read:

E. When the department and the alleged violator can not agree to the terms of a consent agreement and the department elects to bring an enforcement action in District Court pursuant to section 342, subsection 7, the District Court shall refer the parties to mediation if either party requests mediation at or before the time the alleged violator appears to answer the department's complaint. The parties must meet with a mediator appointed by the Court Mediation Service created in Title 4, section 18 at least once and try in good faith to reach an agreement. After the first meeting, mediation must end at the request of either party. If the parties have been referred to mediation, the action may not be removed to Superior Court until after mediation has occurred.

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
JUDICIAL DEPARTMENT		
Environmental Mediation Fund		
All Other	\$1,000	\$1,000
Provides funds to pay for environmental mediation services.		

See title page for effective date.

CHAPTER 124

H.P. 204 - L.D. 263

An Act to Permit Law Enforcement Officers to Transport Truants Back to School

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

Sec. 1. 20-A MRSA §5051, sub-§2, ¶F is enacted to read:

F. When a student is determined habitually truant and in violation of section 5001-A, the school board may notify the local law enforcement department of the decision. After this notification, a local law enforcement officer who sees a truant may offer to transport the truant to the appropriate school if the truant and the truant's parent or guardian provide verbal consent and if the truant:

- (1) Is off school grounds during school hours; and
- (2) Is not under the supervision of school personnel.

See title page for effective date.

CHAPTER 125

H.P. 297 - L.D. 401

An Act to Continue Protection Under a Protection From Abuse Order

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

Sec. 1. 19 MRSA §766, sub-§2, as amended by PL 1985, c. 495, §14, is further amended to read:

2. Duration. Any protective order or approved consent agreement ~~shall be~~ is for a fixed period not to exceed ~~one year~~ 2 years. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it ~~deems~~ determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 765, subsection 1 on the motion to extend. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

See title page for effective date.

CHAPTER 126**H.P. 409 - L.D. 566****An Act to Clarify Protection of
Surface Waters in the Licensing of
Solid Waste Facilities****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 38 MRSA §1310-N, sub-§1-A** is enacted to read:

1-A. Surface water protection. The department may not issue a license for a solid waste facility if it finds that the proposed facility will cause an unreasonable threat to the quality of a classified body of surface water. In determining whether the proposed facility poses an unreasonable threat, the department shall require the applicant to provide evidence demonstrating that:

A. The soils on the proposed facility site are suitable to the nature of the undertaking;

B. An appropriate erosion and sedimentation control plan has been developed and will be implemented on the site; and

C. The proximity of any classified surface water bodies to the proposed solid waste facility has been considered during the site selection process and during the development of the erosion and sedimentation control plan.

Sec. 2. 38 MRSA §1310-U, 2nd ¶, as repealed and replaced by PL 1991, c. 66, Pt. A, §38, is amended to read:

Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, municipalities, except as provided in this section, may enact ordinances with respect to solid waste facilities that contain standards the municipality finds reasonable, including, without limitation, conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; distance from existing residential, commercial or institutional uses; ground water protection; surface water protection; erosion and sedimentation control; and compatibility of the solid waste facility with local zoning and land use controls, provided that the standards are not more strict than those contained in this chapter and in chapter 3, subchapter I, articles 5-A and 6 and the rules adopted under these

articles. Municipal ordinances must use definitions consistent with those adopted by the board.

See title page for effective date.

CHAPTER 127**H.P. 456 - L.D. 622****An Act to Expand the Jurisdiction of
the Consumer Advisory Board of the
Department of Mental Health and
Mental Retardation by Giving Board
Members and its Staff Direct Access
to All Areas of Agencies that Serve
Clients of the Department of Mental
Health and Mental Retardation and
People with Autism****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 34-B MRSA §1216,** as enacted by PL 1989, c. 349, §2, is amended to read:**§1216. Consumer Advisory Board**

1. Responsibilities. The Consumer Advisory Board, as established by the ~~Pineand Consent Decree~~ community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994), functions as an independent oversight body ~~which that~~ carries out responsibilities pursuant to ~~appendices A and B of this section,~~ the consent decree and subsequent agreements approved by the United States District Court for the District of Maine. The Consumer Advisory Board may review alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of any client of the Division of Mental Retardation. The Consumer Advisory Board shall promote the normalization and habilitation of persons with mental retardation or autism.

2. Maine Tort Claims Act. The Consumer Advisory Board members and staff act as employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged in official duties specified in the consent judgment or this section or assigned by the board.

3. Access to information. With regard to any institution, facility, agency or other provider serving clients of the Division of Mental Retardation or when any client of the division resides or participates in work or in a program, the Consumer Advisory Board members and staff must be given direct access to all living, work and program areas and to all living, work and program area records, including, but not limited to, records related to any personal planning process,

and must be given access to the personnel, but not personnel records. The chief advocate of the Department of Mental Health and Mental Retardation may release to the Consumer Advisory Board information pertaining to alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of a person with mental retardation or autism. The Consumer Advisory Board shall keep any confidential information disclosed to it or discovered by it confidential, as required by section 1207.

4. Repeal. This section is repealed one year after the United States District Court releases the State from all obligations under the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994).

See title page for effective date.

CHAPTER 128

S.P. 261 - L.D. 697

An Act Governing Privileged Communications between Victims of Domestic Violence and Their Advocates

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

Sec. 1. 16 MRSA §53-B is enacted to read:

§53-B. Privileged communications to victim advocate; family violence

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

A. "Advocate" means an employee of or volunteer for a nongovernmental program for victims of domestic or family violence who:

(1) Has undergone at least 30 hours of training; and

(2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.

B. "Victim" means a victim of domestic or family violence.

2. Privileged communication. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to an advocate to disclose con-

fidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim.

B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate.

3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

A. When disclosure is required under Title 22, chapter 1071 and that disclosure is in accordance with the provisions of that chapter;

B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or

C. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation.

See title page for effective date.

CHAPTER 129

H.P. 565 - L.D. 766

An Act to Allow the Submetering of Electric Rates in Campgrounds

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

Sec. 1. 35-A MRSA §313 is enacted to read:

§313. Submetering permitted in campgrounds

A campground owner or operator may submeter electric service to campground sites within the campground in accordance with this section, as long as electric service is not provided to any particular

submeter user for a period greater than 6 consecutive months.

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

A. "Campground" means a recreational camping park where fees are charged for the recreational use of the park and that can accommodate 10 or more temporary living quarters, including but not limited to tents, recreational vehicles, trailers, vans, pickup campers and motor homes.

B. "Submeter user" means any person using a campground site on which a campground owner or operator has installed a submeter.

2. Charges. A campground owner or operator may charge a submeter user only for kilowatt hours used by that submeter user. The charge that a campground owner or operator may charge a submeter user for electric service may not exceed the kilowatt usage of the submeter user multiplied by the rate per kilowatt hour that the campground owner or operator is charged by the electric utility.

3. Nontaxable event. The collection of charges under this section for submetered electric service is not a sale for the purposes of taxation.

4. Interpretation; not resale. A submeter user is not a customer of the electric utility providing service to the master-metered campground owner or operator. For purposes of this Title, a submeter user is not a customer of the campground owner or operator. Nothing in this section permits the resale of electricity by a campground owner or operator.

See title page for effective date.

CHAPTER 130

S.P. 286 - L.D. 774

An Act to Make Revisions to the Uniform Interstate Family Support Act

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

Whereas, the 116th Legislature enacted the Uniform Interstate Family Support Act in 1994 with the understanding that additional clarifications would need to be made before the July 1, 1995 effective date; 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. 19 MRSA §423, sub-§3, ¶¶C and D, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, are amended to read:

C. An individual petitioner in this State or the Department of Human Services, which is the support enforcement agency of this State, may file a petition with ~~an initiating~~ a tribunal in another state that has or can obtain personal jurisdiction over the respondent.

D. An individual petitioner in this State may file a petition with the Department of Human Services, which is the support enforcement agency of this State, ~~or with the court in this State~~. The resulting order may be forwarded to a responding tribunal in another state.

Sec. 2. 19 MRSA §423, sub-§3, ¶E is enacted to read:

E. The Department of Human Services, which is the support enforcement agency of this State, may file a petition with the court in this State for forwarding to a tribunal in another state.

Sec. 3. 19 MRSA §423-F, sub-§3, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is amended to read:

3. No attorney or fiduciary relationship. This Act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 4. 19 MRSA §423-R, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is amended to read:

§423-R. Receipt and disbursement of payments

The support enforcement agency ~~or a tribunal~~ of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency ~~or tribunal~~ shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

Sec. 5. 19 MRSA §426, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is repealed.

Sec. 6. 19 MRSA §426-A, sub-§1, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is amended to read:

1. Required documents and information. A ~~party residing in~~ The support enforcement agency of this State or the state information agency may forward register a support order or an income-withholding order by forwarding the following documents and information to the appropriate court in this State for registration in this State for enforcement:

- A. A letter of transmittal to the tribunal requesting registration and enforcement;
- B. Two copies, including one certified copy, of all orders to be registered, including any modification of an order;
- C. A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearages;
- D. The name of the obligor and, if known:
 - (1) The obligor's address and social security number;
 - (2) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (3) A description and the location of property of the obligor in this State not exempt from execution; and

E. The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

Sec. 7. 19 MRSA §426-D, sub-§3, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is repealed.

Sec. 8. 19 MRSA §426-J, sub-§1, ¶A, as enacted by PL 1993, c. 690, Pt. A, §2 and affected by §3, is amended to read:

A. The following requirements are met:

- (1) The child, the individual obligee and the obligor do not reside in the issuing state;
- (2) A petitioner, who is either a resident or a nonresident of this State, seeks modification; and

(3) The respondent is subject to the personal jurisdiction of the tribunal of this State; or

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

Effective May 19, 1995.

CHAPTER 131

H.P. 591 - L.D. 801

An Act to Clarify the Licensing Authority of the Board of Trustees of the Maine Criminal Justice Academy

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

Sec. 1. 5 MRSA §5301, sub-§2, ¶E, as amended by PL 1993, c. 600, Pt. B, §§20 to 22, is further amended to read:

E. Convictions for which incarceration for less than one year may be imposed and ~~which that~~ involve sexual misconduct by an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the Board of Trustees of the Maine Criminal Justice Academy and the State Board of Nursing.

Sec. 2. 5 MRSA §5303, sub-§2, as amended by PL 1993, c. 600, Pt. B, §§20 to 22, is further amended to read:

2. Ten-year limits. For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy and the State Board of Examiners in Physical Therapy, the following ~~shall~~ apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation ~~shall~~ apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions ~~shall~~ must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct ~~which~~ that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

Sec. 3. 25 MRSA §2807, as repealed and replaced by PL 1985, c. 506, Pt. A, §49, is amended to read:

§2807. Reports of conviction or misconduct by law enforcement and corrections officers

~~In the event that a law enforcement or corrections officer has resigned from or been dismissed from his position in a municipality or county for having been convicted of a Class A, Class B, Class C or Class D crime, the municipal officers or their designee or the county commissioners or their designee been convicted of a crime or violation or engaged in conduct that could result in suspension or revocation of the officer's certificate pursuant to section 2806 and the chief administrative officer of the agency employing the officer has knowledge of the conviction or conduct, then the chief administrative officer shall expeditiously notify the Director of the Maine Criminal Justice Academy with the name of the convicted law enforcement or corrections officer, the class of crime committed, the date the offense was committed and a brief description of the crime conviction or conduct.~~

~~For the purpose of this section, law enforcement officer means a full time or part time police officer, special police officer, constable, sheriff or deputy sheriff.~~

~~The Director of the Maine Criminal Justice Academy shall maintain a list of all the persons reported under this section which shall be made available to any municipality or county or to the State for the purpose of hiring law enforcement officers.~~

See title page for effective date.

CHAPTER 132

S.P. 309 - L.D. 847

**An Act Regarding Insurance Rates
for Volunteer Drivers**

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

Sec. 1. 24-A MRSA §2902-F is enacted to read:

§2902-F. Volunteer drivers

An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver. For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above expenses to a nonprofit agency or charitable organization as defined in Title 14, section 158-A. This section does not prohibit an insurer from refusing to renew, imposing a surcharge or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver.

See title page for effective date.

CHAPTER 133

S.P. 326 - L.D. 907

**An Act to Extend the Time Period
for a District Attorney to File a
Petition in Order to Allow Time for
Juviles to Fulfill All Conditions of
Informal Adjustment**

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

Sec. 1. 15 MRSA §3303, as amended by PL 1985, c. 439, §12, is further amended to read:

§3303. Dismissal of petition with prejudice

On motion made by or on behalf of a juvenile, or by the court itself, a petition ~~shall~~ must be dismissed with prejudice if it was not filed within ~~6~~ 9 months from the date the juvenile was referred to the juvenile caseworker for an intake assessment, unless the prosecuting attorney either before or after the expiration of the ~~6-month~~ 9-month period files a motion for an extension of time for the filing of a petition, accompanied by the reasons for this extension. The court may for good cause extend the time

for bringing a petition for any period of time that is less than the limitation established in section ~~3405~~ 3105-A.

See title page for effective date.

CHAPTER 134

S.P. 345 - L.D. 950

An Act to Clarify the Display of Social Security Numbers on Insurance-related Identification Cards

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

Whereas, in 1993 a change in the law prohibited the use of social security numbers as a means of identification under certain circumstances; and

Whereas, many administrative systems utilize social security numbers for the purpose of identifying individuals eligible for health insurance coverage; and

Whereas, any change to the administrative systems will result in system conversions at a time when costs are a major concern to most businesses and government; and

Whereas, correction of the law is required promptly to clarify the use of this important component of health insurance coverage identification; 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. 10 MRSA §1272, as enacted by PL 1993, c. 115, §1, is amended by adding at the end a new paragraph to read:

Notwithstanding this section, social security numbers may be used as identification for medical insurance, including health insurance, dental insurance or prescription drug coverage, except that a number other than a social security number must be used for insurance-related identification purposes upon the written request of an individual.

Sec. 2. 10 MRSA §1272-A, as enacted by PL 1993, c. 533, §1, is repealed.

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

Effective May 19, 1995.

CHAPTER 135

H.P. 724 - L.D. 998

An Act to Preserve the Confidentiality of Records Relating to Forest Fire Arson Investigations

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

Sec. 1. 16 MRSA §614, sub-§1, first ¶, as repealed and replaced by PL 1993, c. 719, §7 and affected by §12, is amended to read:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; ~~or~~ the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife; or the Department of Conservation, Forest Fire Control Division when the reports or records pertain to arson are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

See title page for effective date.

CHAPTER 136

H.P. 20 - L.D. 14

An Act to Authorize Community Service Work as a Sentencing Alternative

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

Sec. 1. 17-A MRSA §1152, sub-§2, ¶G, as amended by PL 1993, c. 103, §1, is further amended to read:

G. A fine as authorized by chapter 53. Such a fine may be imposed in addition to the sentencing alternatives in paragraphs B, D, E and F; ~~or~~

Sec. 2. 17-A MRSA §1152, sub-§2, ¶H, as enacted by PL 1989, c. 502, Pt. D, §12, is amended to read:

H. A county jail reimbursement fee as authorized by chapter 54-B; or

Sec. 3. 17-A MRSA §1152, sub-§2, ¶I is enacted to read:

I. A specified number of hours of community service work as authorized by chapter 54-C.

Sec. 4. 17-A MRSA c. 54-C is enacted to read:

CHAPTER 54-C

COMMUNITY SERVICE WORK

§1345. Community service work

1. An offender convicted of a Class D or Class E crime may be sentenced to perform a specified number of hours of community service work for the benefit of the State, a county, a municipality, a school administrative district or other public entity, a charitable institution or other entity approved by the court.

2. An offender who has been sentenced to perform community service work and fails to complete the work within the time specified by the court must be returned to the court for further disposition.

3. The Division of Probation and Parole is not responsible for supervision of community service work pursuant to this section.

See title page for effective date.

CHAPTER 137

S.P. 18 - L.D. 49

An Act to Create Additional Employment Opportunities in the Financial Services Industry by Allowing Financial Organizations to Charge Additional Finance Charges

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

Whereas, several large credit card issuing companies are considering their expansion plans at this time; and

Whereas, Maine's current laws regarding credit cards may not attract these companies; and

Whereas, the changes to the credit card laws proposed by this legislation may help these nationally known companies decide to locate expansions or new operations in Maine, which will result in many new jobs; 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. 9-A MRSA §1-110, first ¶, as enacted by PL 1981, c. 218, is amended to read:

Notwithstanding the provisions of ~~Sections Section 501 and 521 to 523~~ of the United States Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law 96-221, the Legislature declares that the maximum finance charges established in article II ~~shall~~ apply to:

Sec. 2. 9-A MRSA §1-110, sub-§1, as amended by PL 1987, c. 129, §2, is further amended to read:

1. Consumer credit transactions involving manufactured housing as defined in section 1-301, subsection 23-A; and

Sec. 3. 9-A MRSA §1-110, sub-§2, as amended by PL 1993, c. 134, §1, is repealed.

Sec. 4. 9-A MRSA §2-402, sub-§4, as amended by PL 1993, c. 618, §1, is further amended to read:

4. With respect to loans made pursuant to a lender credit card, except for cash advances, and except when there is an outstanding balance from the prior billing cycle at the beginning of a billing cycle, no finance charge may be imposed on purchases or leases of goods or services purchased during the billing cycle, provided that they are paid for not later than 25 days after the closing date of the billing cycle in which the purchase or lease occurred.

Sec. 5. 9-A MRSA §2-501, sub-§4 is enacted to read:

4. In addition to or in lieu of interest at a periodic rate or rates as provided in section 2-402, and in addition to any other charges permitted under this Act, a supervised financial organization may, if the agreement with the consumer governing an open-end

credit plan involving the use of a lender credit card so provides, charge and collect as an additional finance charge or interest, in such manner or form as the plan may provide, one or more of the following:

A. A daily, weekly, monthly, annual or other periodic charge in such amount as the agreement may provide for the privileges made available to the consumer under the plan;

B. A transaction charge or charges in such amount or amounts as the agreement may provide for each separate purchase or loan under the plan;

C. A minimum charge for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which there is an outstanding, unpaid indebtedness under the plan;

D. Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the creditor or its agents in connection with the plan, or other reasonable fees incident to the application for and the opening, administration and termination of the plan, including, without limitation, commitment, application and processing fees, official fees and taxes, and filing fees, but excluding costs of collections after default, other than reasonable attorney's fees not in excess of 15% of the unpaid debt incurred in connection with a legal action brought by an attorney who is not a salaried employee of the creditor;

E. A late or delinquency charge upon any outstanding, unpaid installment payments or portions of those payments under the plan that are not paid in full within 15 days after the scheduled or deferred due date;

F. Return-payment charges;

G. Documentary evidence charges;

H. Stop-payment fees;

I. Over-the-limit charges; and

J. Automated teller machine charges or similar electronic or interchange fees or charges.

This subsection does not apply to open-end credit plans secured by a consumer's principal dwelling or by any 2nd or vacation home of the consumer.

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

Effective May 22, 1995.

CHAPTER 138

S.P. 102 - L.D. 242

An Act to Increase the Bonding Limits of the Maine Turnpike Authority

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

Sec. 1. 23 MRSA §1968, as amended by PL 1993, c. 410, Pt. MM, §7, is repealed and the following enacted in its place:

§1968. Issuance of bonds

The authority may issue bonds as follows.

1. Turnpike revenue bonds. The authority may provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding \$116,000,000 in the principal amount at any one time outstanding exclusive of refundings, for any purpose described in section 1969, subsection 1.

2. Bonds for construction and reconstruction of interchanges. In addition to bonds outstanding pursuant to subsection 1, the authority may provide by resolution from time to time for the issuance of turnpike revenue bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, but not exceeding \$40,000,000 in principal amount at any one time outstanding exclusive of refundings, to pay the cost, or a portion of the cost, of constructing or reconstructing interchanges. Construction or reconstruction costs of interchanges paid for with bonds in accordance with this subsection must be determined by the Department of Transportation and the authority to have a sufficient relationship to the public's use of the turnpike and the orderly regulation and flow of traffic on the turnpike in accordance with section 1974, subsection 3. New interchanges paid for with bonds in accordance with this subsection must be located in the Portland-Westbrook segment, the Lewiston-Auburn-Sabattus segment, or the Gray-New Gloucester segment of the turnpike.

3. Bonds; negotiable; not debt of State. The bonds of the authority do not constitute a debt of the State or of any agency or political subdivision of the

State and are payable solely from the operating revenues of the turnpike. Notwithstanding any provision of law, any bonds issued pursuant to this chapter are fully negotiable. If any of the members or officers of the authority whose signatures appear on the bonds or coupons cease to be members or officers before the delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes as if the members or officers had remained in office until that delivery.

Whether or not the bonds are of such form and character as to be negotiable instruments under Title 11, Article 8, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of Title 11, Article 8, subject only to the provisions of the bonds for registration.

It is the intention of this chapter that any pledge made by the authority in respect to the bonds or notes is valid and binding from the time when the pledge is made; that the funds or property so pledged and thereafter received by the authority is immediately subject to the lien of that pledge without any physical delivery of those funds or property or further act; and that the lien of such a pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether those parties have notice of that lien. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

The authority may, in the resolution authorizing prospective issues, provide as to those bonds:

A. The manner of executing the bonds and coupons;

B. The form and denomination of the bonds;

C. Maturity dates not more than 25 years from the date or dates of issuance, excluding the period, if any, during which bond anticipation notes are outstanding;

D. The interest rate or rates on the bonds, which may be fixed or variable or a combination of both;

E. For the redemption prior to maturity and the premium payable for the bonds;

F. The place or places for the payment of interest and principal;

G. For registration if the authority determines it to be desirable;

H. For the pledge of all or any of the operating revenues of the turnpike for securing payment;

I. For the replacement of lost, destroyed or mutilated bonds;

J. The setting aside of revenue and sinking funds and the regulation and disposition of these revenues and funds and for limitations on reserves, if any, established for capital outlay from operating revenues;

K. For limitations on the issuance of additional bonds;

L. For the procedure, if any, by which the contract with the bondholders may be abrogated or amended;

M. For the manner of sale, which may be public or private, and purchase of the bonds;

N. For covenants against pledging any or certain of the operating revenues of the turnpike;

O. For covenants fixing and establishing the prices, rates and charges for the use of the turnpike and other services made available in connection with the turnpike so as to provide at all times funds that will be sufficient:

(1) To pay all costs of operation and maintenance of the turnpike, together with the necessary repairs to the turnpike;

(2) To meet and pay the principal and interest of all such bonds as they severally become due and payable;

(3) For the creation of these reserves for the principal and interest of all such bonds and for the meeting of contingencies and the operation and maintenance of the turnpike as the authority determines; and

(4) To pay other lawful charges or costs for which the authority is responsible;

P. For such other covenants as to such prices, rates and charges as the authority determines;

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the authority of any covenant, condition or obligation;

R. For covenants as to the bonds to be issued and as to the issuance of the bonds in escrow and otherwise and as to the use and disposition of the proceeds of the bonds;

S. For covenants as to the use of its property and the maintenance and replacement of the property and the insurance to be carried on the property and the use and disposition of insurance money;

T. For limitations upon the exercise of the powers conferred upon the authority by this chapter;

U. For the issuance of these bonds in series or in serial form or for a stated term of years with or without mandatory retirements from a sinking fund or otherwise;

V. For the issuance, in addition to the issuance of notes and other evidences of indebtedness or obligations authorized under this chapter, of notes in anticipation of authorized bonds and for the exercise with respect to the bond anticipation notes of any or all of its powers delineated in this chapter for the issuance of bonds; and

W. For the performance by the authority of any acts and things necessary or convenient or desirable in order to secure its bonds or in the absolute discretion of the authority as will tend to make the bonds more marketable notwithstanding that those acts or things may not be enumerated in this chapter.

See title page for effective date.

CHAPTER 139

H.P. 397 - L.D. 532

An Act to Restrict the Use of Eminent Domain Power

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

Sec. 1. 5 MRSA §6207-A, as amended by PL 1993, c. 728, §11, is further amended to read:

§6207-A. Use of eminent domain

The board may expend funds to acquire an interest in land obtained by the use of eminent domain only if the ~~expenditure or~~ acquisition has been approved by the Legislature or is with the consent of the owner or owners of the land, as the identity and address of the owner or owners is shown on the tax maps or other tax records of the municipality in which the land is located. If the land is located within the unorganized territory, for purposes of this section the identity of the owner or owners must be as shown on the tax maps or other tax records of the State Tax Assessor.

See title page for effective date.

CHAPTER 140

S.P. 281 - L.D. 753

An Act to Correct and Clarify Certain Provisions of the Liquor Laws

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

Sec. 1. 5 MRSA §10051, sub-§3, as repealed and replaced by PL 1985, c. 748, §4, is amended to read:

3. Appellate jurisdiction. The Administrative Court ~~shall have~~ has exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003 and licensing decisions of the Bureau of Liquor Enforcement taken pursuant to Title 28-A, sections 453-A, 458 and 653. The Maine Administrative Procedure Act, chapter 375, subchapter VII, ~~shall govern~~ governs these proceedings as far as applicable, substituting "Administrative Court" for "Superior Court."

Sec. 2. 28-A MRSA §62-A, sub-§5, as enacted by PL 1993, c. 730, §21, is amended to read:

5. Act as a review board. Act as a review board on all appeals from the decisions of municipal officers. The bureau shall appoint a hearings officer to conduct appeal hearings. Except as provided in section 805, the decision of the chief is final. The hearings officer for the bureau is the Director of the Liquor Licensing and Tax Division.

The hearings officer may conduct hearings in any licensing matter pending before the bureau. The hearings officer shall, after holding the hearing, file with the bureau all papers connected with the case and report the findings to the ~~director~~ chief. The ~~director~~ chief shall render a final decision based upon the record of the hearing.

The hearings officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

Sec. 3. 28-A MRSA §161-B is enacted to read:

§161-B. Local approval of bottle clubs

1. Application to local authorities. Prior to registration with the commission under section 161, an owner or operator of a bottle club must apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The commission shall prepare and supply application forms.

2. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located shall hold a public hearing for the consideration of applications for new bottle clubs and applications for transfer of location of existing bottle clubs. The municipal officers or the county commissioners shall provide public notice of a hearing held under this section. The notice, at the applicant's prepaid expense, must state the name and place of the hearing and must appear for at least 3 consecutive days before the date of the hearing in a daily newspaper having general circulation in the municipality or unincorporated place where the bottle club is located or for 2 consecutive weeks before the hearing date in a weekly newspaper having general circulation in the municipality or unincorporated place where the bottle club is located.

3. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. An application may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime;

B. Noncompliance of the bottle club with any local zoning ordinance or other land use ordinance not related directly to liquor control;

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club or other such conditions that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the bottle club to use their property in a reasonable manner;

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law at or in the vicinity of the bottle club and caused by persons patronizing or employed by the bottle club;

E. A violation of any provision of this Title;

F. In the case of corporate applicants, ineligibility or disqualification under section 601 of any officer, director or stockholder of the corporation; and

G. Location of the bottle club at any amusement area, beach or other area designed primarily for use by minors.

4. Appeal to commission. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the commission. The commission shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the commission may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the commission may reverse the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed is denial of the application, the commission may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a commission decision under this section may appeal the decision to the Superior Court.

Sec. 4. 28-A MRSA §653, sub-§1, ¶B, as amended by PL 1987, c. 623, §8, is further amended to read:

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least ~~6~~ 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or ~~on 2 consecutive weeks~~ one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

Sec. 5. 28-A MRSA §653, sub-§1, ¶¶C and D are enacted to read:

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing

on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph.

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

Sec. 6. 28-A MRSA §653, sub-§3, as amended by PL 1993, c. 730, §27, is further amended to read:

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

Sec. 7. 28-A MRSA §653, sub-§5, as amended by PL 1993, c. 730, §27, is further amended to read:

5. Appeal to Administrative Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the Administrative Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Sec. 8. 28-A MRSA §2519, sub-§2, ¶B, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

B. ~~A representative of the Bureau of Liquor Enforcement~~ liquor enforcement officer;

See title page for effective date.

CHAPTER 141

H.P. 231 - L.D. 311

An Act to Clarify Professional Liability

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

Sec. 1. 13 MRSA §708, as enacted by PL 1969, c. 411, is repealed.

Sec. 2. 13 MRSA §708-A is enacted to read:

§708-A. Interpretation; liability

1. Relationship between a professional and a recipient of services. This chapter does not modify the liability of a person rendering professional service and a person receiving professional service.

2. Shareholder liability for debts and claims. Except as provided in subsection 3, the liability of shareholders for the debts of and claims against a professional corporation is the same as that of shareholders of a business corporation.

3. Shareholder liability arising from rendering professional service. A shareholder is jointly and severally liable for claims arising from the rendering of a professional service by a professional corporation if that shareholder:

A. Personally and directly participated in rendering that portion of a professional service that was performed negligently or in breach of any other legal duty; or

B. Supervised or controlled that portion of a professional service rendered by another person

that was performed negligently or in breach of any other legal duty.

See title page for effective date.

CHAPTER 142

S.P. 233 - L.D. 598

An Act to Establish Landowner Recognition Day

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

Sec. 1. 1 MRSA §133 is enacted to read:

§133. Landowner Recognition Day

The 3rd Saturday of September of each year is designated as Landowner Recognition Day and the Governor shall issue annually a proclamation inviting and urging the people of the State to observe this day in suitable places with appropriate activity.

See title page for effective date.

CHAPTER 143

H.P. 611 - L.D. 821

An Act to Amend the Laws Regarding the Procedures for Emergency Admissions to a Mental Hospital

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

Whereas, current laws do not authorize a law enforcement officer to transfer custody of a person for whom emergency admittance to a mental health institution is sought to the chief administrative officer of a nonstate mental health institution or to the chief administrative officer's designee; and

Whereas, this deficiency in the laws is a tremendous burden on law enforcement agencies as it forces law enforcement personnel to wait many hours at mental health institutions for emergency admittances, resulting in the waste of precious law enforcement resources and jeopardizing the protection that law enforcement agencies provide; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 34-B MRSA §3863, sub-§2-A, as enacted by PL 1993, c. 592, §1, is amended to read:

2-A. Custody agreement. A state, county or municipal law enforcement agency may meet with representatives of those public and private health practitioners and health care facilities that are willing and qualified to perform the certifying examination required by this section in order to attempt to work out a procedure for the custody of the person who is to be examined while that person is waiting for that examination. Any agreement must be written and signed by and filed with all participating parties. In the event of failure to work out an agreement that is satisfactory to all participating parties, the procedures of section 3862 and this section continue to apply.

As part of an agreement the law enforcement officer requesting certification may transfer protective custody of the person for whom the certification is requested to another law enforcement officer ~~or~~ a health officer if that officer agrees or the chief administrative officer of a public or private health practitioner or health facility or the chief administrative officer's designee. Any arrangement of this sort must be part of the written agreement between the law enforcement agency and the health ~~care agency practitioner or health care facility.~~ In the event of a transfer, the law enforcement officer seeking the transfer shall provide the written application required by this section.

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

Effective May 23, 1995.

CHAPTER 144

S.P. 316 - L.D. 897

An Act to Ban the Tripping of Equines

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

Sec. 1. 7 MRSA §3972, sub-§1, ~~¶¶D and E,~~ as enacted by PL 1987, c. 383, §3, are amended to read:

D. Use any live animal as bait in any racing contest or in the training of animals for racing contests; ~~or~~

E. Tie, tether or restrain any animal in a manner that is inhumane or detrimental to its welfare; ~~or~~

Sec. 2. 7 MRSA §3972, sub-§1, ¶F is enacted to read:

F. Intentionally cause an equine to fall or lose its balance by any means whatsoever. For the purposes of this paragraph, the term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny.

See title page for effective date.

CHAPTER 145

S.P. 332 - L.D. 913

An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes

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

Whereas, the current law that gives drug recognition technicians their authority to conduct drug-impairment assessments expires on June 1, 1995; and

Whereas, the drug recognition technician program results in the prosecution of persons who operate motor vehicles while under the influence of drugs other than alcohol; and

Whereas, failure to prosecute this type of offender may result in a greater number of operating-under-the-influence motor vehicle accidents that cause death and serious personal injury; and

Whereas, highway safety will be significantly diminished if the law is allowed to expire; 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. 29-A MRSA §2401, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Drugs. "Drugs" means scheduled drugs as defined under Title 17-A, section 1101. The term "drugs" includes any natural or artificial chemical substance that, when taken into the human body, can impair the ability of the person to safely operate a motor vehicle.

Sec. 2. 29-A MRSA §2525, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

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

Effective May 23, 1995.

CHAPTER 146

H.P. 708 - L.D. 965

An Act to Protect Maine's Maritime Heritage

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

Sec. 1. 27 MRSA §373-A, sub-§3, as enacted by PL 1981, c. 55, §5, is amended to read:

3. Excavation. "Excavation" means any turning over, removal or disturbance of the soil, artifact in the soil or ground matrix or recovery or disturbance of artifacts from beneath that are fully or partially submerged in the water and tidal sites. "Excavation" ~~shall include~~ includes, but is not limited to, activities such as purposeful looting, material procurement ~~or~~, construction activities or vandalism. In the case of private property the term "excavation" on a site ~~shall~~ does not include activities associated with agriculture or forestry unless specifically provided for in the permit or the preservation agreement as defined in Title 33, section 1551, ~~sub-§ subsection 2.~~

Sec. 2. 27 MRSA §378, as enacted by PL 1981, c. 568, §4, is amended to read:

§378. Emergency site designation

In the case of an area containing archaeological materials or artifacts ~~on private property which~~ that is directly threatened with unauthorized excavation, the Director of the Maine Historic Preservation Commission, with the written permission of the landowner, may designate ~~such an~~ the area as a site ~~which shall be~~ that is subject to this chapter for a period not to exceed

one year. All sites given emergency designation under this section ~~shall~~ must be posted against unauthorized excavation. Notice of the designation ~~shall~~ must be filed with the registrar of deeds in the county in which the site is located.

See title page for effective date.

CHAPTER 147

S.P. 422 - L.D. 1145

An Act to Require Unanimous Approval by the Hancock County Commissioners to Change the Recommendations of the Budget Committee

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

Sec. 1. 30-A MRSA §765, as amended by PL 1993, c. 227, §2, is further amended to read:

§765. Budget estimate; submission to advisory committee

The Hancock County commissioners shall submit a budget estimate to the budget advisory committee no later than October 1st for the coming year. The budget advisory committee shall review the budget estimate and make recommendations to the commissioners before November 15th. In order to deviate from any recommendation made by a recorded 2/3 majority vote of the full membership of the budget advisory committee, the county commissioners must unanimously approve that change. The county commissioners shall act on the budget no later than December 15th of the budget year.

See title page for effective date.

CHAPTER 148

H.P. 988 - L.D. 1396

An Act to Abolish the Local Government Records Board and to Assign Its Functions to the Archives Advisory Board

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

Sec. 1. 3 MRSA §927, sub-§3, ¶B, as repealed and replaced by PL 1993, c. 600, Pt. A, §1, is amended to read:

B. Independent agencies:

- (1) Maine State Pilotage Commission;
- (2) State Board of Registration for Professional Engineers;
- (3) Board of Licensure for Professional Land Surveyors;
- ~~(4) Local Government Records Board;~~
- (5) Maine High-Risk Insurance Organization. This subparagraph is repealed January 1, 1997;
- (6) Driver Education and Evaluation Programs; and
- (7) State Soil and Water Conservation Commission.

Sec. 2. 5 MRSA §92, as enacted by PL 1973, c. 625, §16, is amended to read:

§92. Declaration of policy

The Legislature declares that it is the policy of the State to make the operations of State Government and local government more efficient, more effective and more economical through current records management; and, to the end that the people may derive maximum benefit from a knowledge of state affairs, preserve its noncurrent records of permanent value for study and research.

Sec. 3. 5 MRSA §92-A, sub-§2-A is enacted to read:

2-A. Local government. "Local government" means a municipality, school district or other special-purpose district or multi-purpose district.

Sec. 4. 5 MRSA §92-A, sub-§§4 and 5, as enacted by PL 1991, c. 837, Pt. A, §8, are amended to read:

4. State agency or agency. "State agency" or "agency" means any unit of State Government or local government, including any state board or commission, except the Legislature and its committees and subcommittees, the Judicial Department, the University of Maine System, the Maine Technical College System and the Maine Maritime Academy.

5. Record. ~~"State record"~~ "Record" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of the State and has been received or prepared for use in connection with the transaction of public or governmental business or contains informa-

tion related to the transaction of public or governmental business.

Sec. 5. 5 MRSA §93, first ¶, as repealed and replaced by PL 1977, c. 674, §2, is amended to read:

The Secretary of State shall appoint a State Archivist subject to review by the ~~Joint Standing Committee on State Government~~ joint standing committee of the Legislature having jurisdiction over state and local government and to confirmation by the Legislature. ~~He~~ The State Archivist shall be chosen without reference to party affiliation and solely on the ground of professional competence to perform the duties of ~~his~~ that office. ~~He~~ The State Archivist shall hold office for a term of 6 years from the date of ~~his~~ the appointment and until ~~his~~ a successor has been appointed and qualified. The compensation of the State Archivist shall be fixed by the Governor.

Sec. 6. 5 MRSA §95, sub-§§2 and 3, as amended by PL 1991, c. 837, Pt. A, §9, are further amended to read:

2. Examination of public records. To have the right of reasonable access to and examination of all state and local government records in Maine;

3. Rules. To adopt such rules as are necessary to effectuate the purposes of this chapter. No restrictions or limitations may be imposed on the use of records that are defined by law as state and local government records or as records open to public inspection, unless necessary to protect and preserve them from deterioration, mutilation, loss or destruction. Restrictions or limitations imposed by law on the examination and use of ~~state~~ records transferred to the archives under subsection 7, paragraph C and subsection 8 remain in effect until the records have been in existence for 50 years, unless removed or relaxed by the State Archivist with the concurrence in writing of the head of the agency from which the records were transferred or the successor in function, if any. The State Archivist shall adopt rules governing the transfer of ~~state~~ records from the custody of one agency to that of another subject to any applicable provision of law;

Sec. 7. 5 MRSA §95, sub-§7, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

7. Records management program. To establish and administer in the executive branch of State Government an active, continuing program for the economical and efficient management of state and local government records, and for the proper disposition of local government records. Upon request, the State Archivist shall assist and advise in the establishment of records management programs in the legislative and judicial branches of State Government and shall, as required by them, provide program services similar to those available to the executive

branch. The State Archivist shall, with due regard for the functions of the agencies concerned:

A. Provide standards, procedures and techniques for effective management of state and local government records in the conduct of current business;

B. Recommend improvements in current records management practices, including the use of space, equipment and supplies employed in creating, maintaining, storing and servicing state and local government records;

C. Establish schedules, in consultation with the heads of state agencies and local government agencies, under which each ~~state~~ agency shall retain ~~state~~ records of continuing value, and dispose, as provided by this chapter, of ~~state~~ records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping for current business; and

D. Obtain such reports from state or local government agencies as are required for the administration of the program;

The head of each state agency or local government agency shall establish and maintain an active, continuing program for the economical and efficient management of ~~the state any~~ records of ~~the state agency~~ in compliance with the standards, procedures and regulations issued by the State Archivist.

Sec. 8. 5 MRSA §95, sub-§§9 and 10-B, as amended by PL 1991, c. 837, Pt. A, §9, are further amended to read:

9. Destruction of state records. To authorize and receive confirmation of the destruction of the state records of any state or local agency that, in the opinion of the head of the agency, are no longer of value to the state or local government agency, and that, in the opinion of the State Archivist and the Archives Advisory Board, have no archival value to the State;

10-B. Permanent state records of agency administration. To establish such standards concerning the establishment, maintenance and operation of state or local government administered computerized and auxiliary automated information handling as are necessary to ensure the preservation of adequate and permanent ~~state~~ records of the organization, functions, policies, procedures, decisions and essential transactions of the agencies of State Government or local government;

Sec. 9. 5 MRSA §95-A, sub-§§1 to 3, as enacted by PL 1989, c. 283, are amended to read:

1. Notice and demand of return. Whenever the State Archivist has reasonable grounds to believe that documents or records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of the person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those documents or records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the documents or records. The notice and demand ~~shall~~ must be sent by certified or registered mail, return receipt requested. The notice and demand ~~shall~~ must identify the documents or records claimed to belong to the State or local government with reasonable specificity. Upon receipt of the notice and demand, the person or entity in the possession of documents or records claimed to belong to the State ~~shall~~ or local government may not destroy, alter, transfer, convey or otherwise alienate those documents or records unless authorized in writing by the State Archivist or by an order issued by a court of competent jurisdiction. The notice and demand ~~shall~~ must specifically state that any transfer, conveyance or other alienation of the documents or records after receipt of the notice and demand ~~shall constitute~~ constitutes a Class E crime in violation of section 97.

2. Petition; hearing. Following the issuance of a notice and demand in accordance with subsection 1, the State Archivist, with the assistance of the Attorney General, may petition the Superior Court of Kennebec County or the Superior Court in the county in which documents or records are located, for the return of state documents or records that are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those documents or records. After hearing, the court shall order the ~~state~~ documents or records to be delivered to the State Archivist, or other custodian designated by the State Archivist, upon a finding that the materials in question are ~~state~~ documents or records and that the documents or records are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or provision of law to possess the documents or records. The court may issue all orders necessary to protect ~~state~~ the documents or records from destruction, alteration, transfer, conveyance or alienation by the person or entity in possession of the materials and may also order the person or entity in possession of the ~~material~~ materials to surrender the documents or records into the custody of the State Archivist pending the court's decision on the petition.

3. Presumption. In any proceeding pursuant to subsection 2, there ~~shall be~~ is a rebuttable presumption that documents or records that were once in the custody of the State or a local government were not lawfully alienated from that custody.

Sec. 10. 5 MRSA §95-B is enacted to read:

§95-B. Local government records

The following provisions apply to local government records.

1. Omissions or errors corrected. When omissions or errors exist in local government records, those records must be corrected under oath by the person who was responsible for those local government records, whether or not that person remains in office.

A. If an original town meeting warrant is lost or destroyed, the return may be made or amended on a copy of it.

2. Safe or vault for preservation. Each local government shall provide a fireproof safe or vault for the preservation of all records that are not current records. The official having responsibility for those records shall deposit them in the safe or vault where those records must be kept except when required for use.

3. Attestation. The records of a local government official may be attested by volume. Each document is sufficiently attested when the volume in which it is recorded bears the attestation with the written signature of the official.

4. Delivery to successor in office. Local government officials shall deliver the records of their office to their successors in office upon the expiration of the officials' terms.

5. Records available for public use. Each local government official shall make records available for public use under that official's supervision at reasonable times unless the use of the records is otherwise restricted by law.

6. Protection of records. Local government officials shall carefully protect and preserve the records of their office from deterioration, mutilation, loss or destruction.

7. Disposition of records. Records may not be destroyed or otherwise disposed of by any local government official, except as provided by the Archives Advisory Board. Records that have been determined by the board to possess sufficient archival value must be preserved by the municipality or deposited with the State Archivist.

8. Regulations of Archives Advisory Board. Each local government official shall comply with the standards, procedures and regulations issued by the Archives Advisory Board.

Sec. 11. 5 MRSA §12004-I, sub-§55-A, as enacted by PL 1989, c. 304, §2, is repealed.

Sec. 12. 30-A MRSA c. 15, as amended, is repealed.

See title page for effective date.

CHAPTER 149

H.P. 592 - L.D. 802

An Act to Amend the General Sentencing Provisions

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

Sec. 1. 17-A MRSA §1151, sub-§8, as repealed and replaced by PL 1983, c. 480, Pt. B, §24, is amended to read:

8. To permit sentences ~~which that~~ do not diminish the gravity of offenses, with reference to the ~~factor~~ factors, among others, of ~~the age of the victim;~~

A. The age of the victim; and

B. The selection by the defendant of the person against whom the crime was committed or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability or sexual orientation of that person or of the owner or occupant of that property.

See title page for effective date.

CHAPTER 150

H.P. 207 - L.D. 266

An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers

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

Whereas, the 90-day period may not terminate in time to allow the Superintendent of Insurance to exercise the powers granted to the Superintendent of Insurance through this legislation in matters involving certain self-insurance applications; and

Whereas, current law may deny the Superintendent of Insurance the discretion contemplated by

this legislation with regard to the posting of bonds by self-insurers under certain circumstances; and

Whereas, the posting of bonds may involve considerable expense that might otherwise be avoided under the limited circumstances contemplated by this legislation; 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. 39-A MRSA §403, sub-§8, ¶A, as amended by PL 1993, c. 491, §1, is further amended to read:

A. The bond or security deposit required of an individual self-insurer must be at least an amount determined by the following formula or \$50,000, whichever is larger. The bond or security deposit must be in an amount equal to the loss and loss adjustment expense portion of the annual standard premium for the prospective fiscal coverage period or the outstanding loss reserves minus recoveries from all excess carriers and subrogation reduced to net collections plus 25% of annual standard premiums for the prospective fiscal coverage period, whichever is larger. The percentage factor used to determine the portion of annual standard premium allocated for loss and loss adjustment expenses must be acceptable to the Superintendent of Insurance. For the purposes of this paragraph, "annual standard premium" is as defined in section 404, subsection 4.

For individual self-insurers who have a net worth equal to or in excess of \$10,000,000; who have had positive net earnings demonstrated by certified statements of financial condition audited by a certified public accountant for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years; and whose mean annual earnings for the 5 latest fiscal years are at least equal to the normal annual premium for the prospective fiscal coverage period, the minimum security deposit or bond must be an amount determined by the formula in this paragraph or as adjusted for applicable levels of working capital funds.

An employer meeting the standards of this paragraph may deduct from the penal value of its surety bond or from the market value of securities deposited an amount not exceeding demonstrated working capital in such current statement

of financial condition; the bond or deposit must be at least \$100,000.

Self-insurers that are unable to meet the preceding standards shall deposit acceptable funds or a surety bond in that amount produced by the formula described in this paragraph written by a corporate surety that meets the qualifications prescribed by rules adopted by the superintendent. The minimum security deposit or bond amount may be adjusted for applicable levels of working capital funds if the self-insurer was eligible to make an alternative election, under Statement of Financial Accounting Standard No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, that would have otherwise caused the self-insurer to have both positive net earnings for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years, and mean annual earnings for the 5 latest fiscal years equal to the normal annual premium for the prospective fiscal coverage period.

Within 30 days after notice by the superintendent, the self-insurer shall post the deposit indicated. This deadline may be extended by the superintendent for good cause, but in no event may exceed one year from the deadline for compliance as stated in the notice given to the self-insurer.

A bond or security deposit in excess of the amount prescribed by this subsection may be required if the superintendent determines that the self-insurer has experienced a deterioration in financial condition that adversely affects the self-insurer's ability to pay expected losses.

No judgment creditor other than claimants for benefits under this Act has a right to levy upon the self-insurer's assets held in deposit pursuant to this paragraph.

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

Effective May 25, 1995.

CHAPTER 151

H.P. 134 - L.D. 182

An Act to Increase Safety in Highway Construction and Work Maintenance Areas

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

Whereas, the work environment along the State's highways is dangerous and the protection of employees who must work in this environment is paramount; and

Whereas, speed is a major factor in accidents in construction and maintenance zones; and

Whereas, the construction and maintenance season begins in the early summer; 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. 29-A MRSA §2075, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Public ways under construction. The Commissioner of Transportation may restrict the speed limit on a public way under construction or during maintenance and the Executive Director of the Maine Turnpike Authority may restrict the speed limit on any portion of the turnpike under construction or during maintenance when a lower rate of speed would minimize the danger of accident. A person may not operate a motor vehicle in excess of these speeds, as long as notice of the maximum speed has been given by standard black and white speed limit signs on the way. ~~This subsection does not apply to the Maine Turnpike.~~ Signs erected pursuant to this subsection must be covered or removed during hours when the speed limit is not restricted.

The penalty for a violation of this subsection is a fine equal to twice the amount of the fine designated in accordance with Title 4, section 164, subsection 12 for a similar speeding violation under section 2073.

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

Effective May 25, 1995.

CHAPTER 152

H.P. 861 - L.D. 1192

An Act Concerning the Office of Geographic Information Systems

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

Sec. 1. 5 MRSA §1886, sub-§6, as amended by PL 1991, c. 780, Pt. Y, §88, is further amended to read:

6. Maintain central data processing services. The director through the Division of Data Processing shall maintain and operate central data processing services and geographic information systems pursuant to subchapter II-A.

Sec. 2. 5 MRSA c. 158, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

GEOGRAPHIC INFORMATION SYSTEMS

§1890-C. Definitions

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

1. Administrator. "Administrator" means the Administrator of the Office of Geographic Information Systems.

2. Geographic information system or GIS. "Geographic information system" or "GIS" means an entire formula, pattern, compilation, program, device, method, technique, process, digital data base or system that electronically records, stores, reproduces and manipulates by computer geographic information system data.

3. Geographic information system data or GIS data. "Geographic information system data" or "GIS data" means geographic information that has been compiled and digitized for use in geographic information systems by a state agency, either alone or in cooperation with other agencies.

4. Geographic information system services or GIS services. "Geographic information system services" or "GIS services" means the process of gathering, storing, maintaining and providing geographic information system data for geographic information systems. "Geographic information system services" or "GIS services" does not include general purpose data processing services.

5. Office. "Office" means the Office of Geographic Information Systems.

§1890-D. Established

The Office of Geographic Information Systems is established within the Bureau of Information Services.

§1890-E. Powers

The Bureau of Information Services through the office shall:

1. Geographic information system. Establish, maintain and operate a geographic data base information center, develop and administer standards, subject to the approval of the Information Services Policy Board, and provide geographic information system services to the public. A request to provide the Legislature or an office of the Legislature with existing information for policy decision-making purposes must be considered high priority;

2. GIS data repository. Create a GIS data repository for the proper management of GIS data and ensure the GIS data are documented, including ownership. Data must be stored and managed in a manner that facilitates the evolution of a distributed agency GIS network;

3. Data ownership. Maintain GIS base map data and other multipurpose data not specific to any state agency. All other GIS data are owned by the agency originally compiling the mapped data that were digitized for the GIS. Data owners are responsible for updating their GIS data and certifying its accuracy;

4. Accuracy level. Ensure that GIS data added on the GIS data repository are developed and maintained at an accuracy level and in a format that meets the GIS data standards, kept in a format that is compatible with the GIS and, upon request of a potential user, made available to the user;

5. Charges. Levy appropriate charges on those utilizing the services provided by the office, except that charges may not be levied on the Legislature for existing information. The charges must be fixed in a schedule or schedules prepared and revised as necessary by the Information Services Policy Board. The schedule of charges must be supported and explained by accompanying information; and

6. Consultation with Information Services Policy Board. Consult with the Information Services Policy Board on all major policy issues, including fee schedules, related to the management of GIS data and development of GIS data standards.

§1890-F. Intergovernmental cooperation and assistance

The administrator, with the approval of the director, may enter into such agreements with other agencies and organizations as will promote the objectives of this subchapter and accept funds from public and private organizations to be expended for purposes consistent with this subchapter.

§1890-G. Licensing agreements

GIS data are subject to licensing agreements and must be made available only in accordance with this subchapter and upon payment of fees established under this subchapter. The licensing agreement must protect the security and integrity of the GIS data, limit the liability of the data owners and the office providing the services and products and identify the source of the GIS data.

§1890-H. Priority of responsibilities

The activities authorized under this subchapter do not take priority over the primary responsibilities of the bureau. If there are not sufficient financial or personnel resources for the office to perform certain GIS services and deliver GIS data and products as provided in this subchapter, the administrative management functions related to the office, technical support for other state agency GIS users, office equipment maintenance and GIS data base management must take precedence.

Sec. 3. 5 MRSA §1893, sub-§1, as amended by PL 1989, c. 857, §37, is further amended to read:

1. Establish written standards. The board shall approve written standards governing geographic information systems, data processing and telecommunications as defined in this chapter.

Sec. 4. 5 MRSA §1893, sub-§5, ¶A, as amended by PL 1991, c. 291, §5, is further amended to read:

A. Rules and policies relating to geographic information systems, data processing and telecommunications;

Sec. 5. 12 MRSA c. 218, as amended, is repealed.

Sec. 6. 38 MRSA §420-B, sub-§2, as enacted by PL 1993, c. 720, §1, is amended to read:

2. Data management. The commissioner shall maintain data collected under this section in a manner consistent with standards established under Title ~~42~~ 5, chapter ~~248~~ 158, subchapter ~~II-A~~ for the State's geographic information system. All data is available to the public.

See title page for effective date.

CHAPTER 153

S.P. 369 - L.D. 1046

An Act to Amend the Displaced Homemakers Act

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

Sec. 1. 26 MRSA §1604, sub-§1, ¶B, as amended by PL 1989, c. 503, Pt. B, §112, is further amended to read:

B. ~~Nine~~ Fifteen individuals who have experience with the problems of displaced homemakers, ~~career counseling or adult vocational education entering, reentering or retraining for the paid workforce or starting a small business.~~ The members ~~shall be~~ are appointed by the Governor. The council shall elect its own chair.

See title page for effective date.

CHAPTER 154

H.P. 442 - L.D. 608

An Act to Modify the Presidential Primary Laws

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

Sec. 1. 21-A MRSA §335, sub-§5, ¶B-1, as amended by PL 1993, c. 334, §1, is repealed.

Sec. 2. 21-A MRSA §411, sub-§1, as enacted by PL 1993, c. 334, §3, is amended to read:

1. Determination of primary. When the state committee of a political party certifies that there is a contest among candidates for nomination as the presidential candidate of the party and ~~that the state committee votes to conduct~~ has notified the State of its intent to participate in a presidential primary election at the state committee's convention the year before the primary, the State shall hold a presidential primary election.

Sec. 3. 21-A MRSA §411, sub-§2, as enacted by PL 1993, c. 334, §3, is repealed.

Sec. 4. 21-A MRSA §411, sub-§§3 and 4 are enacted to read:

3. Date of primary. The presidential preference primary election must be held on the first Tuesday in March of the presidential election year.

This subsection is repealed January 1, 2000.

4. Primary date. The presidential preference primary election must be held on the same day as the presidential primary election for the State of New Hampshire or, if that state holds no presidential primary election, on the first Tuesday in March of the presidential election year.

This subsection takes effect January 1, 2000.

Sec. 5. 21-A MRSA §411-A is enacted to read:

§411-A. Party certification

The state committee shall file the certification with the Secretary of State by December 1st of the year next prior to the election. This certification must contain the following:

1. Statement of contest. A statement that there is a contest among candidates for nomination as the presidential candidate of the party;

2. Identification of contestants. Identification of at least 2 candidates who have declared as contestants for nomination as the presidential candidate of the party; and

3. Statement of intent. A statement that the party intends to participate in a presidential primary election. Such a statement of intent is irrevocable for that particular presidential preference primary election.

Sec. 6. 21-A MRSA §412, sub-§§1 and 2, as enacted by PL 1993, c. 334, §3, are amended to read:

1. Petitions. A candidate for the office of president who does not pay a filing fee to the Secretary of State pursuant to subsection 2 must file with the Secretary of State a petition with at least 4,000 2,000 and not more than 6,000 3,000 voters' signatures. By July 1st of the year preceding each presidential election year, the Secretary of State shall prepare and make available petitions for circulation by persons desiring to be contestants in the state presidential preference primary of any party. The petitions must meet the requirements of sections 335 and 336, excluding section 335, subsections 6 and 8, and must be filed at least 45 days before by December 1st in the year next prior to the year of the presidential preference primary election.

2. Filing fees. A candidate for the office of president who does not file a petition with the Secretary of State pursuant to subsection 1 must pay a \$2,500 filing fee to the Secretary of State. A candidate must pay the filing fee at the time that candidate files a declaration of candidacy the required written statement of intent and no later than December 1st in the year next prior to the year of the presidential preference primary.

Sec. 7. 21-A MRSA §414, sub-§1, as amended by PL 1993, c. 695, §22 and affected by §§23 and 37, is further amended to read:

1. Inclusion on ballot. The ballot must include the name of any person who is a member of a political party that has qualified to participate in a primary election under subchapter I and who meets at least one of the following conditions as determined by has filed a petition with or paid a filing fee to the Secretary of State pursuant to the requirements of section 412, subject to challenge and appeal under section 337.

~~A. The person has qualified for a presidential primary in any other state at least 3 weeks before this State's primary.~~

~~B. The person has filed a petition with or paid the filing fee to the Secretary of State pursuant to the requirements of section 412. The Secretary of State shall determine whether a petition meets the requirements of section 412, subject to challenge and appeal under section 337.~~

Sec. 8. 21-A MRSA §415, as enacted by PL 1993, c. 334, §3, is repealed and the following enacted in its place:

§415. Selection of delegates

If a party chooses to participate in a presidential preference primary election under this chapter, delegates to its national presidential nominating convention must be allocated and chosen in the following manner, except to the extent that applicable state and national party rules specify a contrary procedure or for 1996 only, to the extent that the respective state committees specify a contrary procedure.

1. Selection by convention. Delegates must be selected by state parties meeting in convention pursuant to subchapter I, article III at any time after the presidential primary election.

2. Proportional allocation. Delegates to the national convention must be allocated proportionally among the candidate votes and the uncommitted votes cast in the presidential preference primary election of the party.

3. Uncommitted delegates. A delegate elected as an uncommitted delegate may support any presidential candidate at any time and may change support for this candidate in the delegate's sole discretion.

4. Committed delegates. A delegate elected for a particular presidential candidate according to the proportional allocation specified by this section shall vote for that candidate on the first ballot at the national nominating convention, unless the candidate for whom a particular delegate is elected specifically withdraws, as verified by the chair of the national party, from consideration for the presidential nomination at any time before the first ballot at the national

nominating convention. In the event of such a withdrawal, delegates elected for that particular candidate become uncommitted delegates.

Sec. 9. 21-A MRSA §601-A, sub-§2, ¶¶F and G are enacted to read:

F. At the end of the list of candidates for nomination, there must be printed the word "uncommitted" in such a way that a voter may choose this preference rather than a listed candidate.

G. At the end of the list of candidates for nomination and after the "uncommitted" option, there may not be any blank spaces left where a voter could write in the name or place a sticker containing the name of any person for whom a voter desires to vote.

See title page for effective date.

CHAPTER 155

S.P. 354 - L.D. 982

An Act to Clarify Juvenile Detention

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

Sec. 1. 15 MRSA §3203-A, sub-§7, ¶B-1, as amended by PL 1993, c. 354, §3, is further amended to read:

B-1. After December 31, 1991 and until ~~December 31, 1995~~ the Northern Maine Regional Juvenile Detention Facility begins operating, if the juvenile caseworker determines there is no acceptable alternative, a juvenile may be detained for up to 24 hours, excluding Saturday, Sunday and legal holidays, in a jail or other secure detention facility intended or primarily used for the detention of adults, if:

(1) The facility is not located in a standard metropolitan statistical area and meets the statutory criteria outlined in the federal Juvenile Justice Delinquency Act, Section 223(a)(14)(A), (B) and (C);

(2) The facility complies with mandatory sight and sound separation standards established by the Department of Corrections in accordance with Title 34-A, section 1208;

(3) The facility has adequate certified correctional staff to monitor and supervise the juvenile at all times during detention; and

(4) The juvenile is detained only to await a court hearing, a preliminary hearing pursuant to Title 17-A, section 1205, an entrustment violation hearing or transfer to another detention facility.

Sec. 2. 15 MRSA §3203-A, sub-§7, ¶B-2, as amended by PL 1993, c. 354, §4, is further amended to read:

B-2. Notwithstanding any other provision of law, until ~~December 31, 1995~~ the Northern Maine Regional Juvenile Detention Facility begins operating, a juvenile may be detained in a county jail, as long as the juvenile is detained in a separate juvenile section approved by the federal Office of Juvenile Justice and Delinquency Prevention and in compliance with paragraph A.

Sec. 3. 15 MRSA §3203-A, sub-§7, ¶B-3, as enacted by PL 1993, c. 238, §1, is repealed.

See title page for effective date.

CHAPTER 156

H.P. 790 - L.D. 1107

An Act to Establish Minimum Qualifications for the Office of Sheriff

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

Sec. 1. 30-A MRSA §371, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 2. 30-A MRSA §371-A is enacted to read:

§371-A. Election or appointment; minimum qualifications

1. Manner of election or appointment. Sheriffs are elected or appointed and hold their offices according to the Constitution of Maine. Their election must be conducted and determined as is provided for county commissioners. Sheriffs take office on the first day of January following their election.

2. Minimum qualifications for officers. A person may not be appointed to the office of sheriff or be a candidate for election to the office of sheriff or serve as sheriff of any county in the State unless the candidate meets the following qualifications:

A. The candidate attests to the Law Enforcement Code of Ethics;

B. The candidate applies to the Secretary of State for a criminal background investigation to confirm that the candidate has no felony convictions; and

C. The candidate submits written certification from the Maine Criminal Justice Academy that the candidate has acquired the minimum college credits in required courses, training hours and years of experience, or combination thereof, to qualify for an executive certificate under academy standards.

3. Exception. Any person who is serving in the office of sheriff on the effective date of this section is deemed to meet the minimum qualifications of subsection 2.

See title page for effective date.

CHAPTER 157

S.P. 363 - L.D. 989

An Act to Further Restrict the Illegal Harvest of Cultivated Oysters

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

Whereas, previous acts of the Legislature sought to prevent the poaching of aquaculture products; and

Whereas, these acts have imposed too high a standard for conviction; and

Whereas, this standard has worked to prevent the successful prosecution of poachers of aquaculture products and has resulted in the loss of property and income; and

Whereas, this loss is an ongoing problem that requires immediate action; 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. 12 MRSA §6073, sub-§3, as enacted by PL 1991, c. 284, is amended to read:

3. Penalty. Any person who violates subsection 2-A or who knowingly and willfully violates ~~this~~

~~section~~ subsection 2 is guilty of a Class D crime, except that, notwithstanding Title 17-A, sections 4-A and 1301, the court shall impose a fine of not less than \$1,000 and restitution may be ordered made to the owner of the lease in an amount set by the court.

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

Effective May 30, 1995.

CHAPTER 158

H.P. 530 - L.D. 726

An Act to Allow Certain Employees of the Maine State Liquor and Lottery Commission and Their Families to Purchase Lottery Tickets

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

Sec. 1. 8 MRSA §381, as enacted by PL 1987, c. 505, §2, is repealed and the following enacted in its place:

§381. Persons prohibited from purchasing tickets or shares

A ticket or share may not be purchased by and a prize may not be paid to any of the following persons:

1. Commission officers. An officer of the commission;

2. Senior supervisory personnel. Senior supervisory employees of the commission, as determined by the commission officers; and

3. Household member. Any spouse, child, brother, sister, parent or person residing as a member of the same household in the principal place of abode of any of the persons identified in subsections 1 and 2.

See title page for effective date.

CHAPTER 159

S.P. 94 - L.D. 234

An Act to Clarify the Liquor Licensing Laws for Certain Establishments

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

Sec. 1. 28-A MRSA §4, sub-§1, ¶A, as amended by PL 1995, c. 46, §1, is further amended to read:

A. Licensees may not sell liquor on Sunday between the hours of 6 a.m. and 12 noon. ~~A Class A restaurant or a Class A restaurant/lounge may commence selling liquor on Sunday at 9 a.m.~~

See title page for effective date.

CHAPTER 160

H.P. 614 - L.D. 824

An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control

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

Whereas, this Act amends the laws governing the closure of municipal solid waste landfills; and

Whereas, the changes made by this Act would benefit the people of the State if effective immediately; and

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

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

Sec. 1. 38 MRSA §1310-N, sub-§6-F is enacted to read:

6-F. Agreements regarding unlicensed wood-waste, construction and demolition debris landfills operating after December 31, 1995. The commissioner may enter into an agreement with a municipality operating an unlicensed wood-waste, construction and demolition debris landfill as authorized under subsection 6-E, paragraph B, allowing that municipality to continue operating after December 31, 1995, if:

A. The municipality agrees to comply with the applicable operating requirements of rules adopted by the board pertaining to site access, litter control, erosion prevention, side slopes, compaction, cover, open burning and fire protection;

B. The municipality is conducting a groundwater quality monitoring program at the landfill as of the effective date of this subsection and agrees to continue the program for the life of the facility, or the municipality implements, as a term of the agreement, a groundwater monitoring program approved by the department; and

C. The municipality submits a facility site plan and narrative that indicate current and proposed final landfill grades and describe the general operating plan and proposed landfilling sequence at the site.

Agreements entered into pursuant to the provisions of this subsection must be for terms of sufficient duration to allow for the planned use of remaining site capacity and the proper closure of these landfills. The department shall consider the terms of these agreements on a case-specific basis, based upon the information submitted in conformance with paragraph C.

Unlicensed wood-waste, construction and demolition debris landfills may not, under the terms of agreements entered into pursuant to this subsection, expand horizontally onto areas where waste has not previously been disposed of, unless the area is licensed under the applicable provisions of this chapter. Notwithstanding this subsection the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including, but not limited to, a threat to a public or private water supply.

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

Effective May 30, 1995.

CHAPTER 161

S.P. 421 - L.D. 1144

An Act to Amend Certain Provisions of the Maine Emergency Medical Services Act of 1982

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

Sec. 1. 14 MRSA §8102, sub-§1-A, as enacted by PL 1987, c. 386, §2, is amended to read:

1-A. Emergency medical service. "Emergency medical service" means a nonprofit, incorporated ambulance service or ~~first responder~~ nontransporting emergency medical service licensed under Title 32,

chapter 2-B, receiving full or partial financial support from or officially recognized by the State, a municipality or county or an entity created under Title 30, chapter 203 or 204-A, except when the emergency medical service is acting outside the scope of activities expressly authorized by the State, municipality, county or entity created under Title 30, chapter 203 or 204-A.

Sec. 1. 32 MRSA §82, sub-§1, as amended by PL 1991, c. 588, §1, is further amended to read:

1. Licenses required. An ambulance service, ambulance, ~~first responder~~ nontransporting emergency medical service or emergency medical services person may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter, except as stated in subsection 2.

An ambulance, ambulance service, ~~first responder~~ nontransporting emergency medical service or emergency medical services person that fails to obtain licensure is subject to a fine of not more than \$500 or imprisonment for not more than 6 months, unless other penalties are specified.

Sec. 2. 32 MRSA §82, sub-§2, ¶B, as enacted by PL 1981, c. 661, §2, is amended to read:

B. Ambulance services, ambulances, ~~first responder~~ nontransporting emergency medical services and emergency medical services' services persons responding into Maine from out-of-state in response to civil emergencies or natural disasters;

Sec. 3. 32 MRSA §82, sub-§2, ¶C, as amended by PL 1985, c. 730, §§4 and 16, is further amended to read:

C. Ambulance services, ambulances, ~~first responder~~ nontransporting emergency medical services and emergency medical services' services persons responding into Maine from out-of-state pursuant to board approved mutual aid agreements with Maine licensed services;

Sec. 4. 32 MRSA §83, sub-§14, as enacted by PL 1981, c. 661, §2, is amended to read:

14. Nontransporting emergency medical service. "~~First responder~~ Nontransporting emergency medical service" means any organization, person or persons who hold themselves out as providers of emergency medical treatment and who do not routinely provide transportation to ill or injured persons, and who routinely offer or provide services to the general public beyond the boundaries of a single recreational site, business, school or other facility. For the purposes of this chapter, a physician making house calls as a part of ordinary medical practice is not

considered to be a ~~first responder~~ nontransporting emergency medical service.

A ~~first responder~~ nontransporting emergency medical service must have an agreement with a licensed ambulance service, to ensure continuity of care and adequate transportation for its patients. An ambulance service is not required to approve of or enter into an agreement with a ~~first responder~~ nontransporting emergency medical service.

Sec. 5. 32 MRSA §85, sub-§3, ¶A, as amended by PL 1989, c. 857, §69, is further amended to read:

A. The person must have completed successfully the ~~United States Department of Transportation course for first responders, with supplemental training specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act, or completed successfully the American Red Cross Advanced First Aid and Emergency Care Course, with supplemental training specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act.~~

Sec. 6. 32 MRSA §85, sub-§3, ¶¶B and D, as enacted by PL 1981, c. 661, §2, are amended to read:

B. The person must have successfully completed ~~the American Heart Association basic rescuer course in cardiopulmonary resuscitation or its American Red Cross equivalent certification requirements as specified in rules adopted by the board pursuant to the Maine Administrative Procedure Act.~~

D. The person must be sponsored by a Maine licensed ambulance service or ~~first responder~~ nontransporting emergency medical service.

Sec. 7. 32 MRSA §86, sub-§1, as amended by PL 1991, c. 588, §14, is further amended to read:

1. Ambulance services and nontransporting medical services to be licensed. Every ambulance service and ~~first responder~~ nontransporting emergency medical service must be licensed, operate in accordance with the rules adopted for services under this chapter and carry the equipment called for in those rules.

Sec. 8. 32 MRSA §86, sub-§2-A, as amended by PL 1993, c. 152, §3, is further amended to read:

2-A. Treatment to be in accord with regional medical orders. When an ambulance service or ~~first responder~~ nontransporting emergency medical service is present at an accident or other situation in which a

person or persons require emergency medical treatment, the medical treatment of the patients must be carried out in accordance with any rules adopted under this chapter, any protocols issued by the regional medical director and any verbal orders given under the system of delegation established by the regional medical director; except that:

A. When a patient is already under the supervision of a personal physician or a physician's assistant or nurse practitioner supervised by that physician and the physician, physician's assistant or nurse practitioner assumes the care of the patient, then for as long as the physician, physician's assistant or nurse practitioner remains with the patient, the patient must be cared for as the physician, physician's assistant or nurse practitioner directs. The emergency medical services persons shall assist to the extent that their licenses and protocol allow; and

B. No patient is required to accept treatment to which the patient does not consent.

Sec. 9. 32 MRSA §88, sub-§1, ¶A, as amended by PL 1991, c. 742, §4, is further amended to read:

A. The board has one member representing each regional council, and 7 persons in addition. Of the additional persons, one is a physician, one an attorney, one a representative of the public, one a representative of for-profit ambulance services, one a professional nurse, one a representative of first-responder nontransporting emergency medical services and one a representative of not-for-profit ambulance services. The members that represent for-profit ambulance services, ~~first-responder nontransporting emergency medical services~~ and not-for-profit ambulance services must be licensed emergency medical services persons. Appointments are for 3-year terms. Members must be appointed by the Governor. The state medical director is an ex officio nonvoting member of the board.

Sec. 10. 32 MRSA §89, sub-§2, ¶C, as amended by PL 1985, c. 730, §§13 and 16, is further amended to read:

C. Advising the board on the licensing of new ambulance, ~~first-responder nontransporting emergency medical~~ and air ambulance services within each region;

See title page for effective date.

CHAPTER 162

S.P. 346 - L.D. 951

An Act to Include the Emergency Medical Services' Board in the List of Boards Reviewing Criminal Convictions Before Licensing

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

Sec. 1. 5 MRSA §5301, sub-§2, ¶E, as amended by PL 1993, c. 600, Pt. B, §§20 to 22, is further amended to read:

E. Convictions for which incarceration for less than one year may be imposed and which involve sexual misconduct by an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy ~~and~~ the State Board of Nursing and the Emergency Medical Services' Board.

Sec. 2. 5 MRSA §5303, sub-§2, as amended by PL 1993, c. 600, Pt. B, §§20 to 22, is further amended to read:

2. Ten-year limits. For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, ~~and~~ the State Board of Examiners in Physical Therapy and the Emergency Medical Services' Board, the following ~~shall~~ apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation ~~shall~~ apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions ~~shall~~ must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or a licensee's conduct ~~which~~ that gave rise to the criminal

conviction if that conduct is otherwise a ground for disciplinary action.

See title page for effective date.

CHAPTER 163

H.P. 924 - L.D. 1305

An Act to Clarify the Supervision of Juveniles Under Observation

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

Sec. 1. 34-A MRSA §3809, sub-§2, ¶H, as enacted by PL 1991, c. 314, §64, is amended to read:

H. A juvenile held under observation must be under ~~constant~~ sight and sound supervision by facility staff, which must be constant if necessary to prevent imminent harm to the juvenile.

See title page for effective date.

CHAPTER 164

H.P. 732 - L.D. 1006

An Act to Amend the Law to Provide for the Notification of Immediate Family Members of Homicide Victims

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

Sec. 1. 17-A MRSA §1257-A, as amended by PL 1989, c. 502, Pt. D, §14, is further amended to read:

§1257-A. Notification of perpetrator's release

A victim of any Class A, B or C crime for which the perpetrator is committed to the Department of Corrections may receive notice of that person's release from ~~custody~~ institutional confinement, including parole, furloughs or, work-release programs, intensive supervision or supervised community confinement, upon complying with this section, unless the Department of Corrections determines that giving this notice could pose a threat to the safety of the ~~sentenced person~~ perpetrator. When the victim is a victim of homicide, the parent, child, sibling and spouse of the victim may receive notice of the perpetrator's release from institutional confinement.

1. Request filed. ~~The victim~~ Persons who wish to receive notification as allowed by this section must

file a request for notification of the ~~sentenced person's~~ perpetrator's release with the office of the prosecutor at any time after the close of judicial proceedings concerning the case. The prosecutor shall forward this request form to the Department of Corrections, which shall forward the form to the correctional facility in which that person is confined.

2. Notice sent. The correctional facility in which the ~~sentenced person~~ perpetrator is confined shall keep the victim's or other person's request in the file of the ~~sentenced person~~ perpetrator and shall notify the victim or other person by mail of any impending release as soon as the release date is set. This notice ~~shall~~ must be mailed to the address provided in the ~~victim's~~ request or any subsequent address provided by ~~him~~ the requesting person.

3. Content of notice. The notice required by subsection 2 ~~shall~~ must contain:

A. The name of the ~~sentenced person~~ perpetrator;

B. The nature of the release authorized whether it is a parole, furlough, work-release, intensive supervision, supervised community confinement or similar program;

C. The anticipated date of ~~his~~ the perpetrator's release from institutional confinement and any date on which ~~he~~ the perpetrator must return to institutional confinement; and

D. The geographical area to which ~~his~~ the perpetrator's release is limited, if any.

4. Termination of notice. Notice of the ~~sentenced person's~~ perpetrator's release is no longer required when either:

A. The ~~sentenced person~~ perpetrator has served ~~his~~ the entire sentence for a crime with regard to which the victim or other person has requested notice; or

B. The victim or other person has filed a signed request with the Department of Corrections ~~which that~~ has been forwarded to the correctional facility in which the sentenced person perpetrator is confined asking that no further notice be given.

5. Liability. Neither the failure of any state officer or employee to perform the requirements of this section nor compliance with it ~~shall subject~~ subjects the State or the officer or employee to liability in any civil action.

See title page for effective date.

CHAPTER 165**S.P. 349 - L.D. 977****An Act to Remove Outdated and Duplicative Provisions from the Statute Governing the Office of Substance Abuse****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 5 MRSA §20007**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:**§20007. Agency cooperation**

~~The Commissioner of Corrections, the Commissioner of Educational and Cultural Services, the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the Commissioner of Public Safety shall constitute the Substance Abuse Advisory Group. The commissioners shall elect a chair from among the members of the advisory group and shall meet with the director to provide advice on the development and operation of alcohol and drug abuse prevention and treatment programs. The advisory group shall meet, at a minimum, in alternate months.~~

State agencies shall cooperate fully with the office and council in carrying out this chapter. A state agency may not develop, establish, conduct or administer any alcohol or drug abuse prevention or treatment program without the approval of the office. The office may request personnel, facilities and data from other agencies as the director finds necessary to fulfill the purposes of this Act.

See title page for effective date.

CHAPTER 166**H.P. 162 - L.D. 210****An Act to Expand the Membership of the Loring Development Authority of Maine****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 5 MRSA §13080-B, sub-§§2 and 3**, as enacted by PL 1993, c. 474, §1, are amended to read:

2. Membership; appointment. The authority is governed by a board of trustees composed of ~~44~~ 13 voting members appointed by the Governor and subject to review by the joint standing committee of

the Legislature having jurisdiction over economic development matters and to confirmation by the Senate.

A. Trustees are appointed for 4-year terms except that, for initial appointments, 3 trustees are appointed to one-year terms, 3 trustees to 2-year terms, 2 trustees to 3-year terms, ~~2~~ 4 trustees to 4-year terms and the commissioner designated pursuant to paragraph D serves at the pleasure of the Governor.

B. A trustee continues to hold office until a successor is appointed and qualified, but the term of the successor is not altered from the original expiration date of the holdover trustee's term.

C. The Governor shall make ~~40~~ 12 appointments, of which no less than 7 must be from candidates who are residents of Aroostook County and are nominated by the primary impact communities. The Governor shall appoint members who reflect the diversity of interests represented by these communities. At least 4 of the remaining appointments must be from candidates who are not residents of Aroostook County.

D. The Governor shall designate a commissioner of a department of State Government to be a voting, ex officio member of the board of trustees.

3. Quorum. ~~Six~~ Seven members constitute a quorum. ~~Six~~ Seven affirmative votes are required for the board to take action.

See title page for effective date.

CHAPTER 167**S.P. 43 - L.D. 73****An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 21-A MRSA §1053, sub-§1**, as amended by PL 1989, c. 504, §§25 and 31, is further amended to read:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers and the identity of any candidate ~~for any constitutional office or~~ who is registered under

section 1013-A and who is involved in decision making for a political action committee organized to advance the election of that candidate;

Sec. 2. 21-A MRSA §1063 is enacted to read:

§1063. Constitutional officers and State Auditor

The Secretary of State, the Treasurer of State, the Attorney General, the State Auditor, or any individual running for these offices, may not form a political action committee or be involved in decision making for or solicit contributions to a political action committee.

See title page for effective date.

CHAPTER 168

S.P. 317 - L.D. 898

**An Act to Amend the Procedures for
Conducting a School District
Referendum**

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

Sec. 1. 20-A MRSA §1353, sub-§2, as amended by PL 1989, c. 502, Pt. A, §52, is further amended to read:

2. Voting. Voting ~~shall~~ must be held and conducted as follows.

A. The voting at ~~referendum~~ referenda held in towns ~~shall~~ must be held and conducted in accordance with Title 30-A, sections 2524 and 2528 to 2532, even though the town has not accepted the provisions of Title 30-A, sections 2524 and 2525. The facsimile signature of the clerk under Title 30-A, section 2528, subsection 6, paragraph F, ~~shall~~ must be that of the ~~chairman~~ chair of the board of directors. If a district referendum is called to be held simultaneously with any statewide election, the voting in towns ~~shall~~ must be held and conducted in accordance with Title 21-A, except that the duties of the Secretary of State ~~shall~~ must be performed by the board and if the statewide election is a primary election, any registered voter may vote in the referendum. The absentee voting procedure of Title 21-A ~~shall~~ must be used, except the duties of the Secretary of State ~~shall~~ must be performed by the board.

B. The voting at ~~referendum~~ referenda in cities ~~shall~~ must be held and conducted in accordance with Title 21-A, including the absentee voting procedure, except that the duties of the Secretary

of State ~~shall~~ must be performed by the board of directors and if the statewide election is a primary election, any registered voter may vote in the referendum.

See title page for effective date.

CHAPTER 169

S.P. 268 - L.D. 719

**An Act to Change the Restricted
Area around Aquaculture Pens from
500 to 300 Feet**

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

Sec. 1. 12 MRSA §6402-C is enacted to read:

§6402-C. Suspension based on 2 or more convictions of dragging within the prohibited area surrounding aquaculture operations

For any person convicted of a 2nd or subsequent offense of section 6957, subsection 1, the commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of the violation. The suspension is for 5 years from the date of conviction.

Sec. 2. 12 MRSA §6957, as enacted by PL 1993, c. 723, §1, is amended to read:

§6957. Fishing near floating equipment

1. Prohibition. A person may not operate a vessel using drags, otter trawls, pair trawls, beam trawls, scottish seines or midwater trawls to fish for or take finfish, shellfish, sea urchins or any other marine organisms within ~~500~~ 300 feet of any suspended culture floating cages, tray racks or other floating equipment authorized in a lease issued by the commissioner under section 6072, if the equipment is marked in accordance with subsection 1-A.

1-A. Markings. The owner of a suspended culture floating cage, tray rack or other floating equipment shall mark the area in which a vessel is prohibited under subsection 1 with at least 4 anchors, each marked by a yellow buoy at least 2 feet in diameter.

2. Penalty. A violation of ~~this section~~ subsection 1 is a Class D crime, except that, notwithstanding Title 17-A, section 1301, the court shall impose a

minimum fine is ~~\$500 and~~ of \$1,000 that may not be suspended.

See title page for effective date.

CHAPTER 170

H.P. 804 - L.D. 1121

An Act to Establish Standards for Preadmission Assessments for Long-term Care Services

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

Sec. 1. 22 MRSA §1822-A, as enacted by PL 1993, c. 410, Pt. FF, §8, is amended to read:

§1822-A. Notice to nursing facility applicants

If an applicant to a nursing facility has not received a preadmission assessment in accordance with section 3174-I, the nursing facility shall provide to the applicant and any relative or friend assisting the applicant a notice prepared by the department regarding ~~the availability of~~ preadmission assessment. The notice must indicate that preadmission assessment is available, ~~that all applicants are urged to have a preadmission assessment, that prospective Medicaid recipients are required to have a preadmission assessment required~~ and that, if the applicant depletes the applicant's resources and applies for Medicaid in the future, the applicant may need to leave the nursing facility if an assessment conducted at that time finds that the applicant is not medically eligible for nursing facility services.

Sec. 2. 22 MRSA §3174-I, sub-§1, as amended by PL 1993, c. 410, Pt. FF, §10 and affected by §19, is further amended to read:

1. Needs assessment. In order to determine the most cost-effective and clinically appropriate level of long-term care services, the department or its designee shall assess the medical and social needs of each applicant to a nursing facility ~~who is reasonably expected to become financially eligible for Medicaid benefits within 180 days of admission to the nursing facility~~. If the department chooses a designee to carry out assessments under this section, it shall ensure that the ~~designee does not have a pecuniary interest in the outcome of the assessment~~ assessments are comprehensive and objective.

A. The assessment must be completed prior to admission or, if necessary for reasons of the person's health or safety, as soon after admission as possible.

B. The department shall determine whether the services provided by the facility are medically and socially necessary and appropriate for the applicant and, if not, what other services, such as home and community-based services, would be more clinically appropriate and cost effective.

B-1. For persons with severe cognitive impairments who have been assessed and found ineligible for nursing facility level care, the department, through the Bureau of Elder and Adult Services, community options unit, shall review the assessment and provide case management to assist consumers and caregivers to receive appropriate services.

C. The department shall inform both the applicant and the administrator of the nursing facility of the department's determination of the services needed by the applicant and shall provide information and assistance to the applicant in accordance with subsection 1-A.

~~D. Until such time as the applicant becomes financially eligible to receive Medicaid benefits, the department's determination is advisory only. If the advisory determination is that the applicant is not medically eligible for Medicaid reimbursement for nursing facility services, the applicant must be advised that the applicant may be required to leave the nursing facility when the applicant no longer has the resources to pay for the services and an appropriate placement has been identified.~~

E. The department shall perform a reassessment of the individual's medical needs when the individual becomes financially eligible for Medicaid benefits.

(1) If the individual, at both the admission assessment and any reassessment ~~within 180 days of admission~~, is determined not to be medically eligible for the services provided by the nursing facility, and is determined not to be medically eligible at the time of the determination of financial eligibility, the nursing facility is responsible for providing services at no cost to the individual until such time as a placement at the appropriate level of care becomes available. After a placement becomes available at an appropriate level of care, the nursing facility may resume billing the individual for the cost of services.

(2) If the individual is initially assessed as needing the nursing facility's services, but reassessed as not needing them at the time the individual is found financially eligible, then Medicaid shall reimburse the nursing

facility for services it provides to the individual in accordance with the Maine Medical Assistance Manual, chapter II, section 50 67.

F. Prior to performing assessments under this section, the department shall develop and disseminate to all nursing facilities and the public the specific standards the department will use to determine the medical eligibility of an applicant for admission to the nursing facility. A copy of the standards must be provided to each person for whom an assessment is conducted. In designing and phasing in the preadmission assessment under this section, the department shall collaborate with interested parties, including but not limited to consumers, nursing facility operators, hospital operators and home and community-based care providers.

G. A determination of medical eligibility under this section is final agency action for purposes of the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 3. 22 MRSA §3174-I, sub-§§1-A and 1-B, as enacted by PL 1993, c. 410, Pt. FF, §11 and affected by §19, are amended to read:

1-A. Information and assistance. If the assessment performed pursuant to subsection 1 finds the level of nursing facility care clinically appropriate, the department shall determine whether the applicant also could live appropriately and cost-effectively at home or in some other community-based setting if home-based or community-based services were available to the applicant. If the department determines that a home or other community-based setting is clinically appropriate and cost-effective, the department shall:

A. Advise the applicant that a home or other community-based setting is appropriate;

B. Provide a proposed care plan and inform the applicant regarding the degree to which the services in the care plan are available at home or in some other community-based setting and explain the relative cost to the applicant of choosing community-based care rather than nursing facility care; and

C. Offer a care plan and case management services to the applicant on a sliding scale basis if the applicant chooses a home-based or community-based alternative to nursing facility care.

The department may provide the services described in this subsection directly or through private agencies.

1-B. Notification by hospitals. Whenever a hospital determines that a patient will require long-term care services upon discharge from the hospital, the hospital shall notify the department prior to discharge that long-term care services are indicated and that a preadmission assessment ~~may be required~~ must be performed under this section.

Sec. 4. Reports.

1. By January 1, 1996, the Department of Human Services shall submit a progress report to the Joint Standing Committee on Human Resources regarding the nursing facility preassessment program as amended in this Act. The report must include, but is not limited to, the number of applicants diverted from nursing facilities and the resulting cost savings, the relative merits of providing services directly by the department, through a request-for-proposal system or through negotiated agreements with existing services providers, the experience regarding case management along with the department's recommendations as to whether case management should be provided by the department, by contract agencies, by agencies that provide no other services or by some combination of those, the number of people who opt for family-based care and the degree to which family members serve as caretakers and the degree to which preadmission assessments affect the decisions of applicants with private resources.

2. The Department of Human Services, Bureau of Elder and Adult Services shall examine the licensing and certification laws and rules for residential facilities to determine whether they adequately provide the continuum of care, particularly for low-income and middle-income elderly. In reviewing the laws and rules the bureau shall work with providers and consumers in doing a comprehensive review with an eye towards access, quality and many states of care. The bureau shall submit its report and any necessary implementing legislation to the Second Regular Session of the 117th Legislature by January 1, 1996.

3. The Department of Human Services, Bureau of Elder and Adult Services shall develop an implementation plan for a long-term care system in the State. In developing the plan, the bureau shall consult with consumers and providers of long-term care services. The plan must include recommendations for legislation, rules and funding sources and must address issues of accessibility, noninstitutional care, maximization of ability to age in place and cost-effectiveness. The bureau shall submit its report and any necessary implementing legislation to the Second Regular Session of the 117th Legislature by January 1, 1996.

See title page for effective date.

CHAPTER 171

H.P. 324 - L.D. 445

An Act to Change Certain Provisions
of the Saco River Corridor Law

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

Sec. 1. 38 MRSA §952, sub-§15, as enacted by PL 1979, c. 459, §1, is amended to read:

15. Public right-of-way. "Public ~~right-of-way~~ right-of-way" is an improved roadway maintained for passage by motor vehicles in which the owner of fee does not control the right of passage.

Sec. 2. 38 MRSA §952, sub-§§15-A and 17-A are enacted to read:

15-A. Service drop. "Service drop" means any utility line extension that does not cross or run beneath any portion of a water body as long as:

A. In the case of electric service:

(1) The placement of wires or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

(2) The total length of the extension is less than 1,000 feet; or

B. In the case of telephone service:

(1) The extension, regardless of length, is made by the installation of telephone wires to existing utility poles; or

(2) The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

17-A. Tributary stream. "Tributary stream" means a channel between defined banks and associated flood plain wetlands. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if not available, a 15-minute series topographic map.

B. It contains or is known to contain water flowing continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Tributary stream" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water, nor does it mean a grassy swale.

Sec. 3. 38 MRSA §953, as enacted by PL 1979, c. 459, §1, is amended to read:

§953. Saco River Corridor established

There is hereby created the Saco River Corridor, herein referred to as the "corridor," which ~~shall include~~ includes the Saco River from the landward side of the rock jetty in Saco Bay to the New Hampshire border; the Ossipee River from its confluence with the Saco River to the New Hampshire border; and the Little Ossipee River from its confluence with the Saco River to the New Hampshire border at Balch Pond.

The corridor ~~shall also include~~ includes the lands adjacent to these rivers to a distance of 500 feet as measured on a horizontal plane from the normal or mean high water line of these rivers or to the edge of the 100-year floodplain if that extends beyond 500 feet, up to a maximum of 1,000 feet.

Sec. 4. 38 MRSA §957-A, sub-§1, ¶E, as enacted by PL 1979, c. 459, §1, is amended to read:

E. Land subject to easements or other restrictions ~~which that~~ limit permissible uses to those allowed within this district; ~~and~~

Sec. 5. 38 MRSA §957-A, sub-§1, ¶F, as enacted by PL 1979, c. 459, §1, is amended by amending subparagraph (5), division (c) to read:

(c) More intensive development would result in the total or partial destruction of the educational or scientific value of the area; and

Sec. 6. 38 MRSA §957-A, sub-§1, ¶G is enacted to read:

G. Areas of 2 or more contiguous acres with sustained slopes of 20% or greater.

Sec. 7. 38 MRSA §957-B, sub-§3, ¶E, as enacted by PL 1979, c. 459, §1, is amended to read:

E. ~~Single-family~~ Single-family residences and accessory structures meeting all of the following performance standards:

- (1) The minimum lot frontage on the river measured at the normal or mean high water line ~~shall be~~ is 100 feet;
- (2) The minimum setback of any building ~~from the river shall be~~ is 100 feet from the normal or mean high water line of the river and is 75 feet from the normal or mean high water line of any tributary stream;
- (3) The combined river frontage and setback of any building ~~shall be~~ is not less than 500 feet;
- (4) The structures and fill ~~shall do~~ do not encroach on the 100-year floodplain;
- (5) Where there is an accepted road or public ~~right of way~~ right-of-way, as of March 19, 1974, within 500 feet of the normal or mean high water mark of the river with different land ownership on either side of the road or public ~~right of way~~ right-of-way, the landowner on the far side of the road or public ~~right of way~~ right-of-way from the river ~~shall have~~ has an aggregate of setback from the river and frontage on the far side of the road or public ~~right of way~~ right-of-way equal to 500 feet;
- (6) Where there is a recorded subdivision, as of March 19, 1974, "frontage," for the purposes of determining compliance with this section, ~~shall mean means~~ means lot frontage on the side of the lot nearest to and most nearly parallel to the river; and
- (7) Where a landowner, as of March 19, 1974, owns a lot abutting land owned by a public utility, and ~~such the~~ the public utility land lies between the abutting ~~landowners~~ landowner's lot and the river, "frontage," for the purpose of determining compliance with this section, ~~shall mean means~~ means the frontage on the side of the lot abutting ~~such~~ that public utility land ~~which that~~ that is nearest to and most nearly parallel to the river;

Sec. 8. 38 MRSA §957-C, sub-§§2 and 3, as enacted by PL 1979, c. 459, §1, are amended to read:

2. Uses for which no permit from the commission is required. Uses and accessory structures within

the General Development District for which no permit from the commission is required ~~shall~~ include:

- A. Uses for which no permit from the commission is required within the Resource Protection District; and
- ~~B. Roads;~~
- ~~C. Single family residences;~~
- ~~D. Home occupations or enterprises;~~
- ~~E. Multi-unit residential dwellings;~~
- ~~F. Restaurants and cafeterias;~~
- ~~G. Retail commercial establishments, such as stores, supermarkets and pharmacies;~~
- ~~H. Municipal Buildings;~~
- ~~I. Schools;~~
- ~~J. Hospitals and clinics;~~
- ~~K. Funeral homes;~~
- ~~L. Warehouses;~~
- ~~M. Churches;~~
- ~~N. Libraries;~~
- ~~O. Public utility structures; and~~
- ~~P. Any fill or deposit of material accessory, necessary and related to permitted uses not exceeding 100 cubic yards of material.~~

3. Uses allowed by permit. Uses allowed within the General Development District by permit only ~~shall~~ include:

- A. Manufacturing and industrial uses;
- B. Sand, gravel and topsoil (loam) excavations;
- C. Dredging, filling or other alteration of wetlands;
- D. Any fill or deposit of material in excess of 100 cubic yards;
- E. Oil or petroleum storage facilities;
- F. Processing plants; and
- G. Airports;
- H. Roads;
- I. Single-family residences;
- J. Multi-unit residential dwellings;

K. Restaurants and cafeterias;L. Retail commercial establishments, such as stores, supermarkets and pharmacies;M. Municipal buildings;N. Schools;O. Hospitals and clinics;P. Funeral homes;Q. Warehouses;R. Churches;S. Libraries; andT. Public utility structures except for service drops.

Sec. 9. 38 MRSA §958, first and last ¶¶, as enacted by PL 1979, c. 459, §1, are amended to read:

Any existing building or structure or use of a building or structure lawful March 19, 1974, or on the date of any subsequent amendment of this chapter or of any regulation adopted hereunder, may continue although such a use of a structure does not conform to this chapter or the regulations adopted hereunder. Any existing building or structure may be repaired, maintained and improved, but an existing building, structure or nonconforming use may be extended, expanded or enlarged only by permit from the commission. A nonconforming use, other than a single family residential use, ~~which that~~ is discontinued for any reason for a period of one year ~~shall be~~ is deemed abandoned and may not be resumed thereafter except in compliance with the requirements of this chapter.

To avoid undue hardship, nothing in this chapter ~~shall may~~ be deemed to require a change in the design, construction or intended use of any building or structure with respect to which substantial construction was legally carried out prior to March 19, 1974 or the effective date of any amendment to this chapter. An intended use within the meaning of this section ~~shall be~~ is any use for which such a building or structure is designed as evidenced by the construction or by plans or specifications in existence as of March 19, 1974 or, in the case of any intended use affected by any amendment to this chapter, construction, plans or specifications in existence on the effective date of that amendment.

Sec. 10. 38 MRSA §959, as enacted by PL 1979, c. 459, §1, is amended to read:

§959. Permits required

~~After~~ Except as otherwise provided in this chapter, after March 19, 1974, ~~no~~ a person ~~shall may~~ not engage in any use of land or water for which a permit is required under this chapter without first obtaining a permit from the commission and complying with all federal, state and municipal regulations.

Sec. 11. 38 MRSA §962, sub-§1, ¶¶A and D, as enacted by PL 1979, c. 459, §1, are amended to read:

A. No building ~~shall may~~ be located closer to the Ossipee, Little Ossipee or Saco rivers than 100 feet from the normal or mean high water line, ~~not shall nor may~~ any building in the Limited Residential or Resource Protection Districts be located less than 30 feet from any accepted road. Within the Resource Protection and Limited Residential Districts there ~~shall may~~ be no construction or placement of residential structures within the 100-year floodplain.

D. Agriculture.

(1) All agriculture practices ~~shall must~~ be in conformance with existing state and federal laws and regulations relating to the use of insecticides, herbicides, fertilizers and cleaning agents, and with state and federal laws and regulations to the placement of disposal of wastes in waterways or on the banks thereof.

(2) Where soil is tilled, an untilled buffer strip of natural vegetation ~~shall must~~ be retained between the tilled ground and the normal or mean high water line of the river. The width of this strip ~~shall must~~ be a minimum of 25 feet, measured directly from the normal or mean high water line of the river.

(3) Newly created fields and tillage and grazing operations must be set back from the normal or mean high water line at least 75 feet.

Sec. 12. 38 MRSA §962, sub-§1, ¶E, as enacted by PL 1979, c. 459, §1, is repealed.

Sec. 13. 38 MRSA §962, sub-§1, ¶E-1 is enacted to read:

E-1. Within a strip extending 100 feet inland from the normal or mean high water line, there may be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation must be retained. Selective cutting of no more than 40% of the trees 4 inches

or more in diameter, measured at 4 1/2 feet above ground level, is allowed in any 10-year period, provided that a well-distributed stand of trees and other natural vegetation remains.

Sec. 14. 38 MRSA §962, sub-§1, ¶F, as enacted by PL 1979, c. 459, §1, is amended to read:

F. The following standards ~~shall~~ govern timber harvesting within 250 feet of the normal or mean high water line of any water body within the corridor.

(1) Harvesting operations ~~shall~~ must be conducted in such a manner that a well-distributed stand of trees is retained.

(2) In any stand, harvesting ~~shall~~ may remove not more than 40% of the volume of trees 6 inches in diameter and larger, measured at 4 1/2 feet above ground level in any 10-year period.

(3) No significant accumulation of slash ~~shall~~ may be left within 50 feet of the normal or mean high water line of any water body within the corridor. At distances greater than 50 feet from the normal or mean high water line of such water bodies extending to the limits of the corridor, all slash ~~shall~~ must be disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground.

(4) Harvesting operations ~~shall~~ must be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision ~~shall~~ must be made to prevent soil erosion and sedimentation of surface waters.

Sec. 15. 38 MRSA §962, sub-§1, ¶¶G and H are enacted to read:

G. The minimum lot size for each residential dwelling unit is 40,000 square feet and the minimum lot size for any principal commercial structure is 60,000 square feet.

H. Principal or accessory structures and expansions of existing structures that are permitted in the Resource Protection and Limited Residential Districts may not exceed 35 feet in height. This paragraph does not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.

See title page for effective date.

CHAPTER 172

H.P. 341 - L.D. 461

An Act to Ensure Children's Rights Concerning Visitation and Access

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

Sec. 1. 19 MRSA §214, sub-§6, as amended by PL 1989, c. 272, §1, is further amended to read:

6. Order. The order of the court ~~shall~~ must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. ~~Where~~ When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities to a 3rd person, a society or institution for the care and protection of children, or to the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

Every final order issued under this section ~~shall~~ must contain:

A. A provision for child support or a statement of the reasons for not ordering child support; ~~and~~

B. A statement that each parent ~~shall~~ must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; ~~and~~

C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 2. 19 MRSA §214, sub-§6-A is enacted to read:

6-A. Violation of order. Either parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 6. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may do one or more of the following:

A. Require additional or more specific terms and conditions consistent with the order;

B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; and

C. Order a parent found in contempt to pay a fine of at least \$100.

Sec. 3. 19 MRSA §581, sub-§6, as amended by PL 1989, c. 272, §2, is further amended to read:

6. Order. Upon petition under subsection 3, paragraph B, the order of the court ~~shall~~ must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. ~~Where~~ When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities to a 3rd person, a society or institution for the care and protection of children, or to the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

Every final order issued under this section ~~shall~~ must contain:

A. A provision for child support or a statement of the reasons for not ordering child support; ~~and~~

B. A statement that each parent ~~shall~~ must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; ~~and~~

C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 4. 19 MRSA §581, sub-§6-A is enacted to read:

6-A. Violation of order. Either parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 6. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may do one or more of the following:

A. Require additional or more specific terms and conditions consistent with the order;

B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; and

C. Order a parent found in contempt to pay a fine of at least \$100.

Sec. 5. 19 MRSA §752, sub-§6, as enacted by PL 1983, c. 813, §5, is amended to read:

6. Order. The order of the court ~~shall~~ must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. ~~Where~~ When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities with respect to the child to a 3rd person, some suitable society or institution for the care and protection of children or the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

Every final order issued under this section ~~shall~~ must contain:

A. A provision for child support or a statement of the reasons for not ordering child support; ~~and~~

B. A statement that each parent ~~shall~~ must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the

child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; and

C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 6. 19 MRSA §752, sub-§6-A is enacted to read:

6-A. Violation of order. Either parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 6. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may do one or more of the following:

A. Require additional or more specific terms and conditions consistent with the order;

B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; and

C. Order a parent found in contempt to pay a fine of at least \$100.

See title page for effective date.

CHAPTER 173

S.P. 113 - L.D. 288

An Act Preventing Increases in Certain Processing and Permitting Fees in the Department of Environmental Protection

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

Whereas, increases in certain processing and permitting fees for the Department of Environmental Protection are scheduled to go into effect on July 1, 1995; and

Whereas, the purpose of this Act is to reduce certain processing and permitting fees for the Department of Environmental Protection that will go into effect on July 1, 1995; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 1993, c. 735, §§3 and 4 and affected by §13, is further amended by amending TABLE I to read:

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFI- CATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
344, sub-§7, Permit by rule	\$50	\$0
362-A. Experiments	175	175
413, Waste discharge licenses		
A. Residential (10-year term)	450	150
B. Commercial (10-year term)		
1. Flow of less than 2,000 gallons per day	4,800	1,280
2. Flow of 2,000 to 20,000 gallons per day inclusive	4,800	4,000
3. Flow of greater than 20,000 gallons per day	4,800	9,600
C. Industrial minor (based upon EPA list of major and minor source discharges)		
1. Discharges of cooling water, sanitary wastewater or treated storm water only	1,500	480
2. All others	1,500	6,000

D. Industrial major (based upon EPA list of major source discharges)			E. Condition compliance	84	0
1. Discharge of cooling water or sanitary wastewater only	4,800	3,000	F. Minor modification	184	0
2. All others	4,800	8,800	485-A, Site location of development		
E. Publicly owned treatment works			A. Residential subdivisions		
1. Flow of less than or equal to 50,000 gallons per day and no significant industrial component	100	400	1. Affordable housing	134/lot	50/lot
2. Flow of greater than 50,000 gallons per day, but less than 0.5 million gallons per day and no significant industrial component	100	1,400	2. On public water or sewer	320/lot	175/lot
3. Flow of at least 0.5 million gallons per day, but less than 5 million gallons per day and no significant industrial component	100	3,600	3. All others	460/lot	250/lot
4. Flow of at least 5 million gallons per day or a significant industrial component	300	5,400	B. Industrial parks	460/lot	460/lot
F. Special discharges			C. Mining, except metallic mineral mining. The owner or operator of a licensed mining operation, excluding metallic mineral mining, must pay an annual fee of \$620 by March 1st of each year, beginning the year following the calendar year the license is issued	3,600	1,800
1. Aquatic pesticides	130	75	D. All other developments	5,600	2,000
2. Dredge spoils	130	75	E. Condition compliance	100	0
418, Log storage	55	25	F. Minor modification	184	0
451, Mixing zones	1,200	2,200	G. Transfer	100	0
451-A, Time schedule variances	25	25	<u>A. Residential subdivisions</u>		
480-E, Natural resources protection			<u>1. Affordable housing</u>	<u>50/lot</u>	<u>50/lot</u>
A. Any alteration of a protected natural resource, except coastal wetlands and coastal sand dunes, causing less than 20,000 square feet of alteration of the resource	140	50	<u>2. On public water and sewers</u>	<u>175/lot</u>	<u>175/lot</u>
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60	<u>3. All Other</u>	<u>250/lot</u>	<u>250/lot</u>
C. Any alteration of a protected natural resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource	.015/sq. ft. alteration	005/sq. ft. alteration	<u>B. Industrial parks</u>	<u>460/lot</u>	<u>460/lot</u>
D. Any alteration of a coastal sand dune	3,500	1,500	<u>C. Mining</u>	<u>1,500</u>	<u>1,000</u>
			<u>D. Structures</u>	<u>4,000</u>	<u>4,000</u>
			<u>E. Other</u>	<u>1,000</u>	<u>1,000</u>
			543, Oily waste discharge	40	160
			560, Vessels at anchorage	125	100
			587, Ambient air quality or emissions standards	5,050	50
			variances		
			590, Air emissions licenses	See section 353-A	
			633, Hydropower projects		
			A. New or expanded generating capacity	450/MW	50/MW
			B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	150	50
			1101, Sanitary districts	150	50
			33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
			A. Initial consultation	1,000	0
			B. Second consultation	1,000	0
			C. Application		
			1. Storage	1,000	0
			2. Generating	300/MW	50/MW

1304, Waste management		
A. Septage disposal		
1. Site designation	50	25
B. Land application of sludges and residuals program approval		
1. Industrial sludge	400	400
2. Municipal sludge	300	275
3. Bioash	300	275
4. Wood ash	300	75
5. Food waste	300	75
6. Other residuals	300	175
C. Landfill		
1. Closing plans for nonmunicipal landfills	1,500	1,500
2. Closing plans for municipal landfills	500	500
3. Variance requests for attenuation land- fills	175	175
4. Preliminary information reports	175	175
5. License transfers	500	175
6. Special waste disposal		
a. One-time disposal of quantities of 6 cubic yards or less	50	50
b. One-time disposal of quantities greater than 6 cubic yards	100	100
c. Program approval for routine disposal of a special waste	300	300
D. Incineration facility		
1. Fuel substitution activities	1,575	1,500
2. License transfer	175	175
E. License transfer other than for landfills and incinerators	100	100

Sec. 2. PL 1993, c. 735, §9 is repealed.

Sec. 3. Allocation. The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF Maine Environmental Protection Fund		
All Other	(\$120,000)	(\$120,000)

Deallocates funds to reflect a loss of revenues from decreased license fees.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect on July 1, 1995.

Effective July 1, 1995.

CHAPTER 174

H.P. 14 - L.D. 8

An Act Regarding School Employees Serving on School Boards

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

Sec. 1. 20-A MRSA §1002, sub-§4 is enacted to read:

4. Employees serving on school boards in school unions. An employee or the spouse of an employee of a school administrative unit may not serve on the school board of another school administrative unit when the 2 school administrative units are members of the same school union and have the same superintendent of schools.

Sec. 2. Application. This Act applies to all school board members elected to office on or after the effective date of this Act.

See title page for effective date.

CHAPTER 175

S.P. 265 - L.D. 705

An Act to Discourage Prescription Drug Fraud

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

Sec. 1. 32 MRSA §13795 is enacted to read:

§13795. Photographic proof of identification

1. Photographic proof of identification. As a precondition to filling any prescription or dispensing any drug, a pharmacist or person acting at the direction of a pharmacist may demand, inspect and record proof of identification, including valid photographic identification, from any patient presenting a prescription or any person acting on behalf of the

patient. Valid photographic identification includes but is not limited to the following:

A. A valid Maine motor vehicle operator's license;

B. A valid Maine identification card issued under Title 5, section 88-A;

C. A valid United States passport;

D. A valid passport or motor vehicle operator's license of another state, territory, possession or foreign country only if it:

(1) Contains a photograph of the traveler or licensee;

(2) Is encased in tamper-resistant plastic or otherwise possesses indicia of tamper-resistance; and

(3) Identifies the traveler's or licensee's date of birth; or

E. Other valid, tamper-resistant, photographic identification as provided in rules adopted by the Board of Commissioners of the Profession of Pharmacy pursuant to section 13722, subsection 1, paragraph A and in accordance with Title 5, chapter 375.

2. Refusal to fill prescription or dispense drug. A pharmacist or person acting at the direction of a pharmacist may exercise discretion and refuse to fill any prescription or dispense any drug if unsatisfied as to the legitimacy or appropriateness of any prescription presented, the validity of any photographic identification or the identity of any patient presenting a prescription or any person acting on behalf of the patient.

See title page for effective date.

CHAPTER 176

S.P. 366 - L.D. 992

An Act to Repeal the Salmon Aquaculture Monitoring and Research Fund

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

Sec. 1. 12 MRSA §6078, as amended by PL 1993, c. 562, §2, is repealed.

Sec. 2. Review. The Commissioner of Marine Resources shall report to the joint standing committee of the Legislature having jurisdiction over marine

resources on or before March 15, 1996 on the findings of the aquaculture monitoring program under the Maine Revised Statutes, Title 12, sections 6077 and 6078 and the status of the Salmon Aquaculture Monitoring and Research Fund, established in Title 12, section 6078. The report must include an accounting of income and expenses for the fund during the preceding 2 years and a statement of need concerning the monitoring program for the succeeding 2 years. The commissioner shall consult with industry representatives and scientific advisors when formulating the report.

Sec. 3. Effective date. That section of this Act that repeals the Maine Revised Statutes, Title 12, section 6078 takes effect July 1, 1996.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Water Quality Control

All Other	\$8,800
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Allocates funds to cover the additional costs of issuing wastewater discharge licenses to aquaculture sites formerly monitored by the Department of Marine Resources.

DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL

\$8,800

MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Development

Positions - Other Count	(-1.0)
Personal Services	(\$43,368)
All Other	(101,253)
Capital Expenditures	(39,421)

Deallocates funds to reflect the repeal of the Salmon

Aquaculture Monitoring and
Research Fund.

**DEPARTMENT OF MARINE
RESOURCES**

TOTAL (\$184,042)

TOTAL ALLOCATIONS (\$175,242)

See title page for effective date.

CHAPTER 177

H.P. 431 - L.D. 594

**An Act to Modify Community Rating
for Individual and Small Group
Health Plans**

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

Sec. 1. 24-A MRSA §2736-C, sub-§2, ¶D,
as amended by PL 1993, c. 546, §1, is further
amended to read:

D. A carrier may vary the premium rate due to
age, smoking status, occupation or industry, and
geographic area only under the following
schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between December 1, 1993 and July 14,
1994, the premium rate may not deviate
above or below the community rate filed by
the carrier by more than 50%.

(2) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between July 15, 1994 and July 14, 1995,
the premium rate may not deviate above or
below the community rate filed by the car-
rier by more than 33%.

(3) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between after July 15, 1995 and July 14,
1996, the premium rate may not deviate
above or below the community rate filed by
the carrier by more than 20%.

~~(4) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State~~

~~between July 15, 1996 and July 14, 1997,
the premium rate may not deviate above or
below the community rate filed by the car-
rier by more than 10%.~~

~~(5) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
on or after July 15, 1997, the premium rate
may not deviate from the community rate
filed by the carrier.~~

Sec. 2. 24-A MRSA §2808-B, sub-§2, ¶D,
as amended by PL 1993, c. 546, §2, is further
amended to read:

D. A carrier may vary the premium rate due to
age, smoking status, occupation or industry, and
geographic area only under the following
schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between July 15, 1993 and July 14, 1994,
the premium rate may not deviate above or
below the community rate filed by the car-
rier by more than 50%.

(2) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between July 15, 1994 and July 14, 1995,
the premium rate may not deviate above or
below the community rate filed by the car-
rier by more than 33%.

(3) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between after July 15, 1995 and July 14,
1996, the premium rate may not deviate
above or below the community rate filed by
the carrier by more than 20%.

~~(4) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
between July 15, 1996 and July 14, 1997,
the premium rate may not deviate above or
below the community rate filed by the car-
rier by more than 10%.~~

~~(5) For all policies, contracts or certificates
that are executed, delivered, issued for de-
livery, continued or renewed in this State
on or after July 15, 1997, the premium rate
may not deviate from the community rate
filed by the carrier.~~

Sec. 3. Report. The Bureau of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over insurance matters on or before November 1, 1997 on the effects of the rating provisions of the Maine Revised Statutes, Title 24-A, sections 2736-C and 2808-B. The report must focus on the following issues:

1. The effect of the enactment of community rating statutes on the cost of individual and small group health insurance;
2. The effect of the enactment of community rating statutes on access to health insurance coverage through individual and small group plans; and
3. The guaranteed issuance and renewability of health insurance and their impact with and without community rating of individual and small group health insurance premiums.

See title page for effective date.

CHAPTER 178

S.P. 140 - L.D. 326

An Act to Clarify the Tax Records Laws

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

Sec. 1. 36 MRSA §191, sub-§2, ¶O, as amended by PL 1991, c. 820, §6, is further amended to read:

O. The disclosure to an authorized representative of the Department of Human Services of the most recent address of a delinquent payor of child support when a written request containing the payor's Social Security number is made by the department; ~~and~~

Sec. 2. 36 MRSA §191, sub-§2, ¶P, as enacted by PL 1991, c. 820, §7, is amended to read:

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under section 151 or the Maine Administrative Procedure Act; ~~and~~

Sec. 3. 36 MRSA §191, sub-§2, ¶Q is enacted to read:

Q. The listing of special fuel suppliers possessing certificates under section 3204.

See title page for effective date.

CHAPTER 179

S.P. 283 - L.D. 771

An Act to Expand Access to Financing for Health and Social Service Agencies

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

Sec. 1. 22 MRSA §2053, sub-§2-A, as amended by PL 1993, c. 390, §3, is repealed and the following enacted in its place:

2-A. Community health or social service facility. "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health or mental retardation services, substance abuse services or family counseling and domestic abuse intervention services, and is licensed by the State.

Sec. 2. 22 MRSA §2053, sub-§4-D is enacted to read:

4-D. Participating community health or social service facility. "Participating community health or social service facility" means a community health or social service facility that is exempt from taxation under section 501 of the United States Internal Revenue Code and that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and committed by this chapter.

Sec. 3. 22 MRSA §2053, sub-§6, ¶A, as amended by PL 1993, c. 390, §8, is further amended to read:

A. In the case of a participating health care facility or a participating community health or social service facility, the acquisition, construction, improvement, reconstruction or equipping of, or construction of an addition or additions to, a structure designed for use as a health care facility, community health or social service facility, congregate housing facility, laboratory, laundry, nurses or interns residence or other multi-unit housing facility for staff, employees, patients or

relatives of patients admitted for treatment in the health care facility, community health or social service facility, doctors office building, administration building, research facility, maintenance, storage or utility facility or other structures or facilities related to any of the foregoing or required or useful for the operation of the project, or the refinancing of existing indebtedness in connection with any of the foregoing, including parking and other facilities or structures essential or convenient for the orderly conduct of the health care facility or community health or social service facility. "Project" also includes all real and personal property, lands, improvements, driveways, roads, approaches, pedestrian access roads, rights-of-way, utilities, easements and other interests in land, parking lots, machinery and equipment, and all other appurtenances and facilities either on, above or under the ground that are used or usable in connection with the structures mentioned in this paragraph, and includes landscaping, site preparation, furniture, machinery and equipment and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended, but does not include such items as food, fuel, supplies or other items that are customarily considered as a current operating charge. In the case of a hospital, as defined in subsection 4, paragraph B, a community health center or a community ~~mental~~ health or social service facility, "project" does not include any facilities, structures or appurtenances, the use of which is not directly related to the provision of patient care by its members; and

Sec. 4. 22 MRSA §2075, sub-§1, ¶B, as enacted by PL 1991, c. 584, §6, is amended to read:

B. As used in this chapter, "required debt service reserve" means, as of any date of computation, the amount or amounts required to be on deposit in the reserve fund as provided by resolution of the authority. For purposes of this chapter, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn upon and applied to obligations to which money in the reserve fund may be applied is deemed to be and must be counted as money in the Maine Health Facilities' Reserve Fund, capital reserve funds or any other reserve fund as provided by resolution of the authority. The required debt service reserve is, as of any date of computation, an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the authority and holders of bonds secured by the reserve fund to be raised in the current or any succeeding calendar year for:

- (1) The payment of interest on and maturing principal of that portion of outstanding bonds secured by the reserve fund; and
- (2) Sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of those bonds.

See title page for effective date.

CHAPTER 180

H.P. 567 - L.D. 768

An Act to Permit the Buyback of Retirement Time

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

Sec. 1. 5 MRSA §17652, sub-§2, ¶A, as amended by PL 1987, c. 739, §§9 and 48, is further amended to read:

~~A.-A.~~ Except as provided in section 17704-A, a person who joins the retirement system under this subsection may not pay contributions or have pick-up contributions made on or receive any service credit for the period during which that person elected not to be a member of the system.

Sec. 2. 5 MRSA §17704, sub-§4, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

4. Applicability. This section does not apply to any member who begins membership after December 31, 1985, and who had, in accordance with section 17652, elected not to become a member when first employed, except as provided in section 17704-A.

Sec. 3. 5 MRSA §17704-A is enacted to read:

§17704-A. Back contributions; elected and appointed officials

Notwithstanding section 17652, subsection 2, paragraph A and section 17704, an elected official or an official appointed for a fixed term who began membership after December 31, 1985 may purchase service credit for the period during which that person elected not to be a member of the retirement system if the following requirements are met.

1. Election. Notice of the member's election to pay back contributions into the Members' Contribution Fund under this section must be received by the retirement system by December 31, 1995.

2. Timing of payment. The payment must be made before the date any retirement benefit becomes effective for the member.

3. Method of payment. The payment must be made to the retirement system by a single direct payment or by annual direct payments. Annual payments must be made as provided in section 17701, subsection 4.

4. Amount of payment. The amount of payment must be the amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Additional amounts paid under this section become part of the member's accumulated contributions.

Sec. 4. 5 MRSA §17753, as repealed and replaced by PL 1989, c. 95, §5, is amended to read:

§17753. Service credit for back contributions

Upon complete payment of the back contributions under section 17704 or 17704-A, the member ~~shall~~ must be granted service credit for the period of time for which the contributions have been made. Upon making partial payment of the back contributions under section 17704 or 17704-A, the member ~~shall~~ must be granted service credit on a pro rata basis in accordance with rules adopted by the board.

See title page for effective date.

CHAPTER 181

S.P. 372 - L.D. 1049

**An Act to Amend the Law
Concerning the Pricing of
Discontinued and Test-market
Liquor Items**

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

Sec. 1. 28-A MRSA §1651, sub-§2, ¶C, as amended by PL 1991, c. 780, Pt. Y, §130, is further amended to read:

C. Notwithstanding the other provisions of this section, with approval of the Commissioner of Administrative and Financial Services, the commission may reduce the price of discontinued items of liquor. The reduced price may not be less than the actual cost of the discontinued liquor items ~~and the commission may not discontinue an item for a period of at least 6 months~~

~~after that item has been listed and on sale in state liquor stores.~~

Sec. 2. 28-A MRSA §1651, sub-§2, ¶G is enacted to read:

G. Notwithstanding the other provisions of this section, the commission may reduce, at the expense of the broker or supplier, the price of those test-market items that fail to meet set minimum gross profit standards after a 3-month period.

See title page for effective date.

CHAPTER 182

S.P. 460 - L.D. 1256

**An Act to Permit Wire-tapped
Conversations of or with Prisoners to
be Used in Court**

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

Sec. 1. 15 MRSA §712, sub-§2, ¶B, as enacted by PL 1987, c. 680, §5, is amended to read:

B. Notice of the possibility of interception is ~~posted in a place and~~ provided in a way sufficient to make ~~that person~~ the parties to the communication aware of the possibility of interception; and

Sec. 2. 15 MRSA §713, as amended by PL 1983, c. 379, is further amended to read:

§713. Evidence

The contents of an interception ~~shall are~~ not be admissible in court, except that the contents of an interception of any oral or wire communication ~~which~~ that has been legally obtained under the laws of another jurisdiction in which the interception occurred, ~~shall be or that has been legally obtained~~ pursuant to section 712, subsection 2 is admissible in the courts of this State, subject to the Maine Rules of Evidence.

See title page for effective date.

CHAPTER 183

H.P. 710 - L.D. 967

**An Act to Amend the Adult
Protective Services Act to Allow
Referrals of Cases of Abuse, Neglect**

and Exploitation to Law Enforcement Agencies

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

Sec. 1. 22 MRSA §3485, as amended by PL 1989, c. 259, §7, is further amended to read:

§3485. Reporting abuse

Upon finding evidence indicating that a person has abused or neglected an incapacitated or dependent adult, resulting in serious harm, or has exploited an incapacitated or dependent adult, the department shall notify the district attorney or law enforcement agency.

See title page for effective date.

CHAPTER 184

H.P. 766 - L.D. 1040

An Act to Amend the Toxics in Packaging Law

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

Sec. 1. 32 MRSA §1732, sub-§§2-A and 2-B are enacted to read:

2-A. Incidental presence. "Incidental presence" means the presence of a regulated metal as an unintended or undesired ingredient of a package or packaging component.

2-B. Intentional introduction. "Intentional introduction" means the act of deliberately using a regulated metal in the formation of a package or packaging component when its continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance or quality.

The use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, when the incidental retention of a residue of the metal in the final package or packaging component is neither desired nor deliberate, is not considered intentional introduction for the purposes of this chapter.

The use of recycled materials as feedstock for the manufacture of new packaging materials, when a portion of the recycled materials may contain amounts of the regulated metals, is not considered intentional introduction for the purposes of this chapter when the new package or packaging component is in compliance with section 1733.

Sec. 2. 32 MRSA §1732, sub-§5, as enacted by PL 1989, c. 849, §1, is amended to read:

5. Packaging component. "Packaging component" means any individual assembled part of ~~an assembled~~ a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for Testing and Materials specification A-623 must be considered as a single package component. Electrogalvanized coated steel and hot-dipped coated galvanized steel that meets the American Society for Testing and Materials specifications A-525 and A-879 must be treated in the same manner as tin-plated steel.

Sec. 3. 32 MRSA §1734, sub-§2, as amended by PL 1993, c. 310, Pt. A, §1, is further amended to read:

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the agency for an exemption for a particular package or packaging component and the agency grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of state or federal law.

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents.

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3.

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C is valid for 6 years; ~~or~~

Sec. 4. 32 MRSA §1734, sub-§3, as enacted by PL 1991, c. 177, §1, and affected by §2, is amended to read:

3. Alcoholic beverages bottled prior to effective date. The package or packaging component

contains an alcoholic beverage bottled prior to April 1, 1992; or

Sec. 5. 32 MRSA §1734, sub-§4 is enacted to read:

4. Packaging and packaging components: reused. Packages and packaging may be reused under the following conditions.

A. Packages and packaging components that exceed contaminant levels set forth in section 1733 may be reused if the product being conveyed by the package or packaging component is regulated under federal or state health or safety requirements; if transportation of the packaged product is regulated under federal or state transportation requirements; and if disposal of the package is performed according to federal or state radioactive or hazardous waste disposal requirements.

B. Packages and packaging components having a controlled distribution that exceed the contaminant levels set forth in section 1733 may be reused if the manufacturer or distributor of the packages or packaging components petitions the agency for exemption and receives approval from the agency according to standards set by the agency and based upon satisfactory demonstrations that the environmental benefit of the controlled distribution and reuse is significantly greater than the same package manufactured in compliance with the contaminant levels set forth in section 1733.

C. This subsection is repealed January 1, 2000.

See title page for effective date.

CHAPTER 185

S.P. 419 - L.D. 1142

An Act Regarding Abandoned Prescription Drugs at State Facilities

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

Sec. 1. 33 MRSA §1819, as enacted by PL 1987, c. 691, §4, is amended to read:

§1819. Tangible property held by state institutions

1. Presumption of abandonment. Tangible and intangible property other than prescription drugs held by an institution under the control of the Department of Mental Health and Mental Retardation and or the Department of Corrections that has been left by a patient or inmate ~~shall be~~ is presumed

abandoned if it ~~has~~ is not ~~been~~ claimed within 2 years after the patient's or inmate's discharge from, or death while residing in, the institution. Prescription drugs held by an institution under the control of the Department of Mental Health and Mental Retardation or the Department of Corrections that are left by a patient or inmate are presumed abandoned upon the death of the patient or inmate or if the drugs are not claimed within 30 days of the patient's or inmate's admission to the institution.

2. Reducing tangible property to cash.

Tangible property other than prescription drugs presumed ~~to be~~ abandoned under this section may be sold by the head of the institution at public auction if the fair market value of all property left at that institution by the patient or inmate is less than \$1,000.

A. At least 14 days prior to sale, the head of the institution shall give notice to the owner:

(1) Either personally or by certified mail; or

(2) If that notice cannot be given after one reasonable attempt to do so, by publication in a newspaper of general circulation in the county in which the institution is located.

The notice ~~shall~~ must give a description of the property, the institution at which it was left, the time and place of sale and the right to claim the property.

B. The owner may claim this property at any time prior to actual sale.

C. After sale, the head of the institution shall record the name of the owner prior to the sale, a description of the property, the institution at which it was left and the proceeds of the sale.

D. The proceeds of the sale and the records of the sale ~~shall~~ must be reported and delivered to the administrator as if they were the property presumed abandoned.

3. Prescription drugs. Prescription drugs that are presumed abandoned under subsection 1 may be disposed of in accordance with rules established by the Board of Commissioners of the Profession of Pharmacy.

See title page for effective date.

CHAPTER 186**H.P. 915 - L.D. 1291****An Act to Amend the Income Eligibility Criteria of the Small Community Wastewater Program**

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

Sec. 1. 38 MRSA §411, first ¶, as amended by PL 1993, c. 223, §1, is repealed and the following enacted in its place:

The commissioner may pay an amount not to exceed 80% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners. The commissioner may make payments to the Maine Municipal Bond Bank to supply the State's share of the revolving loan fund established by Title 30-A, section 6006-A. The commissioner may pay up to 90% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners in which the construction cost of the project does not exceed \$100,000 as long as total expenditures for the small projects do not exceed \$1,000,000 in any fiscal year and not more than one grant is made to any applicant each year, except that the commissioner may pay a percentage of the cost of individual projects serving single-family dwellings, seasonal dwellings or commercial establishments according to the following schedule:

<u>ANNUAL INCOME</u>	<u>SINGLE-FAMILY DWELLING</u>	<u>SEASONAL DWELLING</u>	<u>COMMERCIAL ESTABLISHMENT</u>
\$0 to \$5,000	100%	25%	50%
\$5,001 to \$20,000	90%	25%	50%
\$20,001 to \$30,000	50%	25%	50%
\$30,001 to \$40,000	25%	25%	25%
\$40,001 or more	0%	0%	0%

Sec. 2. 38 MRSA §411, as amended by PL 1993, c. 223, §1, is further amended by adding after the first paragraph 2 new paragraphs to read:

For the purposes of this section, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single-family or seasonal dwellings and gross profit for commercial establishments.

To determine eligibility, the commissioner may require an applicant to submit a copy of the relevant

federal income tax return of the owner or owners. In addition to any penalty adjudged under section 349, a person who knowingly makes any false statement, representation or certification in the application for a grant under this section and who receives such a grant shall, upon conviction, make restitution to the department in an amount equal to the amount of the grant plus interest and reasonable recovery cost incurred by the department.

See title page for effective date.

CHAPTER 187**S.P. 394 - L.D. 1082****An Act to Delete the Definition of Tanning Devices from the Laws Regulating the Board of Barbering and Cosmetology**

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

Sec. 1. 32 MRSA §14202, sub-§12, as enacted by PL 1993, c. 659, Pt. A, §13, is repealed.

Sec. 2. 32 MRSA §14224, sub-§2-A, as enacted by PL 1993, c. 659, Pt. A, §14, is amended to read:

2-A. Operation of tanning device; public access. An establishment in which a tanning device as that term is defined in rules adopted by the Department of Human Services is operated on the effective date of this subsection is not required to partition off the working area of the establishment or maintain a separate entrance in order to provide public access to the tanning device. If such an establishment undergoes a material alteration or adds more tanning devices, then the establishment may be prohibited from providing public access to the tanning device through the working area.

See title page for effective date.

CHAPTER 188**H.P. 859 - L.D. 1190****An Act to Ensure Disclosures under the Used Car Information Laws**

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

Sec. 1. 10 MRSA §1475, sub-§2-A, as amended by PL 1991, c. 837, Pt. A, §25, is further amended to read:

2-A. Required contents of disclosure statement. The statement required by subsection 1 must contain a complete description of the motor vehicle to be sold, including, but not limited to:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The dealer's duty to disclose promptly the name and address of the previous owner of the motor vehicle, or dealer, upon the request of any person, the principal use to which the motor vehicle was put by that owner such as personal transportation, police car, daily rental car, taxi or other descriptive term, and the type of sale or other means by which the person acquired the motor vehicle, such as trade-in, sheriff's sale, repossession, auction or other descriptive term, to the extent that such information is reasonably available to the person;

C. A statement identifying any and all mechanical defects known to the dealer at the time of sale;

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if that information is known to the dealer;

E. A statement, if applicable, that implied warranties with respect to the vehicle are excluded or modified. Nothing in this paragraph may be construed to affect the requirements of Title 11, section 2-316;

F. A statement, if applicable, disclosing that the vehicle was returned to the manufacturer, its agent or authorized dealer, for its nonconformity with express warranties. The statement must identify the nature of the nonconformities; and

G. If the vehicle is repossessed, a statement identifying this fact.

The Bureau of Motor Vehicles may adopt rules related to this section, including, but not limited to, rules establishing uniform disclosure forms and stickers. The Bureau of Motor Vehicles may include in any rule establishing uniform disclosure forms and stickers any information that the Federal Trade Commission requires to be disclosed on a sticker pursuant to the Motor Vehicle Trade Regulation Rule, 16 Code of Federal Regulations, Part 455, except that the Bureau of Motor Vehicles may not include in any uniform disclosure form or sticker information from the Federal Trade Commission rule that conflicts in any manner with the information required by this section.

Any dealer who offers for sale to the consuming public a repossessed vehicle that has been obtained by

the dealer through any transaction other than a retail sale and who meets the warranty and disclosure requirements of section 1474 and subsection 1 and this subsection has no other liability under this chapter, except for any additional warranties negotiated between the dealer and the consumer.

The dealer must require the buyer to sign and date the disclosure statement, provide the buyer with a copy of the signed and dated statement and maintain a copy of the signed and dated statement for 3 years following the sale of the vehicle.

Sec. 2. 10 MRSA §1475, sub-§3, as amended by PL 1993, c. 112, §2, is further amended to read:

3. Written statement. A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

A. The make, model, model year and any identification or serial numbers of the motor vehicle;

B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi or other descriptive term;

C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller.

Any dealer who offers for sale to consumers a repossessed vehicle that has been obtained by the dealer through any transaction other than a retail sale is not subject to the provisions of this subsection.

The seller of the used motor vehicle shall sign and date this written statement and the dealer who buys the vehicle shall maintain a record of it for ~~one year~~ 2 years following the sale of the motor vehicle.

As used in subsections 2 and 3, "substantial collision damage" means any damage to a motor vehicle from a collision when the costs of repair of that damage, at the time of repair, including replacement of mechanical and body parts, exceeded by 3 times the amount of damage that would at the time of the collision have required a report of the collision to a law enforcement agency under the provisions of Title 29, section 891.

See title page for effective date.

CHAPTER 189

H.P. 765 - L.D. 1039

**An Act to Require Prior Notice of
Cancellation of Group Health
Insurance Policies**

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

Sec. 1. 24 MRSA §2330, sub-§1-A, as enacted by PL 1991, c. 822, §2, is amended to read:

1-A. Notification of cancellation. A nonprofit hospital, ~~or~~ medical ~~or health~~ service organization ~~or nonprofit health care plan~~ must provide by first class mail at least 10 days' prior notification of cancellation for nonpayment of subscription charges according to this section. The notice must include the date of cancellation of coverage and the time period for exercising contract conversion rights. Notification is not required when the nonprofit hospital, ~~or~~ medical ~~or~~ service organization ~~or nonprofit health care plan~~ has received written notice from the group contract holder or subgroup sponsor that replacement coverage has been obtained.

A. Notice must be mailed to the group contract holder or subgroup sponsor;

B. At the time of notification under paragraph A, notice must be mailed to the certificate holder at:

(1) The last address provided by the subgroup sponsor or the group contract holder to the nonprofit hospital, ~~or~~ medical ~~or health~~ service organization ~~or nonprofit health care plan~~; or

(2) The office of the subgroup sponsor, if any, or the group contract holder; and

C. Notice must be mailed to the Bureau of Insurance and to the Bureau of Labor Standards.

Sec. 2. 24-A MRSA §2809-A, sub-§1-A, as enacted by PL 1991, c. 822, §4, is amended to read:

1-A. Notification of cancellation. An insurer must provide by first class mail at least 10 days' prior notification of cancellation for nonpayment of premium for hospital, surgical or major medical expense insurance according to this section. The notice must include the date of cancellation of coverage and the time period for exercising policy conversion rights. Notification is not required when the insurer has received written notice from the group policyholder that replacement coverage has been obtained.

A. Notice must be mailed to the group policyholder or subgroup sponsor.

B. At the time of notification under paragraph A, notice must be mailed to the certificate holder at:

(1) The last address provided by the subgroup sponsor or the group policyholder to the insurer; or

(2) The office of the subgroup sponsor, if any, or the group policyholder.

C. Notice must be mailed to the Bureau of Insurance and to the Bureau of Labor Standards.

Sec. 3. 24-A MRSA §4209, sub-§6 is enacted to read:

6. Notification of cancellation. A health maintenance organization must provide by first class mail at least 10 days' prior notification of cancellation for nonpayment of enrollment charges according to this section. The notice must include the date of cancellation of coverage and the time period for exercising contract conversion rights. Notification is not required when the insurer has received written notice from the group contract holder that replacement coverage has been obtained.

A. Notice must be mailed to the group contract holder or subgroup sponsor.

B. At the time of notification under paragraph A, notice must be mailed to the individual enrollee at:

(1) The last address provided by the group contract holder to the health maintenance organization; or

(2) The office of the subgroup sponsor, if any, or the group contract holder.

C. Notice must be mailed to the Bureau of Insurance and to the Bureau of Labor Standards.

Sec. 4. Application. The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after November 1, 1995. For purposes of this Act, all policies, contracts and certificates are deemed to be renewed no later than the next yearly anniversary of the policy, contract or certificate date.

See title page for effective date.

CHAPTER 190**H.P. 102 - L.D. 137****An Act to Create a Purple Heart License Plate**

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

Whereas, a special registration plate is a means of giving recognition to recipients of the Purple Heart medal; and

Whereas, providing these plates in a timely manner is important to these distinguished individuals; 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. 29-A MRSA §524, sub-§4 is enacted to read:

4. Purple Heart medal recipients; special license plates. The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, the registration fee required by section 501 and a one-time additional fee of \$10, shall issue a registration certificate and a set of Purple Heart registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient. The one-time additional fee of \$10 is credited to the Highway Fund for administrative and production costs.

An application for Purple Heart plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

The Secretary of State may only issue Purple Heart plates for display on an automobile or pickup truck. A Purple Heart recipient may be issued Purple Heart plates for no more than 2 vehicles.

The surviving spouse of a Purple Heart recipient issued plates in accordance with this subsection may retain and display the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the

Purple Heart plates on a motor vehicle, but may retain them as a keepsake. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motor vehicle.

The Secretary of State shall determine the design of the Purple Heart plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee of \$15 for vanity plates is credited to the Highway Fund.

A Purple Heart recipient who does not operate a motor vehicle or register a motor vehicle and who otherwise qualifies for the issuance of special Purple Heart registration plates may apply to the Secretary of State for a special single plate recognizing that person's award.

The Secretary of State shall design and identify these single plates for recognition purposes only. Single Purple Heart plates may not be attached to a motor vehicle. Only one plate may be issued to each recipient and a one-time fee of \$5 charged.

The Secretary of State shall begin issuing Purple Heart plates in accordance with this subsection no later than November 1, 1995.

Sec. 2. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1994-95

**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Administration - Motor
Vehicles**

All Other	\$30,960
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Provides funds for the manufacturing and postage costs associated with creating a special license plate for recipients of the Purple Heart medal.

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

Effective June 1, 1995.

CHAPTER 191**S.P. 462 - L.D. 1258****An Act to Amend Laws Regarding
False Claims for Payment or
Approval by the Department of
Human Services****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 22 MRSA §15, first ¶**, as enacted by PL 1981, c. 242, §2, is amended to read:

Any person, firm, association, partnership, corporation or other legal entity who makes or causes to be made or presents or causes to be presented for payment or approval any claim upon or against the department or upon any funds administered by the department, knowing such claim to be false, fictitious or fraudulent or who, for the purpose of obtaining or aiding another to obtain the payment or approval of such a claim, makes any false written statement or submits any false document ~~which he~~ that the person does not believe to be true, or who enters into any agreement, combination or conspiracy to defraud the department by obtaining the payment or approval of any false, fictitious or fraudulent claim, shall, in addition to any criminal liability ~~which that~~ may be provided by law, be subject to civil suit by this State in the Superior Court for recovery of ~~damages~~ civil penalties to include the following:

Sec. 2. 22 MRSA §15, sub-§3, as enacted by PL 1981, c. 242, §2, is amended to read:

3. Payment of civil penalties. Payment of ~~damages~~ civil penalties, without regard to the amount in controversy, in an amount which is threefold the amount of such excess benefits or payments as set forth in subsection 1, but in any case not less than \$2,000 for each false claim for assistance, benefits or payments, or for each document submitted in support of such false claim, whichever is the greater amount; ~~and~~

Sec. 3. 22 MRSA §15, sub-§4, as enacted by PL 1981, c. 242, §2, is amended to read:**4. Cost of the suit.** Cost of the suit;**Sec. 4. 22 MRSA §15, sub-§§5 and 6** are enacted to read:**5. Costs of investigation.** Costs of investigation; and**6. Attorney's fees.** Attorney's fees.

See title page for effective date.

CHAPTER 192**S.P. 393 - L.D. 1081****An Act to Allow Part-time Police
Officers to Acquire Liquor Licenses****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 28-A MRSA §601, sub-§2, ¶F**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:F. A full-time law enforcement officer benefits financially either directly or indirectly;

See title page for effective date.

CHAPTER 193**S.P. 340 - L.D. 945****An Act to Allow Candidates to
Donate Surplus Campaign Funds to
Charitable and Educational
Institutions****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 21-A MRSA §1017, sub-§8, ¶F**, as amended by PL 1991, c. 839, §21 and affected by §34, is further amended to read:F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate; ~~and~~**Sec. 2. 21-A MRSA §1017, sub-§8, ¶G**, as enacted by PL 1991, c. 839, §21, is amended to read:G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and**Sec. 3. 21-A MRSA §1017, sub-§8, ¶H** is enacted to read:H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

See title page for effective date.

CHAPTER 194**H.P. 474 - L.D. 655****An Act Concerning Municipal Rent Control****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 30-A MRSA c. 167, as amended, is repealed.

Sec. 2. Legislative intent. The Legislature intends to permit municipalities to continue to adopt and enforce rent control ordinances under home rule authority. A municipality that adopted rent control under the Maine Revised Statutes, Title 30-A, former chapter 167 may continue to operate a rent control program.

See title page for effective date.

CHAPTER 195**S.P. 348 - L.D. 976****An Act Regarding Liquor Licenses for Golf Courses****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 28-A MRSA §1012, sub-§2, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

2. Auxiliary license. A Class A restaurant or a Class I hotel located at a ski area ~~may obtain for additional premises at that ski area an auxiliary license to sell spirits, wine and malt liquor to be consumed on the premises or a golf course, or a Class I golf club or a Class I or a Class V club located at a golf course may apply for one additional licensed premises at the same area for consumption of spirits, wine or malt liquor on the premises.~~

A. The license fee is.....\$ 100.

Sec. 2. 28-A MRSA §1075, as amended by PL 1993, c. 730, §45, is further amended to read:

§1075. Auxiliary licenses at ski areas and golf courses

1. Licenses. The bureau may issue one auxiliary license under this section for additional premises to any Class A restaurant or Class A restaurant/lounge, ~~lounge or any hotel licensee located at a ski area~~ Class I hotel located at a ski area or golf

course, or to a Class I golf club or a Class I or Class V club located at a golf course, if the following requirements are met:

A. The additional premises are located at the same ski area or golf course where the Class A restaurant, Class A restaurant/lounge, lounge, ~~or~~ hotel, or qualified club is licensed;

B. Food is for sale at the additional premises, although not necessarily prepared there;

C. The additional premises are properly equipped, including tables ~~and~~, chairs and rest-rooms; and

D. The Department of Human Services licenses the additional premises.

2. Sales for consumption on slopes or courses prohibited. Nothing in this section permits a ski area to sell liquor for consumption on the slopes away from the licensed area or a golf course to sell liquor for consumption on the course away from the licensed area.

See title page for effective date.

CHAPTER 196**S.P. 384 - L.D. 1061****An Act to Amend Certain Provisions of the Law Relating to Defense****Be it enacted by the People of the State of Maine as follows:****PART A**

Sec. A-1. 37-B MRSA §147, sub-§3, as enacted by PL 1983, c. 460, §3, is amended to read:

3. Active duty. Whenever the occasion requires, the Governor, the Adjutant General or Deputy Adjutant General, with the ~~officer's~~ individual's consent, may order to active ~~duty~~ state service any retired officer, warrant officer or enlisted ~~man~~ person, who shall be entitled to with or without pay and emoluments allowances of his that person's grade while performing the service.

Sec. A-2. 37-B MRSA §150, as enacted by PL 1983, c. 460, §3, is amended to read:

§150. Unauthorized volunteer service

~~No~~ A unit of the state military forces may ~~not~~ perform any voluntary ~~military~~ active state service, unless authorized by express order of the Governor.

An officer, warrant officer or enlisted person or any retired officer, retired warrant officer or retired enlisted person of the state military forces may not perform any voluntary active state service, unless authorized by express order of the Governor, the Adjutant General or the Deputy Adjutant General.

PART B

Sec. B-1. 37-B MRSA §101-A, sub-§1, as enacted by PL 1987, c. 230, §1, is amended to read:

1. Active state service. As used in this Title, "active state service" means all military duty performed as a member of the state military forces ~~in a pay status described in section 143 by order of the Governor under~~ pursuant to this Title or performed under the United States Code, Title 32.

Sec. B-2. 37-B MRSA §185, sub-§1, as amended by PL 1983, c. 594, §9, is further amended to read:

1. Immunity from civil and criminal liability. ~~No~~ A member of the state military forces may not be liable civilly or criminally for any act done or caused, ordered or directed to be done by ~~him~~ that member while on active ~~duty~~ state service in the performance of ~~his~~ that member's duty. If an action of any nature has been commenced in any court by any person against an officer or enlisted ~~man~~ member of the state military forces for such an act, done or caused, ordered or directed to be done, all expenses of the defense of the action, including fees of witnesses for the defense, defendant's court costs, and all costs for transcripts of records and abstract thereof on appeal, ~~shall~~ must be paid by the State out of the Military Fund. ~~Where~~ When the action is civil, it ~~shall be~~ is the duty of the Attorney General to defend that officer or enlisted ~~man~~ member. ~~Where~~ When the action ~~is~~ is criminal, the Adjutant General shall designate a judge advocate of the National Guard or other authorized state military or naval force to conduct the defense of the member. If the services of a judge advocate are not available, the Adjutant General shall select some other competent attorney to conduct the defense. In any civil action, the defendant may require the person instituting the action to file security for payment of costs that may be awarded the defendant, which costs, if paid out of the Military Fund, when received, ~~shall~~ must be paid into the State Treasury and credited to the Military Fund.

Sec. B-3. 37-B MRSA §186, sub-§1, ¶A, as amended by PL 1991, c. 885, Pt. E, §44 and affected by §47, is further amended to read:

A. Duty status is as follows.

(1) The types of duty that are covered are:

(a) ~~Active state duty by order of the Governor under this subchapter~~ service pursuant to this Title;

(b) Inactive duty training, with or without pay, under the United States Code, Title 32, Section 502;

(c) Annual training under the United States Code, Title 32, Sections 502 and 503;

(d) Full-time training duty for 30 days or less under the United States Code, Title 32, Section 502; and

(e) Other training duties or schools under the United States Code, Title 32, with status of less than 30 days' duration.

(2) The types of duty that are not covered are:

(a) Annual training or any other types of duty under the United States Code, Title 10, including Section 672, Subsections (b) and (d);

(b) Initial active duty for training, such as initial active duty service schools;

(c) Full-time training duty for over 30 days under the United States Code, Title 32, Section 502, Subsection (f); and

(d) Federal technician civilian duty under the United States Code, Title 32, Section 709.

PART C

Sec. C-1. 37-B MRSA §3, sub-§2, as amended by PL 1991, c. 376, §62, is further amended to read:

2. Deputy Adjutant General. The Deputy Adjutant General has all the ~~military-related~~ military-related powers, responsibilities and duties of the Adjutant General if the Adjutant General is unable to act or, if the office is vacant, until the vacancy is filled by the Governor, as provided by law. The Deputy Adjutant General may perform other military duties of the Adjutant General as assigned by the Adjutant General or the Governor. ~~The deputy may not concurrently hold any other state office for compensation.~~

PART D

Sec. D-1. 14 MRSA §8102, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §42, is amended to read:

1. Employee. "Employee" means a person acting on behalf of ~~the~~ a governmental entity in any official capacity, whether temporarily or permanently, and whether with or without compensation from local, state or federal funds, including elected or appointed officials; volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B, section 1216; ~~members of the Maine National Guardsmen while receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 to 183 and 742, and while engaged in the Domestic Action Program Guard but only while performing state active service pursuant to Title 37-B; and sheriffs' deputies as defined in Title 30-A, section 381 when they are serving orders pursuant to section 3135, but the term "employee" does not mean a person or other legal entity acting in the capacity of an independent contractor under contract to the governmental entity.~~

Sec. D-2. 14 MRSA §8104-B, sub-§5, as enacted by PL 1987, c. 740, §4, is amended to read:

5. Activities of state military forces. The activities of the state military forces when ~~receiving state active duty pay under Title 37-B, section 143, in accordance with Title 37-B, sections 181 and 182, intervention in insurrections and Title 37-B, section 183, human health emergency assistance on duty pursuant to Title 37-B or 32 United States Code;~~

See title page for effective date.

CHAPTER 197**S.P. 375 - L.D. 1052**

**An Act to Allow the Collection of
Reimbursement for Medical
Expenses**

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

Sec. 1. 30-A MRSA §1562, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1562. Restitution

The imposition of restitution at all jails is subject to the following conditions.

1. Damage to property. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the facility where the damage occurred. The facility shall collect that money and apply it to defray the cost of replacement or repair of the items destroyed or damaged.

2. Medical care. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the jail. When restitution is imposed at a jail, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the jail where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care.

3. Transfer of prisoner or juvenile. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this subchapter. The facility receiving the prisoner or juvenile shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

4. Money available. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the sheriff, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Human Services may not be used for restitution payments.

Sec. 2. 34-A MRSA §3032, sub-§5-A, as amended by PL 1991, c. 314, §38, is further amended to read:

5-A. Restitution. The imposition of restitution at all facilities is subject to the following conditions.

A. Restitution may be imposed for the purpose of replacing or repairing property destroyed or damaged by the prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed ~~as a punishment~~ at a facility, ~~any a prisoner or any a juvenile who is subject to that punishment~~ restitution and who is able to generate ~~income money~~ income money from whatever source; shall pay 25% of that ~~income money~~ income money to the facility where the damage occurred. The facility shall collect that ~~income money~~ income money and apply it to defray the cost of replacement or repair of the items destroyed or damaged. ~~Restitution is not authorized if the imposition of that punishment would create an excessive financial~~

~~hardship, as determined by the department, on the dependents of the client. Any payments made for the support of the dependents that is required by the Department of Human Services is not available for restitution payments.~~

A-1. Restitution may be imposed for the purpose of paying the cost of medical care incurred as a result of the conduct of a prisoner or juvenile while the prisoner or juvenile is at the institution. When restitution is imposed at a facility, a prisoner or a juvenile who is subject to that restitution and who is able to generate money from whatever source shall pay 25% of that money to the facility where the medical care was provided. The facility shall collect that money and apply it to defray the cost of medical care.

B. A prisoner or juvenile who is transferred to another facility remains liable for any restitution authorized under this chapter. The facility receiving the prisoner or juvenile ~~must~~ shall collect the restitution and transfer it to the facility where the damage occurred or where the medical care was provided.

C. Restitution is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Human Services may not be used for restitution payments.

See title page for effective date.

CHAPTER 198

H.P. 840 - L.D. 1171

An Act to Correct a Fishing Zone Definition Error

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

Sec. 1. 12 MRSA §6749-N, sub-§1, as enacted by PL 1993, c. 740, §3, is amended to read:

1. Zone 1. Zone 1, from April 1st to August 15th. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker ~~W2~~ BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel

marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then running southerly to the TB1 whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

See title page for effective date.

CHAPTER 199

S.P. 109 - L.D. 285

An Act Concerning Placement of Modular Homes

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

Sec. 1. 30-A MRSA §4358, sub-§2, ¶E, as enacted by PL 1993, c. 299, §1, is amended to read:

E. Notwithstanding any other provision of law, any modular home that meets ~~the provisions of the municipality's building code or, in the absence of a municipal building code, the Building Officials and Code Administrators National Code (1990), 11th edition, as published by the Building Officials and Code Administrators International, Incorporated and as subsequently revised and amended,~~ construction standards for state-certified manufactured homes adopted pursuant to Title 10, section 9042 must be allowed in all zones where other single-family homes are allowed.

See title page for effective date.

CHAPTER 200

S.P. 448 - L.D. 1221

An Act to Establish Responsibility for the Investigation of the Use of Deadly Force by Law Enforcement Officers

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. 5 MRSA §200-A, as amended by PL 1991, c. 841, §3, is further amended by adding at the end a new paragraph to read:

The Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who, while acting in the performance of that law enforcement officer's duties, uses deadly force, as defined in Title 17-A, section 2, subsection 8. Any law enforcement agency whose officer uses deadly force shall notify, as soon as practicable, the Attorney General of the event.

See title page for effective date.

CHAPTER 201

H.P. 891 - L.D. 1244

An Act to Require County and State Inmates to Pay a Health Care Fee

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

Sec. 1. 30-A MRSA §1561, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1561. Medical care and expenses

Any person incarcerated in a county jail has a right to adequate professional medical care, which does not include medical treatment requested by the prisoner that the facility's treating physician determines unnecessary. The county commissioners may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this section and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in subsection 1, every prisoner may be charged a medical or dental services fee for each medical or dental visit and a fee for each prescription, medication or prosthetic device. The facility shall collect the fee. All money received by a county jail under this section is retained by the jail to offset the costs of medical and dental services fees and fees for prescriptions, medication or prosthetic devices.

1. Exemption from fees. A prisoner is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the prisoner:

A. Receives treatment initiated by county jail staff;

B. Is a juvenile;

C. Is pregnant;

D. Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a prisoner who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the prisoner's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;

E. Is an inpatient at a state-funded mental health or mental retardation facility;

F. Is undergoing follow-up treatment;

G. Receives emergency treatment as determined by the county jail's medical or dental staff; or

H. Has less than \$15 in the prisoner's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

2. Civil action for recovery of expenses.

Notwithstanding the other provisions of this section, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a prisoner incarcerated in a facility. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the prisoner may have in real property;

B. Joint ownership, if any, that the prisoner may have in any assets, earnings or other sources of income; and

C. The income, assets, earnings or other property, both real and personal, owned by the prisoner's spouse or family.

Sec. 2. 34-A MRSA §3031, sub-§2, as amended by PL 1991, c. 314, §35, is repealed and the following enacted in its place:

2. Medical care. Adequate professional medical care, which does not include medical treatment requested by the client that the facility's treating physician determines unnecessary. The commissioner may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this subsection and a fee not to exceed \$5

for prescriptions, medication or prosthetic devices. Except as provided in paragraph A, every client may be charged a medical or dental services fee for each medical or dental visit, prescription, medication or prosthetic device. The facility shall collect the fee. All money received by the department under this subsection is retained by the facility to offset the cost of medical and dental services, prescriptions, medication and prosthetic devices.

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;
- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;
- (5) Is an inpatient at a state-funded mental health or mental retardation facility;
- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; and
- (8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

B. Notwithstanding paragraph A, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

- (1) Joint ownership, if any, that the client may have in real property;

(2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and

(3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family.

See title page for effective date.

CHAPTER 202

H.P. 819 - L.D. 1150

An Act to Authorize the Use of Loon Plates on Baxter State Park Authority Vehicles

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

Whereas, this legislation permits the use of environmental registration plates on Baxter State Park Authority vehicles; and

Whereas, these plates need to be issued before the expiration of the 90-day period; 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. 29-A MRSA §517, sub-§2, as amended by PL 1995, c. 65, Pt. A, §91 and affected by §153 and Pt. C, §15, is further amended to read:

2. Plates. The Secretary of State shall issue distinctive plates that expire at the end of a 6-year period for state plates and a 10-year period for municipal plates within the semipermanent plate program. Vehicles owned by the State may display a marker or insignia, approved by the Secretary of State, plainly designating them as owned by the State.

The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Department of Inland Fisheries and Wildlife or the Department of Conservation with authorization from the department's commissioner. The Secretary of State may issue environmental registration plates to a state-owned vehicle assigned to the Baxter State Park Authority with authorization from the Commissioner of Inland Fisheries and Wildlife in the commissioner's

capacity as a member of the Baxter State Park Authority. A state-owned vehicle issued environmental registration plates must display a marker or insignia designating the vehicle as state-owned and is exempt from registration fees and the contribution under section 455, subsection 4.

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

Effective June 9, 1995.

CHAPTER 203

H.P. 833 - L.D. 1164

An Act to Clarify Recent Amendments to the Laws on Guardianship and Conservatorship

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

Sec. 1. 18-A MRSA §5-303, sub-§§(b) and (c), as amended by PL 1993, c. 652, §1, are further amended to read:

(b) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person is already represented by an attorney, the court shall appoint one or more of the following: ~~A~~ a visitor, a guardian ad litem or an attorney to represent the allegedly incapacitated person in the proceeding. If it comes to the court's attention that the allegedly incapacitated person wishes to contest any aspect of the proceeding or to seek any limitation of the proposed guardian's powers, the court shall appoint an attorney to represent the allegedly incapacitated person. The cost of this appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the allegedly incapacitated person if the court is satisfied sufficient funds are available. The person alleged to be incapacitated must be examined by a physician or by a licensed psychologist acceptable to the court who shall submit a report in writing to the court, providing diagnoses, a description of the person's actual mental and functional limitations and prognoses.

(c) If appointed, the visitor or guardian ad litem shall interview the allegedly incapacitated person and the person who is seeking appointment as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will reside if the requested appointment is made. The visitor or guardian ad litem shall submit a report in writing to the court. The visitor or guardian ad litem shall explain the meaning and possible consequences of the requested appointment to

the allegedly incapacitated person and inquire if the person wishes to attend the hearing, to contest any aspect of the proceeding or to seek any limitation of the proposed guardian's powers. If the visitor or guardian ad litem determines that the person wants to contest any issue or seek a limited appointment and that the person does not have counsel of that person's own choice, the visitor or guardian ad litem shall so indicate in the written report to the court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see and hear all evidence bearing upon the person's condition. The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the physician ~~and~~ the visitor and the guardian ad litem. The issue may be determined at a closed hearing if the person alleged to be incapacitated or the person's counsel so requests.

Sec. 2. 18-A MRSA §5-310-A, sub-§(a-1) is enacted to read:

(a-1) If the court takes action to exercise the powers of a guardian or to appoint a temporary guardian under subsection (a), then the court, within 48 hours of taking the action, shall appoint a visitor or a guardian ad litem to visit the allegedly incapacitated person and make a report to the court within 10 days of the appointment. The visitor or guardian ad litem shall serve the allegedly incapacitated person with a copy of the order appointing the temporary guardian and shall explain the meaning and consequences of the appointment. The visitor or guardian ad litem shall inquire of the allegedly incapacitated person whether that person wishes to contest any aspect of the temporary guardianship or seek any limitation of the temporary guardian's powers. The visitor or guardian ad litem shall advise the allegedly incapacitated person of that person's right to contest the temporary guardianship by requesting a hearing under subsection (b) and shall advise the allegedly incapacitated person of that person's right to be represented in the proceeding by counsel of that person's own choice or by counsel appointed by the court. The visitor or guardian ad litem shall also interview the temporary guardian, except in cases where the court itself has taken action to exercise the powers of a temporary guardian. In the report to the court, the visitor or guardian ad litem shall inform the court that the allegedly incapacitated person has received a copy of the order appointing the temporary guardian. The visitor or guardian ad litem shall advise the court as to whether the allegedly incapacitated person wishes to contest any aspect of the temporary guardianship or seek a limitation of the temporary guardian's powers and whether the allegedly incapacitated person is already represented by counsel. The visitor or guardian ad litem shall also advise the court whether any issue exists with respect to whether the appoint-

ment of the temporary guardian is in the allegedly incapacitated person's best interest.

Sec. 3. 18-A MRSA §5-310-A, sub-§§(b) and (c), as enacted by PL 1993, c. 652, §3, are amended to read:

(b) ~~When the court takes action to exercise the powers of a guardian or to appoint a temporary guardian under subsection (a), an expedited hearing must be held within 30 days of the signing of the court order exercising the powers of a guardian or appointing a temporary guardian. If the court has exercised temporary guardianship powers or has issued an ex parte order under subsection (a), and if it comes to the court's attention, through the report of the visitor or guardian ad litem or otherwise, that the allegedly incapacitated person wishes to contest any aspect of the temporary guardianship or seek a limitation of the temporary guardian's powers, or that an issue exists with respect to whether the temporary guardianship is in the allegedly incapacitated person's best interest, the court shall hold an expedited hearing within 40 days of the entry of the ex parte order under subsection (a). The court may continue the expedited hearing if the petitioner and the attorney for the allegedly incapacitated person, or, if none, the visitor or the guardian ad litem, agree to such a continuance. The court may continue the hearing on its own motion due to circumstances beyond the control of the court and the parties, provided the hearing is held within 60 days of the signing of the ex parte order. If the appointment of a guardian is contested by the allegedly incapacitated person and the person is not already represented by an attorney, the court shall appoint counsel to represent the allegedly incapacitated person in the proceeding. The cost of the appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the allegedly incapacitated person if the court is satisfied that sufficient funds are available. At the hearing, the petitioner has the burden of showing, by a preponderance of the evidence, that temporary guardianship continues to be necessary to address the emergency provide the person with continuing care, protection or support pending a final hearing. Notice of the expedited hearing must be served as provided in section 5-309, except that the notice must be given at least 5 days before the expedited hearing, and notice need not be served on any person whose address or present whereabouts is unknown and can not be ascertained by due diligence. Unless the allegedly incapacitated person is already represented, the court shall appoint one or more of the following: a visitor, a guardian ad litem or an attorney to represent the allegedly incapacitated person in the proceeding. If it comes to the court's attention that the ward wishes to contest any aspect of the temporary guardianship or to seek any limitation of the court's or the temporary guardian's powers, the court shall appoint an attorney to represent the ward. The cost of~~

~~the appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the allegedly incapacitated person if the court is satisfied sufficient funds are available. The court may waive service of the expedited hearing on any person, other than the allegedly incapacitated person, upon a showing of good cause.~~

(c) At the expedited hearing, the court may render a judgment authorizing the temporary guardianship to continue ~~beyond the original 30 day period,~~ for a period not to exceed 6 months from the date of entry of the ex parte order. The temporary guardianship terminates on the date specified in the order or, if no date is specified in the order, ~~at the end of the 6 month period~~ 6 months following the expedited hearing, ~~date of entry of the ex parte order~~ or at any prior time if the court determines the circumstances leading to the order for temporary guardianship no longer exist or if a judgment following a hearing pursuant to section 5-303 has been held entered.

Sec. 4. 18-A MRSA §5-407, sub-§(b), as amended by PL 1993, c. 652, §4, is further amended to read:

(b) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected is already represented by an attorney, the court shall appoint one or more of the following: ~~A~~ a visitor; a guardian ad litem or a lawyer to represent the person to be protected in the proceedings. If it comes to the court's attention that the ~~allegedly incapacitated~~ person to be protected wishes to contest any aspect of the proceeding or to seek any limitation of the proposed conservator's powers, the court shall appoint an attorney to represent the ~~allegedly incapacitated~~ person to be protected. The cost of the appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the person to be protected if the court is satisfied sufficient funds are available. If the alleged disability is physical illness or disability, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician acceptable to the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. If the alleged disability is mental illness or mental deficiency, the court may direct that the person to be protected be examined by a physician or by a licensed psychologist acceptable to the court; preferably the physician or psychologist shall not be connected with any institution in which the person is a patient or is detained. The physician or psychologist shall submit a report in writing to the court, providing diagnoses, a description of the person's actual mental and functional limitations and prognoses.

Sec. 5. 18-A MRSA §5-407, sub-§(b-1), as amended by PL 1993, c. 652, §5, is further amended to read:

(b-1) If appointed, the visitor or guardian ad litem shall interview the person to be protected and the person who is seeking appointment as conservator. The visitor or guardian ad litem shall submit a report in writing to the court. The visitor or guardian ad litem shall explain the meaning and possible consequences of the requested appointment to the person to be protected and inquire if the person wishes to attend the hearing, to contest any aspect of the proceedings or to seek any limitation of the proposed conservator's powers. If the visitor or guardian ad litem determines that the person wants to contest any issue or seek a limited appointment and that the person is not already represented by an attorney, the visitor or guardian ad litem shall so indicate in the written report to the court. The person to be protected is entitled to be present at the hearing in person and to see and hear all evidence bearing upon the person's condition. The person to be protected is entitled to be represented by counsel, to present evidence, to ~~cross examine~~ cross-examine witnesses, including the physician ~~and~~, the visitor and the guardian ad litem. The issue may be determined at a closed hearing if the person to be protected or the person's counsel so requests.

Sec. 6. 18-A MRSA §5-408-A, sub-§(a-1) is enacted to read:

(a-1) If the court takes action to exercise the powers of a conservator or to appoint a temporary conservator under subsection (a), then the court, within 48 hours of taking the action, shall appoint a visitor or a guardian ad litem to visit the protected person and make a report to the court within 10 days of the appointment of the temporary conservator. The visitor or guardian ad litem shall serve the protected person with a copy of the order appointing the temporary conservator and shall explain the meaning and consequences of the appointment. The visitor or guardian ad litem shall inquire of the protected person whether that person wishes to contest any aspect of the temporary conservatorship or seek any limitation of the temporary conservator's powers. The visitor or guardian ad litem shall advise the protected person of that person's right to contest the temporary conservatorship by requesting an expedited hearing under subsection (b) and shall advise the protected person of that person's right to be represented by counsel of that person's own choice or by counsel appointed by the court. The visitor or guardian ad litem shall also interview the temporary conservator, except in cases where the court itself has taken action to exercise the powers of a temporary conservator. In the report to the court, the visitor or guardian ad litem shall inform the court that the protected person has received a copy of the order appointing the temporary conservator and

shall advise the court as to whether the protected person wishes to contest any aspect of the temporary conservatorship or seek a limitation of the temporary conservator's powers and whether the protected person is already represented by counsel. The visitor or guardian ad litem shall also advise the court whether any issue exists with respect to whether the appointment of the temporary conservator is in the protected person's best interest.

Sec. 7. 18-A MRSA §5-408-A, sub-§§(b) and (c), as enacted by PL 1993, c. 652, §7, are amended to read:

(b) ~~When the court takes action to exercise the powers of a conservator or to appoint a temporary conservator under subsection (a), an expedited hearing must be held within 30 days of the signing of the court order exercising the powers of a conservator or appointing a temporary conservator. If the court has exercised temporary guardianship powers or has issued an ex parte order under subsection (a), and if it comes to the court's attention, through the report of the visitor or guardian ad litem or otherwise, that the protected person wishes to contest any aspect of the temporary conservatorship or to seek a limitation of the temporary conservator's powers, or if it appears that there is an issue with respect to whether the temporary conservatorship is in the protected person's best interest, the court shall hold an expedited hearing within 40 days of the signing of the ex parte order under subsection (a). The court may continue the expedited hearing if the petitioner and the attorney for the protected person, or, if none, the visitor or guardian ad litem, agree to such a continuance. The court may continue the hearing on its own motion due to circumstances beyond the control of the court and the parties, provided the hearing is held within 60 days of the signing of the ex parte order. If the appointment of a conservator is contested by the protected person and the person is not already represented by an attorney, the court shall appoint counsel to represent the person in the proceeding. The cost of the appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the protected person if the court is satisfied that sufficient funds are available. At that hearing, the petitioner has the burden of showing, by a preponderance of the evidence, that temporary conservatorship continues to be necessary to address the emergency protect and preserve the person's estate pending final hearing. Notice of the expedited hearing must be served as provided in section 5-405, except that the notice must be given at least 5 days before the expedited hearing, and notice need not be served on any person whose address or present whereabouts is unknown and can not be ascertained by due diligence. Unless the protected person is already represented, the court shall appoint one or more of the following: a visitor, a guardian ad litem or an attorney to represent the protected person~~

~~in the proceeding. If it comes to the court's attention that the protected person wishes to contest any aspect of the temporary conservatorship or to seek any limitation of the court's or the temporary conservator's powers, the court shall appoint an attorney to represent the protected person. The cost of the appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the person to be protected if the court is satisfied sufficient funds are available. The court may waive service of the expedited hearing on any person, other than the person to be protected, upon a showing of good cause.~~

(c) At the expedited hearing, the court may render a judgment authorizing the temporary conservatorship to continue ~~beyond the original 30 day period~~, for a period not to exceed 6 months from the date of entry of the ex parte order. The temporary conservatorship terminates on the date specified in the order or, if no date is specified in the order, ~~at the end of the 6 month period~~ 6 months following the ~~expedited hearing~~ date of entry of the ex parte order, or at any prior time if the court determines the circumstances leading to the order for temporary conservatorship no longer exist or if a judgment following a hearing pursuant to section 5-407 has been held entered.

Sec. 8. 18-A MRSA §5-408-A, sub-§(g) is enacted to read:

(g) A petition for temporary conservatorship may be brought before any judge if the judge of the county in which venue properly lies is unavailable. If a judge other than the judge of the county in which venue properly lies acts on a petition for temporary conservatorship, that judge shall issue a written order and endorse upon it the date and time of the order. The judge shall then immediately transmit or cause to be transmitted that order to the register of the county in which venue properly lies. An order issued by a judge of a county other than the county in which venue properly lies is deemed to have been entered in the docket on the date and at the time endorsed upon it.

See title page for effective date.

CHAPTER 204

H.P. 688 - L.D. 939

An Act to Exclude Services Provided by Home Stitchers from the Definition of Employment for Purposes of Unemployment Compensation

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1991, c. 706, is further amended by amending subparagraphs (35) and (36) to read:

(35) Services performed by a homemaker in the knitted outerwear industry as those terms are defined, on the effective date of this subparagraph, in the 29 Code of Federal Regulations, Part 530, Section 530.1; ~~and~~

(36) Service performed by a full-time student, as defined in subsection 30, in the employ of an organized camp if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year ~~which that~~ that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year; ~~and~~

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1991, c. 706, is further amended by enacting subparagraph (37) to read:

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax.

See title page for effective date.

CHAPTER 205

H.P. 714 - L.D. 971

An Act to Require Special Care Program Disclosure by Entities Providing Alzheimer Care

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

Sec. 1. 22 MRSA c. 1678 is enacted to read:

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.

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 throughout 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.

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.

CHAPTER 208

S.P. 76 - L.D. 164

**An Act to Reduce the Number of
Days a Tenant May Be in Arrears for
Rent Payments**

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

Sec. 1. 14 MRSA §6002, as amended by PL 1993, c. 211, §2, is further amended to read:

§6002. Tenancy at will; buildings on land of another

Tenancies at will must be terminated by either party by a minimum of 30 days' notice, except as provided in subsection 1, in writing for that purpose given to the other party, but if the landlord or the landlord's agent has made at least 3 good faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. In cases ~~where~~ when the tenant, if liable to pay rent, is not in arrears at the expiration of the notice, the 30 days' notice must be made to expire upon the date rent is due. Either party may waive in writing the 30 days' notice at the time the notice is given, and at no other time prior to the giving of the notice. ~~The~~ A termination based on a 30-day notice is not affected by the receipt of money, whether previously owed or for current use and occupation, until the date a writ of possession is issued against the tenant during the period of actual occupancy after receipt of the notice. When the tenancy is terminated, the tenant is liable to the process of forcible entry and detainer without further notice and without proof of any relation of landlord and tenant unless the tenant has paid, after service of the notice, rent that accrued after the termination of the tenancy. These provisions apply to tenancies of buildings erected on land of another party. Termination of the tenancy is deemed to occur at the expiration of the time fixed in the notice.

1. Causes for 7-day notice of termination of tenancy. Notwithstanding any other provisions of this chapter, in the event that the landlord can show, by affirmative proof, that the tenant, the tenant's family or an invitee of the tenant has caused substantial damage to the demised premises ~~which~~ that the tenant has not repaired or caused to be repaired before the giving of the notice provided in this subsection, has caused or permitted a nuisance within the premises, has caused or permitted an invitee to cause the dwelling unit to become unfit for human habitation or has violated or permitted a violation of the law regarding the tenancy, or when the tenant is ~~14~~ 7 days or more in arrears in

the payment of his rent, the tenancy may be terminated by the landlord by 7 days' notice in writing for that purpose given to the tenant, and in the event that the landlord or ~~his~~ the landlord's agent has made at least 3 good faith efforts to serve the tenant, that service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's last and usual place of abode. If a tenant, who is ~~14~~ 7 days or more in arrears in the payment of ~~his~~ rent, pays the full amount of rent due before the expiration of the ~~7 days'~~ 7-day notice in writing, that notice ~~shall be~~ is void. Thereafter, in all residential tenancies, if the tenant pays all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually expended by the landlord before the issuance of the writ of possession as provided by section 6005, then the tenancy must be reinstated and no writ of possession may issue. Payment or written assurance of payment through the general assistance program, as authorized by the State or a municipality pursuant to Title 22, chapter ~~1254~~ 1161, ~~shall be given~~ has the same effect as payment in cash.

2. Ground for termination notice. ~~Any~~ A notice of termination issued pursuant to subsection 1 must indicate the specific ground claimed for issuing the notice. If a ground claimed is rent arrearage of ~~14~~ 7 days or more, the notice must also include a statement indicating the amount of the rent that is ~~14~~ 7 days or more in arrears as of the date of the notice ~~and that the tenant can negate the effect of the notice of termination as it applies to rent arrearage if the tenant pays the full amount of rent arrearage before the expiration of the notice.~~ A termination notice issued on the ground of rent arrearage must also state the following: "If you pay the amount of rent due as of the date of this notice before this notice expires, then this notice as it applies to rent arrearage is void." For all residential tenancies, a termination notice issued on the ground of rent arrearage must also state: "After this notice expires, if you pay all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually paid by the landlord before the writ of possession issues at the completion of the eviction process, then your tenancy will be reinstated." If the notice states an incorrect rent arrearage the notice can not be held invalid if the landlord can show the error was unintentional.

3. Breach of warranty of habitability as an affirmative defense. In an action brought by a landlord to terminate a rental agreement on the ground that the tenant is in arrears in the payment of ~~his~~ rent, the tenant may raise as a defense any alleged violation of the implied warranty and covenant of habitability, provided that the landlord or the landlord's agent has received actual or constructive notice of the alleged violation, and has unreasonably failed under the circumstances to take prompt, effective steps to repair

or remedy the condition and the condition was not caused by the tenant or another person acting under the tenant's control. Upon finding that the dwelling unit is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement, with the court assessing against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent thus owed ~~shall~~ must be paid on a pro rata basis, unless the parties agree otherwise, and payments ~~shall~~ become due at the same intervals as rent for the current rental period. The landlord may not charge the tenant for the full rental value of the property until such time as it is fit for human habitation.

Sec. 2. 14 MRSA §6005, first ¶, as amended by PL 1979, c. 327, §1, is further amended to read:

When the defendant is defaulted or fails to show sufficient cause, judgment ~~shall~~ must be rendered against ~~him~~ the defendant by the District Court for possession of the premises and a writ of possession be issued to remove ~~him~~ the defendant, which may be served by a constable. A writ of possession may not issue in any case in which the ground for termination of the tenancy was rent arrearage and the defendant paid the amount necessary to reinstate the tenancy as provided by section 6002.

See title page for effective date.

CHAPTER 209

S.P. 359 - L.D. 985

An Act to Amend the Law Dealing with Agreements for Recovery of Personal Property

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

Sec. 1. 33 MRSA §1869, sub-§5 is enacted to read:

5. Unfair trade practice. A person who makes a claim for compensation in violation of this section commits an unfair trade practice in violation of Title 5, section 207.

See title page for effective date.

CHAPTER 210

H.P. 795 - L.D. 1112

An Act to Authorize a Multi-day Bass Tournament Permit

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

Sec. 1. 12 MRSA §7154, as amended by PL 1993, c. 419, §15, is further amended to read:

§7154. Bass tournament permit

1. Application. Any bass club seeking approval to conduct a ~~one-day~~ bass tournament pursuant to this section may make application to the commissioner in a manner and form to be designated by the commissioner. The application ~~shall~~ must include the club's tournament rules, any amendments or changes to the rules and a schedule of the dates, places and times of the proposed tournament.

2. Issuance; notification to municipality. The commissioner, following a determination that the club has complied with all rules ~~promulgated~~ adopted pursuant to this section, may issue a permit to the applicant club authorizing the club to conduct the tournament during open season for black bass in waters free of ice. At least 10 days prior to issuing the permit, the commissioner shall notify any affected municipality of the receipt of an application for a multi-day bass tournament.

3. Fee. The fee for a permit to conduct a one-day bass tournament is \$20 for 1993, \$22 for 1994, \$23 for 1995 and \$24 for 1996 and every year thereafter.

The fee for a permit to conduct a bass tournament lasting more than one day is \$24 per day.

4. Restrictions. The commissioner shall ~~promulgate~~ adopt all rules necessary to carry out the purposes of this section, including, but not limited to:

A. Requiring that precautions be taken so that, if possible, all fish caught may be retained alive and, following the close of the tournament, be released into the body from which they were taken; ~~and~~

B. Fixing the maximum total value of prizes ~~which~~ that may be awarded at each tournament; ~~and~~

C. Limiting the length of a tournament to 3 days. A tournament lasting more than one day must be a regional or multistate tournament sanctioned by the applicant bass club.

Sec. 2. 12 MRSA §7155, sub-§1, as enacted by PL 1985, c. 234, §2, is amended to read:

1. Application. ~~Persons~~ A person wishing at any time to conduct any fishing derby or fishing tournament shall first make application for and obtain a permit from the commissioner. Bass club-sponsored; ~~one-day~~ bass tournaments in waters free of ice ~~shall~~ fall under the provisions of section 7154. The application for a permit ~~shall~~ must include rules; requested dates, places and times; and the prize structure.

See title page for effective date.

CHAPTER 211

H.P. 938 - L.D. 1327

An Act to Expand Eligibility for the Maine Veterans' Homes

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

Sec. 1. 37-B MRSA §607, as amended by PL 1983, c. 594, §32, is further amended to read:

§607. Admission

Veterans desiring admission to the home ~~shall~~ must apply on forms prescribed by the administrator. Admission ~~shall~~ may be granted by the administrator only to eligible veterans who were residents of Maine at the time of their entry into the United States Armed Forces or who are residents of Maine at the time of application, and to the spouses, widows or widowers of eligible veterans, provided that suitable facilities are available. Admission ~~shall~~ must be granted when provisions of the rules are met, when there is a vacancy and in order of application, unless otherwise provided in the rules. For the purposes of this section, "eligible veteran" includes a person who served on active duty in the United States Armed Forces at any time during the period from December 22, 1961 to August 5, 1964.

See title page for effective date.

CHAPTER 212

S.P. 408 - L.D. 1096

An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements

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

Sec. 1. 30-A MRSA §4353, sub-§4-A, as amended by PL 1991, c. 659, §2, is further amended to read:

4-A. Disability variance. The board may grant a variance to ~~a property~~ an owner of a dwelling for the purpose of making that ~~property~~ dwelling accessible to a person with a disability who ~~is living on the property~~ resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the ~~property~~ dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives ~~on~~ in the ~~property~~ dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, section 4553 and the term "structures necessary for access to or egress from the ~~property~~ dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

See title page for effective date.

CHAPTER 213

H.P. 855 - L.D. 1186

An Act to Modify and Update Certain Laws Pertaining to the Importation and Possession of Wild Turkeys

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

Sec. 1. 12 MRSA §7231, sub-§1, ¶C is enacted to read:

C. A permit issued pursuant to this section does not authorize the permittee to import any species of wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross or the eggs of these species.

Sec. 2. 12 MRSA §7235-A, sub-§3, ¶¶A and C, as enacted by PL 1993, c. 438, §11, are amended to read:

A. A ringneck pheasant, ~~wild turkey~~ or bob-white quail, whether live or dressed, ~~which~~ that is possessed by virtue of this permit, must be identified with a metallic leg band before being removed from the premises of the permittee. This metallic leg band, supplied by the permittee, must remain attached to the bird until that bird is finally prepared for consumption.

C. A permit issued pursuant to this section does not authorize the permittee to possess, propagate or sell deer, bear ~~or~~, moose, wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross.

Sec. 3. 12 MRSA §7235-A, sub-§9 is enacted to read:

9. Exceptions. Notwithstanding subsection 3, paragraph C, a person possessing wild turkeys, hybrid wild turkeys or wild turkey-domestic turkey crosses acquired prior to January 1, 1995 may continue to possess those birds if that person applies for and receives a special permit issued by the commissioner and if that person completes an annual report on forms provided by the commissioner.

Sec. 4. 12 MRSA §7237, sub-§3 is enacted to read:

3. Restrictions. A permit issued pursuant to this section does not authorize the permittee to import any species of live wild turkey, hybrid wild turkey or wild turkey-domestic turkey cross or the eggs of these species.

Sec. 5. 12 MRSA §7237-A, sub-§1 is enacted to read:

1. Restrictions. Only the commissioner or agents of the commissioner may sell, give away or release into the wild any live wild turkey, hybrid wild turkey, wild turkey-domestic turkey cross or fertile egg of these species.

See title page for effective date.

CHAPTER 214

H.P. 554 - L.D. 755

An Act to Add the Prohibition of False Official Statements to the Maine Code of Military Justice

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

Sec. 1. 37-B MRSA §454 is enacted to read:

§454. False official statements

Any person subject to this Code who, with intent to deceive, signs any false record, return, regulation, order or other official document, knowing it is false, or makes any other false official statement, knowing it is false, must be punished as a court-martial may direct.

See title page for effective date.

CHAPTER 215

S.P. 454 - L.D. 1250

An Act to Authorize Certain Employees of the Department of Corrections to Use Deadly Force

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

Sec. 1. 17-A MRSA §2, sub-§5-B is enacted to read:

5-B. Corrections supervisor. "Corrections supervisor" means any person who:

A. Is an employee of the Department of Corrections;

B. Supervises corrections officers; and

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force.

Sec. 2. 17-A MRSA §107, sub-§5, as amended by PL 1989, c. 18, §2, is further amended to read:

5. Except where otherwise expressly provided, a corrections officer, corrections supervisor or law enforcement officer in a facility where persons are confined, pursuant to an order of a court or as a result of an arrest, is justified in using deadly force against such persons under the circumstances described in subsection 2. The officer or another individual responsible for the custody, care or treatment of those persons is justified in using a reasonable degree of nondeadly force when and to the extent the officer or the individual reasonably believes it necessary to prevent any escape from custody or to enforce the rules of the facility.

Sec. 3. 17-A MRSA §107, sub-§5-A, as enacted by PL 1989, c. 18, §3, is amended to read:

5-A. A corrections officer, corrections supervisor or law enforcement officer is justified in using deadly force against a person confined in the Maine State Prison or the Maine Correctional Institution - Warren when the officer or supervisor reasonably believes that deadly force is necessary to prevent an escape from custody. The officer or supervisor shall make reasonable efforts to advise the person that if the attempt to escape does not stop immediately, deadly force will be used. This subsection does not authorize any corrections officer, corrections supervisor or law

enforcement officer who is not employed by a state agency to use deadly force.

See title page for effective date.

CHAPTER 216

H.P. 846 - L.D. 1177

An Act to Enable the Department of Corrections to Share Information with Canadian Criminal Justice Agencies

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

Sec. 1. 16 MRSA §611, sub-§4, as amended by PL 1993, c. 719, §5 and affected by §12, is further amended to read:

4. Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof that performs the administration of criminal justice under a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government.

See title page for effective date.

CHAPTER 217

S.P. 468 - L.D. 1264

An Act Regarding the Schedule of the Distribution of Funds from the Maine Environmental Trust Fund

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

Whereas, current law provides that funds from the Maine Environmental Trust Fund are distributed annually; and

Whereas, programs funded from the Maine Environmental Trust Fund have a need for more frequent distribution of funds in order to be adequately sustained; and

Whereas, funds from the Maine Environmental Trust Fund were distributed in August 1994 and

another distribution is required by the end of the current fiscal year's 3rd quarter; 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. 12 MRSA §7759, sub-§3, as amended by PL 1993, c. 567, §1 and c. 683, Pt. B, §2 and affected by §5 and amended by PL 1995, c. 65, Pt. A, §28 and affected by Pt. C, §15, is repealed and the following enacted in its place:

3. Distribution from fund. Money distributed from the fund may be used for marketing the plates and for the production and marketing of goods using the environmental plate design. After the Treasurer of State has reimbursed the Secretary of State for costs of producing and issuing environmental registration plates in accordance with Title 29-A, section 455, the Treasurer of State shall, at the end of each quarter in the fiscal year, distribute the balance in the fund as follows:

A. Sixty percent of the balance must be deposited in the Maine State Parks Fund established in section 610; and

B. Forty percent of the balance must be deposited in the Maine Endangered and Nongame Wildlife Fund established in section 7757.

This subsection is repealed March 31, 1996.

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

Effective June 9, 1995.

CHAPTER 218

H.P. 929 - L.D. 1310

An Act Concerning Inspection at Sea

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

Sec. 1. 12 MRSA §6351, as enacted by PL 1977, c. 661, §5, is amended to read:

§6351. Suspension based on conviction

~~Any A~~ conviction for a violation of a marine resources' law ~~shall be~~, a violation of Title 17-A, chapter 31 or a criminal offense against a marine patrol officer while that officer is engaged in the performance of official duty is grounds for suspension of any licenses or certificates issued under this Part. In order to suspend a license or certificate because of a conviction, the commissioner ~~shall~~ must follow the procedures of this Article.

See title page for effective date.

CHAPTER 219

S.P. 413 - L.D. 1136

**An Act to Provide Immunity for
Clinicians Contracted by the State
Forensic Service**

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

Sec. 1. 34-B MRSA §1212, sub-§2, ¶B, as amended by PL 1989, c. 487, §16, is further amended to read:

B. To perform examinations of the mental condition of persons committed to the custody of the commissioner under Title 15, section 103, for the purposes specified in Title 15, section 104-A; ~~and~~

Sec. 2. 34-B MRSA §1212, sub-§2, ¶C, as enacted by PL 1989, c. 487, §17, is amended to read:

C. To perform examinations of the mental condition of persons pursuant to Title 22, chapter 250-; ~~and~~

Sec. 3. 34-B MRSA §1212, sub-§2, ¶D is enacted to read:

D. To perform evaluations on behalf of any court of record. The State Forensic Service may contract with psychologists, psychiatrists and licensed clinical social workers to perform evaluations. The clinicians under contract are entitled to quasi-judicial immunity for all acts performed within the scope of their evaluation duties and in accordance with protocols for evaluations established by the State Forensic Service.

See title page for effective date.

CHAPTER 220

S.P. 439 - L.D. 1207

**An Act to Correct Certain Errors
and Inconsistencies in Employer's
Contributions and Coverage in
Unemployment Compensation**

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

Sec. 1. 26 MRSA §1221, sub-§4, ¶B, as amended by PL 1993, c. 22, §7 and affected by §8, is further amended by amending the first paragraph to read:

B. Subject to paragraph A, each employer's contribution rate for the 12-month period commencing January 1st of each year is based upon the employer's experience rating record and determined from the employer's reserve ratio, which is the percent obtained by dividing the amount by which, if any, the employer's contributions credited from the time the employer first or most recently became an employer, whichever date is later, and up to and including June 30th of the preceding year, including any part of the employer's contributions due for that year ~~payable paid~~ on or before July 31st of ~~the preceding that~~ year, exceed the employer's benefits charged during the same period, by the employer's average annual payroll for the 36-consecutive-month period ending June 30th of the preceding year. The employer's contribution rate is the percent shown on the line of the following table on which in column A there is indicated the employer's reserve ratio and under the schedule within which the reserve multiple falls as of September 30th of each year. The following table applies for each 12-month period commencing January 1st of each year as determined by paragraph C. Notwithstanding any other provisions of this paragraph, each employer's contribution rate computed and effective as of July 1, 1981, is for the 6-month period ending December 31, 1981.

Sec. 2. 26 MRSA §1221, sub-§10, ¶B, as amended by PL 1979, c. 651, §44, is further amended to read:

B. Any employing unit ~~which~~ that has become an employer pursuant to section 1043, subsection 9, paragraph H ~~or I which~~ and has been paying contributions under this chapter may change to a reimbursable basis by filing with the bureau not later than 30 days prior to the beginning of any calendar year a written notice of election to be-

come liable for payments in lieu of contributions. ~~Such~~ The election ~~shall~~ may not be terminable by ~~such~~ the employer for that and the next calendar year.

See title page for effective date.

CHAPTER 221

S.P. 418 - L.D. 1141

An Act Concerning Employee Leasing Companies

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

Sec. 1. 26 MRSA §1221-A, sub-§1, as amended by PL 1993, c. 264, §1, is further amended to read:

1. Joint and several liability. A client company is jointly and severally liable for unpaid contributions, interest and penalties due under this chapter from the employee leasing company for wages paid to employees leased to the client company. ~~The employee leasing company must comply with subsection 5 in a timely manner in order to relieve a client company from such liability.~~

Sec. 2. 26 MRSA §1221-A, sub-§5, as amended by PL 1993, c. 264, §2, is repealed.

Sec. 3. 26 MRSA §1221-A, sub-§8, as enacted by PL 1991, c. 468, §3, is repealed and the following enacted in its place:

8. Penalty. A person or an employee leasing company that violates this chapter is subject to a forfeiture of \$100 per day for each violation. A corporation, partnership, sole proprietorship or other form of business entity and an officer, director, general partner, agent, representative or employee of any of those types of business entities that knowingly uses or participates in an employee leasing agreement, arrangement or mechanism for the purpose of depriving one or more insurers of premiums or avoiding the calculation of the proper contribution rate for purposes of unemployment contributions commits a Class E crime.

Sec. 4. 26 MRSA §1221-A, sub-§9 is enacted to read:

9. Rebuttable presumption. When an employee leasing company leases employees to only one client company or when the leasing company and the client company or companies are owned or controlled by the same parties or interests, directly or indirectly, by legally enforceable means or otherwise,

there is a rebuttable presumption that the client company or companies entered into an employee leasing arrangement to avoid the calculation of the proper contribution rate for payment of unemployment contributions.

See title page for effective date.

CHAPTER 222

S.P. 437 - L.D. 1205

An Act to Conform State Unemployment Compensation Laws to Federal Requirements

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

Sec. 1. 26 MRSA §1192, sub-§12 is enacted to read:

12. Participation in reemployment services. The individual who has been referred to reemployment services, pursuant to a profiling system established by the commissioner, participates in those services or similar services unless it is determined that the individual has completed those services or there is good cause for the individual's failure to participate.

For purposes of this subsection, "good cause" means all circumstances described in the definition of good cause in Chapter 1 of the rules governing the administration of the Employment Security Law, including child care emergencies and transportation emergencies.

See title page for effective date.

CHAPTER 223

H.P. 823 - L.D. 1154

An Act to Continue the State's Dioxin Monitoring Program

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

Sec. 1. 38 MRSA §420-A, sub-§2, ¶A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §40, is further amended to read:

A. Select a representative sample of wastewater treatment plant sludges from municipal wastewater treatment plants ~~and~~, bleached pulp mills or other sources. These facilities must be selected on the basis of known or likely dioxin contamination of their discharged effluent. The com-

missioner shall develop a monitoring plan for these facilities and submit the plan, including a list of the selected facilities, to the technical advisory group established in section 420-B, subsection 1, paragraph B, subparagraph (5). At least 30 days prior to submitting the plan to the technical advisory group, the commissioner shall notify the owners or operators of each selected facility of the fact of the facility's inclusion in the plan. The technical advisory group shall review the plan and information related to the plan provided by the commissioner, by the owners or operators of selected facilities and by others, including information regarding whether the selected facilities are known or likely sources of dioxin contamination. The technical advisory group shall advise the commissioner on the plan and the choice of selected facilities. The total number of facilities monitored by the commissioner may not exceed 12;

Sec. 2. 38 MRSA §420-A, sub-§5, as enacted by PL 1987, c. 762, §1, is amended to read:

5. Fees assessed. The commissioner shall assess the selected facilities for the costs of sample collection and analysis, except that, if the selected facility is a publicly owned treatment works, the commissioner may assess the primary industrial generator discharging effluent into the treatment facility if the generator is known or likely to be discharging dioxin into the treatment facility. Fees received under this section ~~shall~~ must be credited to the Maine Environmental Protection Fund. Payment of these fees is a condition of the discharge license issued under this Title for continued operation of the selected facilities, except that, if the selected facility is a publicly owned treatment works and the commissioner assesses the fee on an industrial generator, payment of the fee is not a condition of the discharge license of the selected facility.

Sec. 3. 38 MRSA §420-A, sub-§6, as enacted by PL 1989, c. 856, §5 and affected by §7, is amended to read:

6. Repeal. This section is repealed ~~on~~ December 31, ~~1995~~ 1997.

Sec. 4. Allocation. The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

1996-97

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Maine Environmental Protection Fund

All Other	\$168,000
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Provides an allocation for the continuance of the dioxin monitoring program.

See title page for effective date.

CHAPTER 224

H.P. 879 - L.D. 1234

An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage

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

Sec. 1. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 1993, c. 475, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;
- (6) Theft as defined in section 357, when the value of the services is ~~\$1,000~~ \$2,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument, if the officer reasonably believes that the per-

son will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1051, subsections 2 and 9; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A; or

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

Sec. 2. 17-A MRSA §352, sub-§5, ¶D, as enacted by PL 1975, c. 499, §1, is amended to read:

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth above, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value ~~shall be~~ is deemed to be an amount less than ~~\$500~~ \$1,000.

Sec. 3. 17-A MRSA §362, sub-§2, as amended by PL 1977, c. 510, §48, is further amended to read:

2. Theft is a Class B crime if:

A. The value of the property or services exceeds ~~\$5,000~~ \$10,000;

B. The property stolen is a firearm or an explosive device; or

C. The actor is armed with a dangerous weapon at the time of the offense.

Sec. 4. 17-A MRSA §362, sub-§3, as amended by PL 1991, c. 548, Pt. A, §8, is further amended to read:

3. Theft is a Class C crime if:

A. The value of the property or services is more than ~~\$1,000~~ \$2,000 but not more than ~~\$5,000~~ \$10,000; or

B. The theft is a violation under section 355.

Sec. 5. 17-A MRSA §362, sub-§4 and 5, as enacted by PL 1975, c. 499, §1, are amended to read:

4. Theft is a Class D crime if:

A. It is a ~~violation~~ violation of section 360, regardless of the value involved; or

B. The value of the property or services exceeds ~~\$500~~ \$1,000 but does not exceed ~~\$1,000~~ \$2,000.

5. Theft is a Class E crime if the value of the property or services does not exceed ~~\$500~~ \$1,000.

Sec. 6. 17-A MRSA §703, sub-§2, as repealed and replaced by PL 1989, c. 187, §2, is amended to read:

2. Violation of this section is:

A. A Class B crime if the face value of the written instrument or the aggregate value of instruments exceeds ~~\$5,000~~ \$10,000;

B. A Class C crime if:

(1) The face value of the written instrument or the aggregate value of instruments exceeds ~~\$1,000~~ \$2,000 but does not exceed ~~\$5,000~~ \$10,000; or

(2) The actor has 2 prior convictions for any combination of theft, violation or attempted violation of this section, violation or attempted violation of section 702 or 708 or any violation or attempted violation of section 401 if the intended crime within the structure is theft, or any violation or attempted violation of section 651. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection ~~shall be~~ is pursuant to section 362, subsection 3-A; or

C. Except as provided in paragraphs A and B, forgery is a Class D crime.

Sec. 7. 17-A MRSA §708, sub-§4, as amended by PL 1989, c. 186, is further amended to read:

4. Violation of this section is:

A. A Class B crime, if the face value of the negotiable instrument exceeds ~~\$5,000~~ \$10,000;

B. A Class C crime, if:

(1) The face value of the negotiable instrument exceeds ~~\$1,000~~ \$2,000 but does not exceed ~~\$5,000~~ \$10,000; or

(2) The actor has 2 prior convictions for any combination of theft, a violation of section 702, 703 or this section, a violation of section 401 in which the crime intended to be committed inside the structure is theft, a violation of section 651 or attempts at these violations. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection ~~shall be~~ is pursuant to section 362, subsection 3-A;

C. A Class D crime, if the face value of the negotiable instrument exceeds ~~\$500~~ \$1,000 but does not exceed ~~\$1,000~~ \$2,000; or

D. A Class E crime, if the face value of the negotiable instrument does not exceed ~~\$500~~ \$1,000.

Sec. 8. 17-A MRSA §805, sub-§1, ¶¶A and B, as enacted by PL 1975, c. 499, §1, are amended to read:

A. Damages or destroys property of another in an amount exceeding ~~\$1,000~~ \$2,000 in value, having no reasonable ground to believe that ~~he~~ the person has a right to do so; or

B. Damages or destroys property in an amount exceeding ~~\$1,000~~ \$2,000 in value, to enable any person to collect insurance proceeds for the loss caused; or

Sec. 9. 17-A MRSA §953, sub-§1, ¶A, as amended by PL 1977, c. 55, is further amended to read:

A. Engaging in bookmaking to the extent that ~~he~~ the person receives or accepts in any 24-hour period more than 5 bets totaling more than ~~\$250~~ \$500; or

Sec. 10. 17-A MRSA §953, sub-§1, ¶C, as amended by PL 1975, c. 740, §94, is further amended to read:

C. Receiving in connection with a lottery, mutual or other gambling scheme or enterprise; more than ~~\$500~~ \$1,000 in any 24-hour period played in the scheme or enterprise.

See title page for effective date.

CHAPTER 225

H.P. 908 - L.D. 1284

An Act to Remove Outdated Provisions from the Public Utilities Law

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

Sec. 1. 5 MRSA §200-B, as repealed and replaced by PL 1987, c. 769, Pt. A, §9, is amended to read:

§200-B. Authority of Attorney General to request telephone records

Whenever the Attorney General, a deputy attorney general or a district attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility, as defined in Title 35-A, section 102, ~~subsections 17 and subsection 19~~, whether or not subject to the jurisdiction of the Public Utilities Commission, and that ~~such the~~ public utility services are being or may be used for, or to further, an unlawful purpose, ~~he~~ the Attorney General may demand, in writing, all the records in the possession of the public utility relating to that service. Upon a showing of cause to any Justice of the Supreme Judicial Court or the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. ~~Such The~~ showing ~~shall~~ must be by the affidavit of any law enforcement officer. Upon receipt of a demand, approved by a justice or judge, the public utility shall ~~forthwith~~ deliver to the person making the request all the records or information in compliance with the demand. If the person making request demands that the public utility not release the fact of the request or that records will be or have been supplied, the public utility ~~shall may~~ not release ~~such the~~ fact or facts without court order. ~~No A~~ public utility or employee of that public utility may not be criminally or civilly responsible for furnishing any records or information in compliance with the demand.

Sec. 2. 35-A MRSA §102, sub-§13, as repealed and replaced by PL 1991, c. 342, §2, is amended to read:

13. Public utility. "Public utility" includes every gas utility, natural gas pipeline utility, electric utility, telephone utility, ~~telegraph utility~~, water utility, public heating utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

Nothing in this subsection precludes:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

Sec. 3. 35-A MRSA §102, sub-§§17 and 18, as enacted by PL 1987, c. 141, Pt. A, §6, are repealed.

Sec. 4. 35-A MRSA §116, sub-§1, as amended by PL 1991, c. 343, §1, is further amended to read:

1. Utilities subject to assessments. Every electric, gas, ~~telegraph~~, telephone and water utility and ferry subject to regulation by the commission is subject to an assessment of not more than .35% on its intrastate gross operating revenues to produce no more than \$4,473,000 in revenues annually beginning in the 1991-92 fiscal year and not more than \$4,918,000 in revenues annually beginning in the 1992-93 fiscal year. The commission shall determine the assessments annually prior to May 1st and assess each utility for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility shall pay the assessment charged to the utility on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means intrastate revenues derived from filed rates, except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not be subject to any assessment.

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year.

E. The commission may exempt utilities with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

Sec. 5. 35-A MRSA §701, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Renting facilities. ~~Nothing in this~~ This section prohibits ~~does not prohibit~~ a public utility from renting any facilities incident to the production, transmission, delivery or furnishing of electricity, gas, heat or water or the conveyance of telephone ~~or telegraph~~ messages and paying a reasonable rental for the facilities.

Sec. 6. 35-A MRSA §710, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Filing accident reports. Every public utility shall file reports of accidents described in subsections 1 and 2 with the commission. Accident reports ~~shall~~ must be filed in compliance with the commission's rules and in the manner and form designated by the commission. Accidents resulting in loss of human life ~~shall~~ must be reported immediately by telephone, facsimile machine or telegraph electronic media in a manner designated by the commission followed by a detailed written report.

Sec. 7. 35-A MRSA §2101, as amended by PL 1987, c. 490, Pt. C, §7, is further amended to read:

§2101. Organization of certain public utility corporations

Corporations for the operation of ~~telegraphs or~~ telephones and for the purpose of making, generating, selling, distributing and supplying gas or electricity or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized under the general corporate law of the State.

Sec. 8. 35-A MRSA §2301, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§2301. Telephone utilities and television corporations may construct lines

Except as limited, every corporation organized under section 2101 for the purpose of operating

~~telegraphs or~~ telephones and every corporation organized for the purpose of transmitting television signals by wire may construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may, construct its lines and necessary erections and fixtures for them along, over, under and across any of the roads and streets and across or under any of the waters upon and along the route or routes subject to the conditions and under the restrictions provided in this chapter and chapter 25.

Sec. 9. 35-A MRSA §2501, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Applicability of section 2503. Except as otherwise provided, ~~no~~ a person may not construct facilities upon and along highways and public roads, without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating ~~telegraphs or~~ telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; and any other person engaged in telecommunications or the transmission of heat, or electricity.

Sec. 10. 35-A MRSA §2516, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Permit required to cut wires and remove poles. ~~No~~ A person may not cut, disconnect or remove the wires or poles of a ~~telegraph,~~ telephone or electric utility in order to move a building, alter, repair or improve a street, bridge or way, or for any other purpose unless that person:

A. Applies in writing to the municipal officers of the municipalities in which changes or alterations of wires or poles are desired, or in which a building is to be moved; and

B. Receives a written permit from the officers.

Sec. 11. 35-A MRSA §2517, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Revocation of pole location by municipal officers. When the municipal officers of a municipality having a population of more than 40,000 inhabitants, determine, after notice and hearing, that public safety and the public welfare require the revocation of a location for poles for conveying electricity or for the transmission of telephone ~~or telegraph~~ messages already erected in a public street or way other than a state or a state-aid highway outside the compact area and other than a federal-aid highway, they may revoke the location and order the poles removed. The person that owns the poles shall remove them within a reasonable time. Other suitable locations or the right to use other poles jointly ~~shall~~ must be granted by the municipal officers to the person.

Sec. 12. 35-A MRSA §2518, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Municipality may order joint use of poles. Subject to the provisions of sections 711 and 8302, the municipal officers may, after notice and hearing, order any wires used for conveying electric current or the transmission of telephone ~~or telegraph~~ messages and attached to poles located in a public street or way of the municipality to be removed and attached to other poles, however owned and controlled, legally located in the public streets or ways, as the municipal officers may designate, ~~provided only if~~ in their judgment the change is practicable and can be made without unreasonably interfering with the business of any person. The municipal officers may establish such regulations as they determine necessary for the joint use of the poles.

Sec. 13. 35-A MRSA c. 79 is amended by repealing the chapter headnote and enacting in its place the following:

CHAPTER 79

TELEPHONE LINES

Sec. 14. 35-A MRSA §§7901 to 7904, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

§7901. Telephone lines

1. Connection between the lines of 2 or more utilities. ~~Whenever~~ When the commission, after a hearing, finds that a physical connection can reasonably be made between the lines of 2 or more telephone utilities ~~or 2 or more telegraph utilities~~ whose lines can be made to form a continuous line of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations and that public convenience and necessity will be served by the connection, or finds that 2 or more ~~telegraph or~~ telephone utilities have failed to establish

joint rates, tolls or charges for service by or over their lines, and that joint rates, tolls or charges ought to be established, the commission may, by its order:

A. Require that the connection be made, except where the purpose of the connection is primarily to secure the transmission of local messages or conversations between points within the same city or town;

B. Require that conversations be transmitted and messages transferred over the connection under such rules as the commission may establish; and

C. Prescribe through lines and joint rates, tolls and charges to be made and to be used, observed and enforced in the future.

2. Division of costs between utilities. If the telephone or telegraph utilities do not agree upon the division between them of the cost of the physical connection or connections or the division of the joint rates, tolls or charges established by the commission over the through lines, the commission may, after further hearing, establish the division by supplemental order.

§7902. Lines along highways and across waters

Every ~~telegraph or~~ telephone utility or person transmitting television signals by wire may, except as limited, construct, maintain and operate its lines upon and along the routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in this Title, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along the routes, with all necessary erections and fixtures.

§7903. Connection with other telephone lines

Every ~~telegraph or~~ telephone utility in the State may, upon such terms as may be agreed upon by the contracting parties, subject to the control of the commission:

1. Connect lines. Connect its lines with those of any other like utility;

2. Sell or lease lines. Sell or lease its lines and property, in whole or in part, to any other like utility; and

3. Purchase or lease lines. Purchase or lease the lines and property, in whole or in part, of any like utility.

§7904. Land for public use

Every ~~telegraph or~~ telephone utility in the State may purchase, or take and hold as for public uses, land

necessary for the construction and operation of its lines. Land may be taken and damages for it may be estimated, secured, determined and paid as provided for water utilities by sections 6502 to 6512.

Sec. 15. 35-A MRSA c. 81, as amended, is repealed.

See title page for effective date.

CHAPTER 226

H.P. 905 - L.D. 1281

An Act to Clarify Notice Requirements and a Party's Opportunity to be Heard

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

Sec. 1. 35-A MRSA §1304, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Notice to utility and parties. The commission shall notify the public utility ~~and~~ other parties and interested persons it considers proper of the time and place of the formal public hearing as provided in Title 5, section 9052.

Sec. 2. 35-A MRSA §1304, sub-§2, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. The commission may by rule or upon written notice to the public utility require it to:

(1) Give reasonable notice of the time and place of the hearing to each subscriber affected or to be affected by the subject of the hearing; or

(2) File pertinent information as to the rates or service involved, including schedules of proposed rates, in the office of the clerk of the municipality where the subscribers reside.

Sec. 3. 35-A MRSA §1304, sub-§§3 and 4, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

3. Subpoenas. The commission may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence relating to any fact at issue in the hearing. A party to a hearing is entitled to have subpoenas issued by the commission in the manner described in Title 5, section 9060.

4. Hearings. A party to a hearing is entitled to be heard ~~and to have the subpoenas issued by the commission in the manner described in Title 5, section 9060 9056.~~

Sec. 4. 35-A MRSA §1321, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§1321. Orders altered or amended

The commission may at any time rescind, alter or amend any order it has made including an order fixing any rate or rates, tolls, charges or schedules, ~~provided only if it gives the public utility and all parties to the original proceeding, to the extent practical, written notice as provided in section 1304 and after opportunity for those parties to be heard as provided in section 1304 present evidence or argument, as determined appropriate by the commission.~~ Certified copies of amended orders ~~shall~~ **must** be served and take effect as provided for original orders.

See title page for effective date.

CHAPTER 227

H.P. 906 - L.D. 1282

**An Act to Correct Obsolete
References to Justices of the Peace**

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

Sec. 1. 23 MRSA §3101 is amended to read:

§3101. Call of meetings

When 4 or more persons are owners and occupants of a private way or bridge, any 3 of them may make written application to a ~~justice of the peace~~ notary public to call a meeting, who may issue ~~his~~ a warrant setting forth the time, place and purpose ~~thereof of the meeting~~, a copy of which ~~shall~~ **must** be posted at some public place in the town 7 days before such time. When so assembled, they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner ~~therefor for the repairs~~ and the manner of calling future meetings.

Sec. 2. 33 MRSA §1053 is amended to read:

§1053. Appraisal if value \$10 or more

Every finder of lost goods or stray beasts of the value of \$10 or more shall, within 2 months after finding and before using them to their disadvantage, procure a warrant from the town clerk or a ~~justice of the peace~~ notary public, directed to 2 persons

appointed by said clerk or ~~justice~~ notary, not interested except as inhabitants of the town, returnable at said clerk's office within 7 days from its date, to appraise said goods under oath.

Sec. 3. 33 MRSA §1054 is amended to read:

§1054. Restitution to appearing owner; money or goods

If the owner of such lost money or goods appears within 6 months, and if the owner of such stray beasts appears within 2 months after said notice to the town clerk and gives reasonable evidence of ~~his~~ ownership to the finder, ~~he the owner~~ shall have restitution of them or the value of the money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by a ~~justice of the peace of the county~~ the district court, if the owner and finder cannot agree.

Sec. 4. 38 MRSA §851 is amended to read:

§851. Meeting of mill owners; call; object

When an owner of a mill or of the dam necessary for working ~~it the mill~~ thinks it necessary to rebuild or repair it in whole or in part, ~~he the owner~~ may apply in writing to a ~~justice of the peace~~ notary public in the county where ~~it the mill~~ is situated, or if partly in 2 counties, to a ~~justice of the peace~~ notary public in either, to call a meeting of the owners, stating the object, time and place of the meeting. ~~Such justice~~ The notary may issue ~~his~~ a warrant for the purpose, directed to ~~such the~~ owner, which ~~shall~~ **must** be published in some newspaper printed in ~~such the~~ county, if any, 3 weeks successively, the last publication to be not less than 10 nor more than 30 days before the meeting; or a true copy of the warrant may be delivered to each of said owners or left at ~~his the~~ the owner's last ~~and usual place of abode~~ known address; and either notice is binding on all the owners.

See title page for effective date.

CHAPTER 228

H.P. 685 - L.D. 936

**An Act to Clarify the Discretion of
the Commission on Governmental
Ethics and Election Practices in
Assessing Penalties**

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

Whereas, it is not currently clear whether the Commission on Governmental Ethics and Election Practices has the authority to waive penalties; and

Whereas, the purpose of this legislation is to clarify the commission's discretion in this area; and

Whereas, it is essential to resolve this issue for the commission to carry out its duties and responsibilities in an effective and expeditious fashion; 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. 21-A MRSA §1017-A, sub-§5, as enacted by PL 1991, c. 839, §23 and affected by §33, is amended to read:

5. Penalties. A party committee is subject to the penalties in section 1020, subsection 2, ~~except that the commission may waive the penalties until January 1994.~~

Sec. 2. 21-A MRSA §1020, as amended by PL 1991, c. 839, §§24 and 25, is further amended to read:

§1020. Failure to file on time

1. Registration. A candidate or political committee that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 ~~must~~ may be assessed a forfeiture of \$50. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies ~~these~~ the requirements for timely filing ~~and, if determined to be late, the number of days of lateness under this subchapter. The commission may waive a penalty under this subsection in whole or in part if the commission determines the failure to report was due to mitigating circumstances or if it determines the penalty is disproportionate to the offense.~~ If the reason for the late filing is that forms required to be sent by the commission were not postmarked at least 7 days before the filing date,

the period for filing ~~shall~~ must be increased by the deficiency without penalty.

A. Except as provided in paragraph B, ~~there is~~ a penalty of \$10 may be assessed for each business day a report required to be filed under this subchapter is late.

B. A forfeiture of \$50 ~~must~~ may be adjudged for each business day that reports required under section 1017, subsection 2, paragraph C or D; section 1017, subsection 3-A, paragraph B or C; section 1018, subsection 2, paragraph A; or section 1019, subsection 1 are late.

C. The maximum penalty under this subsection is \$500, except in the case of penalties assessed under paragraph B, in which case the maximum penalty is \$1,000.

D. A notice of lateness ~~shall~~ must be sent to candidates and treasurers registered with the commission whose campaign finance reports are not received within 2 days of the filing deadline. That notice ~~shall~~ must be sent on the 3rd day following the deadline.

E. A late report required under section 1017, subsection 2, paragraph A, B, E or F; or section 1017, subsection 3-A, paragraph A, D or E; that is filed within 10 days of the due date is not subject to penalty.

F. A report required to be filed 6 days before an election ~~which that~~ is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days ~~thereafter~~ after the transmission. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

G. The commission, upon ~~determining that a report is late~~ assessing a penalty, shall notify the Secretary of State ~~of the lateness~~. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice ~~of a late report~~ from the commission. The Secretary of State ~~shall have~~ has all necessary powers to carry out this responsibility.

H. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D; or section 1017, subsection 3-A, paragraph B or C; within 30 days of the

date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the candidate, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after receiving notice of the ~~lateness of any report assessment of a penalty~~, the Secretary of State shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action ~~shall~~ must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

Sec. 3. 21-A MRSA §1062, as amended by PL 1991, c. 839, §32, is further amended to read:

§1062. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration ~~must~~ may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. The commission shall determine whether a required report satisfies ~~these~~ the requirements for timely filing ~~and, if determined to be late, the number of days of lateness under this subchapter.~~ The commission may waive a penalty under this subsection in whole or in part if the commission determines the failure to report was due to mitigating circumstances or if it determines the penalty is disproportionate to the offense.

A. Except as provided in paragraph B, ~~there is~~ a penalty of \$250 may be assessed, plus an additional penalty of \$50 for each business day beginning with the 2nd such day that a campaign finance report required to be filed under this subchapter is late, up to a maximum of \$1,000.

B. ~~There is a~~ A penalty of \$250 may be assessed for each business day that a report required to be filed under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E is late, up to a maximum of \$2,000.

C. A notice of lateness ~~shall~~ must be sent to political action committees and treasurers registered with the commission whose campaign finance reports are not received by 2 days after the filing deadline. That notice ~~shall~~ must be sent on the 3rd day following the deadline.

D. A late report required to be filed under section 1059, subsection 2, paragraph A; section 1059, subsection 2, paragraph B, subparagraph (2); or section 1059, subsection 2, paragraph C, subparagraph (2); filed within 10 days of any deadline is not subject to penalty. Reports filed after the applicable grace period are subject to penalties from the original filing deadline.

E. A report required to be filed within 6 days before an election ~~which that~~ is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. Any required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days ~~there after~~ after the transmission.

F. The commission, upon ~~determining that a report is late~~ assessing a penalty, shall notify the Secretary of State ~~of the lateness~~. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice ~~of a late report~~ from the commission. The Secretary of State ~~shall have~~ has all necessary powers to carry out this responsibility.

G. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1); section 1059, subsection 2, paragraph C, subparagraph (1); or section 1059, subsection 2, paragraph E; within 30 days of the date of the election and shall make that list available for public inspection.

3. Enforcement. Failure to pay the full amount of any penalty levied under this section is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of the ~~lateness of any report assessment of a penalty~~, the Secretary of State shall report to the Attorney General the name of any political action committee and treasurer that failed to pay the full amount of any penalty. The Attorney General shall enforce this violation in a civil action to collect the full outstanding amount of the penalty. The action ~~shall~~ must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.

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

Effective June 9, 1995.

CHAPTER 229

H.P. 739 - L.D. 1013

An Act to Facilitate the Regulation of Alcohol in Auditoriums

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

Sec. 1. 28-A MRSA §1069-A, sub-§3, as enacted by PL 1989, c. 158, §9, is repealed.

See title page for effective date.

CHAPTER 230

S.P. 72 - L.D. 160

An Act to Protect the Integrity of Seawalls and Retaining Walls

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

Sec. 1. 38 MRSA §480-W is enacted to read:

§480-W. Emergency actions to protect threatened property

Notwithstanding section 480-C, if the local code enforcement officer or a state-certified geologist determines that the integrity of a seawall, bulkhead, retaining wall or similar structure in a coastal sand dune system is destroyed or threatened, the owner of property protected by the seawall, bulkhead or similar structure may, without obtaining a permit under this article:

1. Protective materials. Place riprap, sandbags or other heavy nonhazardous material to shore up the threatened structure and replace, repair or leave the materials in place until a project designed to alleviate the threat is certified by the department and by the local code enforcement officer, and that project requires removal of the material; and

2. Strengthening of structure. Take such actions as are necessary to strengthen the seawall, retaining wall or other structure, including widening the footings and securing the structure to the sand with bolts.

If a local code enforcement officer fails to determine whether the integrity of a structure is destroyed or threatened within 12 hours of initial contact by the property owner, the property owner may proceed as if the code enforcement officer had determined that the integrity of the structure was destroyed or threatened.

See title page for effective date.

CHAPTER 231

H.P. 60 - L.D. 96

An Act to Limit Nuisance Actions and Noise Ordinances Relating to Sport Shooting Ranges

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

Sec. 1. 17 MRSA §2806 is enacted to read:

§2806. Sport shooting ranges

1. Acquisition of property near existing range. Except as provided in this subsection, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within 3 years from the beginning of the substantial change.

2. Establishment of shooting range near existing property. A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within 5 years after establishment of the range or 3 years after a substantial change in use of the range.

3. Dormant shooting range. If there has been no shooting activity at a range for a period of 3 years, resumption of shooting is considered establishment of a new shooting range for purposes of this section.

4. Application. This section does not limit nuisance actions against shooting ranges established after the effective date of this section.

Sec. 2. 30-A MRSA §3011 is enacted to read:

§3011. Regulation of sport shooting ranges

1. Definition. As used in this section, "sport shooting range" means an area designed and used for archery, skeet and trap shooting or other similar

shooting sports and the shooting of rifles, shotguns and pistols.

2. Limitation. A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance.

3. Expansion of activity. Nothing in this section limits the ability of a municipality to regulate noise produced by the expansion of activity at a sport shooting range.

See title page for effective date.

CHAPTER 232

H.P. 548 - L.D. 744

An Act to Apply the Hospital Cooperation Act of 1992 to a Broader Range of Health Care and Social Service Agencies

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

Sec. 1. 22 MRSA §1882, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. Cooperative agreement. "Cooperative agreement" means an agreement among 2 or more hospitals or nonprofit mental health care providers for the sharing, allocation or referral of patients, personnel, instructional programs, mental health services, support services and facilities or medical, diagnostic or laboratory facilities or procedures or other services traditionally offered by hospitals or nonprofit mental health care providers, or for the coordinated negotiation and contracting with payors or employers.

Sec. 2. 22 MRSA §1882, sub-§3 is enacted to read:

3. Nonprofit mental health care provider. "Nonprofit mental health care provider" means a corporation organized under the Maine Nonprofit Corporation Act or an organization recognized as exempt from federal income tax under 26 United States Code, Section 501(c)(3) that is engaged primarily in the provision of mental health services.

Sec. 3. 22 MRSA §1883, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. Authority. A hospital or nonprofit mental health care provider may negotiate and enter into cooperative agreements with other hospitals or

nonprofit mental health care providers in the State if the likely benefits resulting from the agreements outweigh any disadvantages attributable to a reduction in competition that may result from the agreements.

Sec. 4. 22 MRSA §1883, sub-§4, ¶¶A and B, as enacted by PL 1991, c. 814, §1, are amended to read:

A. In evaluating the potential benefits of a cooperative agreement, the department shall consider whether one or more of the following benefits may result from the cooperative agreement:

(1) Enhancement of the quality of hospital and hospital-related or nonprofit mental health care or related care provided to Maine citizens;

(2) Preservation of hospital or nonprofit mental health care provider and related facilities in geographical proximity to the communities traditionally served by those facilities;

(3) Gains in the cost efficiency of services provided by the hospitals or nonprofit mental health care providers involved;

(4) Improvements in the utilization of hospital or nonprofit mental health care provider resources and equipment; and

(5) Avoidance of duplication of hospital or nonprofit mental health care resources.

B. The department's evaluation of any disadvantages attributable to any reduction in competition likely to result from the agreement may include, but need not be limited to, the following factors:

(1) The extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents or other health care payors to negotiate optimal payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(2) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals or nonprofit mental health care providers that is likely to result directly or indirectly from the hospital cooperative agreement;

(3) The extent of any likely adverse impact on patients or clients in the quality, availability and price of health care services; and

(4) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.

Sec. 5. 22 MRSA §1885, sub-§6, as enacted by PL 1991, c. 814, §1, is amended to read:

6. Fees and costs. If the Attorney General prevails in an action under this section, the Department of the Attorney General is entitled to an award of the reasonable costs of deposition transcripts incurred in the course of the investigation or litigation and reasonable attorney's fees, expert witness fees and court costs incurred in litigation. In addition, a nonprofit mental health care provider shall reimburse the Department of the Attorney General for the costs incurred by the department in its review of an application for a certificate of public advantage submitted by a nonprofit mental health care provider or a proposed cooperative agreement submitted to the Attorney General by a nonprofit mental health care provider prior to the filing of an application, including but not limited to the costs of retaining experts, travel and obtaining data.

Sec. 6. 22 MRSA §1887, as enacted by PL 1991, c. 814, §1, is amended to read:

§1887. Assessment

Except for state-operated mental health hospitals, all hospitals licensed by the department are subject to an annual assessment under this chapter. The department shall collect the assessment. The amount of the assessment must be based upon each hospital's gross patient service revenue. For any fiscal year, the aggregate amount raised by the assessment must be equal to the amount allocated by law to carry out the purposes of this chapter in that fiscal year. The allocation for the fiscal years 1995-96 and 1996-97 is limited to no more than \$200,000 per year. The department shall deposit funds collected under this section into a dedicated revenue account. Funds remaining in the account at the end of each fiscal year do not lapse but carry forward into subsequent years. Funds deposited into the account must be allocated to carry out the purposes of this chapter.

Sec. 7. 22 MRSA §1888, as enacted by PL 1991, c. 814, §1, is amended to read:

§1888. Review

~~The department may not accept any application under this chapter after June 30, 1995.~~ By January 1, ~~1995~~ 1999, the Attorney General and the department shall submit recommendations, along with any necessary legislation, to the joint standing committee

of the Legislature having jurisdiction over human resources matters regarding whether this chapter should be amended.

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

	1995-96	1996-97
ATTORNEY GENERAL, DEPARTMENT OF		
Administration - Attorney General		
All Other	\$20,000	\$20,000
Provides funds for the cost of experts and other costs related to analyzing hospital cooperative activity.		

See title page for effective date.

CHAPTER 233

H.P. 961 - L.D. 1350

**An Act to Repeal Boards That Have
Not Filed Annual Reports with the
Secretary of State**

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

PART A

Sec. A-1. 5 MRSA §12004-H, sub-§1, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-2. 7 MRSA §402-A, sub-§1, as amended by PL 1989, c. 503, Pt. B, §40, is repealed.

Sec. A-3. 7 MRSA §402-A, sub-§3, as enacted by PL 1981, c. 705, Pt. I, §1, is repealed.

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§36-A, as enacted by PL 1989, c. 892, §1, is repealed.

Sec. B-2. 22 MRSA §4092, sub-§1-A, as enacted by PL 1989, c. 892, §2, is repealed.

Sec. B-3. 22 MRSA §4094, as enacted by PL 1989, c. 892, §3, is repealed.

PART C

Sec. C-1. 5 MRSA §12004-I, sub-§57, as amended by PL 1989, c. 878, Pt. A, §142, is repealed.

Sec. C-2. 30-A MRSA §2311, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2311. Establishment

The municipal officers of any 2 or more municipalities, by appropriate action ~~and as authorized by Title 5, chapter 379~~, may enter into an agreement, between or among those municipalities, for the establishment of a regional council of governments.

See title page for effective date.

CHAPTER 234**H.P. 677 - L.D. 928**

**An Act to Encourage Compliance
with Environmental Laws
Administered by the Department of
Environmental Protection**

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

Sec. 1. 38 MRSA §343-C, sub-§1, as enacted by PL 1991, c. 804, Pt. C, §3, is amended to read:

1. Program components. The program must:

- A. Provide for the development, collection and coordination of information concerning compliance methods and technologies;
- B. Provide for the encouragement of lawful cooperation among persons engaged in activities regulated by the department;
- C. Provide assistance with pollution prevention and accidental release detection and prevention;
- D. Ensure that a person engaging in an activity that is subject to regulation by the department is informed of that person's rights and obligations under environmental programs administered by the department, and assist persons in determining the applicable permitting and programmatic requirements of the department; and
- E. Develop procedures to consider requests from regulated persons to modify work practice or technological compliance methods or the milestones for implementing those methods.

Any instance of noncompliance identified as a result of a person requesting assistance through the program must be corrected by that person. The commissioner is not required to initiate a formal enforcement action against a person found to be in noncompliance as a result of a request for assistance through the program. The commissioner, in cooperation with the Attorney General and in conformity with federal requirements, shall develop a written enforcement policy for responding to violations identified as a result of a small business requesting assistance through the program. The policy must outline conditions under which the department will forego civil penalties when the violation is not a recurrence of a violation for which a prior formal or informal enforcement response has been taken, the violation was inadvertent and did not result in significant environmental harm or risk to human health and the business acts promptly and responsibly to correct the violation.

Sec. 2. Report; legislation authorized.

The Commissioner of Environmental Protection shall submit the written enforcement policy developed pursuant to section 1 of this Act to the members of the Joint Standing Committee on Natural Resources by February 1, 1996. The Joint Standing Committee on Natural Resources is authorized to report out legislation to the Second Regular Session of the 117th Legislature if a majority of the committee determines that legislation is advisable in response to the commissioner's policy.

See title page for effective date.

CHAPTER 235**H.P. 354 - L.D. 474**

**An Act Relating to Equipment
Start-up, Shutdown and Unavoidable
Malfunction**

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

Sec. 1. 38 MRSA §349, sub-§9, as amended by PL 1993, c. 232, §1, is further amended to read:

9. Unavoidable malfunctions. The commissioner may exempt from civil penalty an air emission or a wastewater discharge in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. There may be no exemption if the malfunction is caused, entirely or in part, by poor maintenance.

nance, careless operation, poor design or any other reasonably preventable condition or preventable equipment breakdown. The burden of proof is on the licensee seeking the exemption under this subsection. In the event of an unavoidable malfunction, the licensee shall notify the commissioner ~~in writing~~ within 48 hours and submit a written report, together with any exemption requests, to the department on a quarterly basis. The commissioner shall annually report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters with regard to the exercise of this authority.

Sec. 2. 38 MRSA §605, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §174, is further amended to read:

§605. Malfunctions

Any person owning or operating any emission source that suffers a malfunction or breakdown in any component part and that malfunction or breakdown causes a violation of any emission standards shall notify the commissioner ~~in writing~~ within 48 hours and submit a written report to the department on a quarterly basis.

See title page for effective date.

CHAPTER 236

S.P. 64 - L.D. 93

An Act to Amend the Maine Tree Growth Tax Law

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

Sec. 1. 36 MRSA §573, sub-§2-A is enacted to read:

2-A. Commercial harvesting or harvesting for commercial use. "Commercial harvesting" or "harvesting for commercial use" means the harvesting of forest products that have commercial value, as defined in subsection 3-B.

Sec. 2. 36 MRSA §573, sub-§3-A, as amended by PL 1991, c. 428, §2, is further amended to read:

3-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not

limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with this subsection and with sound silvicultural practices.

Sec. 3. 36 MRSA §573, sub-§3-B is enacted to read:

3-B. Forest products that have commercial value. "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

Sec. 4. 36 MRSA §574-B, sub-§1, ¶A, as amended by PL 1993, c. 576, §1, is further amended to read:

A. By April 1, ~~1996~~ 1999, file a sworn statement that a revised management plan has been prepared for the parcel of forest land;

Sec. 5. 36 MRSA §574-B, sub-§1, ¶C, as amended by PL 1995, c. 8, §1, is further amended to read:

C. Notwithstanding section 581, withdraw from tree growth classification pursuant to this paragraph for the 1996 tax year.

For withdrawal from tree growth classification under this paragraph, the entire parcel subject to that classification in 1993 must be withdrawn from classification for the 1996 tax year. Persons electing to withdraw under this paragraph shall notify the assessor before April 1, 1996 and pay a penalty equal to the taxes that would have been assessed on the first day of April for the 5 tax years, or any lesser number of tax years starting with the year in which the property was first classified, preceding that withdrawal had the real estate been assessed in each of those years at its fair market value on the date of withdrawal less all taxes paid on that real estate over the preceding 5 years and interest at the legal rate from the date or dates on which those amounts would have been payable. Persons electing to withdraw under this paragraph may pay the penalty owed in 5 equal annual installments with interest at the legal rate to begin 60 days after the date of assessment. Notwithstanding section 943, the period during which the tax lien mortgage, including interest and costs, must be paid to avoid foreclosure and expiration of the right of redemption is 48 months instead of 18 months. The procedure for withdrawal provided in this

paragraph is intended to be an alternative to the procedure in section 581;

See title page for effective date.

CHAPTER 237

H.P. 787 - L.D. 1104

An Act to Amend the Structure of the Electricians' Examining Board

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

Sec. 1. 32 MRSA §1151, first and 2nd ¶¶, as amended by PL 1991, c. 438, §1, are further amended to read:

The Electricians' Examining Board, as established by Title 5, section 12004-A, subsection 13, and in this chapter called the "board," consists of 7 members appointed by the Governor, called the "appointive members," and the Commissioner of Professional and Financial Regulation or a representative appointed by the commissioner.

The 7 appointive members ~~shall~~ consist of: one master electrician experienced in low-energy electronics; one electrician who is a bona fide member from organized labor classified as an inside electrician; one electrical inspector; one master electrician from the education field; and one person experienced in the electrical field, all of whom ~~shall~~ must have at least 10 years of experience in the electrical field; provided that the latter 3 need not be active electricians at the time of their appointment; and 2 representatives of the public. At the time of each appointment, the State Electrical Associates may nominate 3 persons for that appointment. To the extent the State Electrical Associates so nominates persons otherwise qualified for appointment to the board, the appointive members, other than the representatives of the public, may be selected from the persons so nominated.

See title page for effective date.

CHAPTER 238

S.P. 314 - L.D. 895

An Act to Require Additional Disclosure of Terms in Credit Life and Credit Health Insurance Policies

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

Sec. 1. 24-A MRSA §2857, sub-§2, as enacted by PL 1969, c. 132, §1, is amended to read:

2. Content of policy or certificate. Each individual policy or group certificate of credit life insurance or credit health insurance ~~shall~~ must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor, or, in the case of a certificate under a group policy, the identity by name or otherwise of the debtor; the premium or amount of payment, if a separate identifiable charge is paid by the debtor separately for credit life insurance and credit health insurance; a description of the coverage, including the amount and term ~~thereof~~ of the coverage, and any exceptions, limitations and restrictions, including conditions under which the policy may be terminated, which must be highlighted in bold print; and ~~shall~~ must state that the benefit ~~shall be~~ is paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any ~~such~~ excess shall be is payable to a beneficiary, other than the creditor, named by the debtor or to ~~his~~ the debtor's estate. During the 30 days immediately following the commencement date, the debtor may cancel the insurance and request in writing a full refund of premium for any reason.

See title page for effective date.

CHAPTER 239

S.P. 128 - L.D. 320

An Act to Clarify Immunity from Civil Suit for Volunteer Activities

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

Whereas, there are a number of successful free medical clinics in this State that must rely on the ability of health care practitioners to volunteer their professional assistance; and

Whereas, unless the health care practitioners are in private practice, they must obtain separate malpractice insurance to cover their volunteer services; and

Whereas, immediate enactment of this legislation is necessary to prevent the loss of valuable services at these clinics; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 24 MRSA §2904, as amended by PL 1989, c. 74, §1, is further amended to read:

§2904. Immunity from civil liability for volunteer activities

Notwithstanding any inconsistent provision of any public or private and special law, no licensed ~~physician, podiatrist as defined in Title 32, section 3551 or dentist as defined in Title 32, section 1081, health care practitioner as defined in section 2502~~ who voluntarily, without the expectation or receipt of monetary or other compensation, provides professional services within the scope of that ~~physician's or podiatrist's~~ health care practitioner's licensure to a nonprofit organization or to an agency of the State ~~or any political subdivision of the State~~ or to members or recipients of services of that organization or state ~~or local~~ agency may be liable for damages or injuries alleged to have been sustained by the person nor for damages for the death of the person when the injuries or death are alleged to have occurred by reason of an act or omission in the rendering of professional services, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence of the ~~licensed physician or podiatrist~~ health care practitioner.

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

Effective June 14, 1995.

CHAPTER 240

S.P. 168 - L.D. 429

**An Act to Amend Real Estate
Appraisal Licensing and
Certification Laws**

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

Sec. 1. 32 MRSA §13251-A is enacted to read:

§13251-A. Conflict of interest

A real estate broker or associate broker may not knowingly provide or offer an appraisal or opinion of market value, as set forth in section 13963, on real estate in a transaction where the broker or associate

broker, or any other licensee licensed with the agency, is to receive a fee on that transaction.

Sec. 2. 32 MRSA §13963, as enacted by PL 1989, c. 806, §3, is amended to read:

§13963. Exemption

This Act does not apply to appraisals or opinions of market value ~~done prepared by real estate licensees licensed by this State~~ associate brokers or brokers who maintain active licenses pursuant to chapter 114 rendered for purposes other than for federally related transactions as defined in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, or in the federal Office of Management and Budget Circular A-129, as either is amended, or as the rules referred to in either are amended.

Any opinion or appraisal of market value rendered under this section must contain the following language in bold print in a prominent location:

"This opinion or appraisal was prepared solely for the client, purpose and function stated in this report and is not intended for subsequent use. It was not prepared by a licensed or certified appraiser and may not ~~be acceptable for use in transactions involving federal funds~~ comply with the appraisal standards of the Uniform Standards of Professional Appraisal Practice."

Sec. 3. 32 MRSA §13984, sub-§2, as enacted by PL 1993, c. 404, Pt. A, §24, is amended to read:

2. Minimum experience for licensed real estate appraisers. Licensed real estate appraisers on ~~the effective date of this section~~ October 13, 1993 who have not demonstrated the 2 years' experience in the real estate appraisal field required of new applicants by section 13972, subsection 6-A must demonstrate ~~such that~~ that experience to the board not later than December 31, ~~1995~~ 1997. The 2 years' experience must have taken place within the 5 years immediately preceding the submission of ~~such that~~ that experience to the board.

See title page for effective date.

CHAPTER 241

H.P. 475 - L.D. 656

**An Act to Reduce Paperwork and
Promote On-site Elementary
Neutralization of Low-hazard
Wastes**

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

Whereas, this legislation allows facilities to treat certain hazardous wastes on site without spending time and expense applying for a license to do so; and

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

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

Sec. 1. 38 MRSA §1319-L is enacted to read:

§1319-L. Exemption for treatment of corrosive hazardous wastes

1. Licensing. A hazardous waste facility license is not required under section 1317-A or 1319-O for elementary neutralization units as defined in department rules for the owner or operator of the facility who complies with requirements of law applicable to elementary neutralization or elementary neutralization units. Requirements of law include waste discharge permits authorizing the discharge of treated waste, permit or other requirements for adoption of a spill prevention plan, and maintenance of collection and treatment equipment.

2. Reporting. Collection and handling of hazardous waste exempt from licensing under subsection 1 is also exempt from the reporting requirement under section 1318, subsection 1 and section 1318-B, subsection 1 provided such wastes are discharged into a contained area, which may include a pipe or sewer.

Sec. 2. Application. A person who holds a license for operation of an elementary neutralization unit on the effective date of this Act is not required to comply with the terms of that license or the requirements of chapter 856, section 11A of the rules of the Department of Environmental Protection as of the effective date of this Act if the operation meets the requirements of the Maine Revised Statutes, Title 38, section 1319-L.

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

Effective June 14, 1995.

CHAPTER 242

S.P. 376 - L.D. 1053

An Act to Promote the Collection of Data Concerning the Importing and Exporting of Forest Products

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

Sec. 1. 12 MRSA §8883-A is enacted to read:

§8883-A. Notification of importing or exporting

Prior to importing or exporting forest products, a person, firm, corporation or company or a designated agent shall notify the bureau of the intent to import or export forest products.

1. Notification prior to importing or exporting. Notification must be on forms supplied by the bureau and must include the following:

A. The name, address and phone number of the person, firm, corporation or company or designated agent;

B. The signature of the person or a manager of the firm, corporation or company or a designated agent; and

C. The date of notification.

2. Notification form on file. The person, firm, corporation or company or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888.

Sec. 2. 12 MRSA §8884, sub-§2, as affected by PL 1989, c. 600, Pt. B, §11, is amended to read:

2. Imports and exports. Persons, firms, corporations or companies selling ~~roundwood~~ forest products out of the State or buying ~~roundwood~~ forest products to bring into the State shall submit an annual report to the director of the bureau during the month of January ~~information required under subsection 1, including information on residue for the forest products sold out of the State or brought into the State.~~ The report ~~shall~~ must also identify the origin of imported ~~roundwood~~ forest products by state or country and the destination of exported ~~roundwood~~ forest products by state or country.

See title page for effective date.

CHAPTER 243**H.P. 884 - L.D. 1237****An Act to Ensure Public Review and
Legislative Oversight of Proposals
Regarding the Introduction or
Reintroduction of Threatened or
Endangered Species****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 12 MRSA §7754, sub-§1**, as enacted by PL 1979, c. 420, §1, is amended to read:

1. Conservation of nongame and endangered species. The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:

A. Acquisition of land or aquatic habitat or interests ~~therein~~ in land or aquatic habitat;

B. Propagation;

C. Live trapping;

D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the Atlantic Sea Run Salmon Commission, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and

E. In the extraordinary case where population pressures within a given group ecosystem ~~cannot~~ can not be otherwise relieved, regulated taking.

See title page for effective date.

CHAPTER 244**H.P. 966 - L.D. 1375****An Act to Repeal the Law Regarding
Access to Property via Abandoned
Roads****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 14 MRSA §6663**, as enacted by PL 1993, c. 677, §1, is repealed.

See title page for effective date.

CHAPTER 245**S.P. 390 - L.D. 1067****An Act to Require That a Vacancy in
a County Office Be Filled by an
Appointee from the Same Political
Party****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 4 MRSA §301**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:**§301. Terms; vacancies; salary**

Judges of probate are elected or appointed as provided in the Constitution of Maine. Only attorneys at law admitted to the general practice of law in this State and resident ~~therein~~ in this State may be elected or appointed as judges of probate. Their election is effected and determined as is provided respecting county commissioners; and they enter upon the discharge of their duties on the first day of January following their election; but, when appointed to fill vacancies, their terms commence on their appointment. Vacancies must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a judge of probate who was nominated by primary election before the general election, the judge of probate appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the judge of probate whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

Judges of probate in the several counties ~~shall~~ are entitled to receive annual salaries as set forth in Title 30-A, section 2.

The fees to which judges of probate are entitled by law ~~shall~~ must be taxed and collected and paid over by the registers of probate to the county treasurers by the 15th day of every month following the month in which they were collected for the use of their counties with the exception of the fees provided in section 304, which ~~shall~~ must be retained by the judge who collects

~~the same~~ those fees in addition to ~~his~~ the judge's salary.

Sec. 2. 18-A MRSA §1-501, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§1-501. Election; bond; vacancies; salaries; copies

Registers of probate are elected or appointed as provided in the Constitution of Maine. Their election is effected and determined as is provided respecting county commissioners by Title 30-A, chapter 1, subchapter II, and they enter upon the discharge of their duties on the first day of January following their election; but the term of those appointed to fill vacancies commences immediately. All registers, before acting, shall give bond to the treasurer of their county with sufficient sureties in the sum of \$2,500, except that this sum ~~shall~~ must be \$10,000 for Cumberland County. Every register, having executed such bond, shall file it in the office of the clerk of the county commissioners of ~~his~~ that register's county, to be presented to them at their next meeting for approval. After the bond has been so approved, the clerk shall record it and certify the fact thereon, and retaining a copy thereof, deliver the original to the register, who shall deliver it to the treasurer of the county within 10 days after its approval, to be filed in ~~his~~ the treasurer's office. Vacancies must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a register of probate who was nominated by primary election before the general election, the register of probate appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the register of probate whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

Registers of probate in the several counties ~~shall~~ are entitled to receive annual salaries as set forth in Title 30-A, section 2.

The salaries of the registers of probate ~~shall~~ must be in full compensation for the performance of all duties required of registers of probate. They may make copies of wills, accounts, inventories, petitions and decrees and furnish the same to persons calling for them and may charge a reasonable fee for such service, which ~~shall be deemed~~ is considered a fee for the use of the county. Exemplified copies of the record of the probate of wills and the granting of administrations, guardianships and conservatorships, copies of petitions and orders of notice thereon for personal service, appeal copies and the statutory fees for abstracts and copies of the waiver of wills and other copies required to be recorded in the registry of deeds

~~shall be deemed to be~~ are considered official fees for the use of the county.

~~Nothing in this~~ This section may not be construed to change or repeal any provisions of law requiring the furnishing of certain copies without charge.

Sec. 3. 30-A MRSA §63, last ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

In the case of a vacancy in the term of a commissioner who was nominated by primary election before the general election, the commissioner appointed by the Governor must be enrolled in the same political party as the commissioner whose term ~~was~~ is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee of the political party from which the appointment is to be made.

Sec. 4. 30-A MRSA §151, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Vacancy. If a person ~~so~~ chosen treasurer as provided in subsection 1 declines to accept or a vacancy occurs, the Governor may appoint a suitable resident of the county to serve as treasurer. When that person has accepted the office, provided a bond and been sworn, that person ~~shall be~~ is treasurer until the first day of January following the next biennial election, at which election a treasurer ~~shall~~ must be chosen for the remainder of the term, if any; but, in any event, that person ~~shall hold~~ holds office until another is chosen and qualified.

A. In the case of a vacancy in the term of a treasurer who was nominated by primary election before the general election, the treasurer appointed by the Governor must be enrolled in the same political party as the treasurer whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

Sec. 5. 30-A MRSA §252, sub-§2, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. In the case of a vacancy in the term of a district attorney who was nominated by primary election before the general election, the district attorney appointed by the Governor must be enrolled in the same political party as the district attorney whose term ~~was~~ is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county

committee or committees of the political party from which the appointment is to be made.

Sec. 6. 30-A MRSA §371, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§371. Election or appointment; vacancies

Sheriffs ~~shall~~ must be elected or appointed and shall hold their offices according to the Constitution of Maine. Their election ~~shall~~ must be conducted and determined as is provided for county commissioners. They shall take office on the first day of January following their election. Vacancies must be filled as provided in the Constitution of Maine. In the case of a vacancy in the term of a sheriff who was nominated by primary election before the general election, the sheriff appointed by the Governor to fill the vacancy until a successor is chosen at election must be enrolled in the same political party as the sheriff whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted to the Governor by the county committee of the political party from which the appointment is to be made.

Sec. 7. 33 MRSA §601, as amended by PL 1989, c. 502, Pt. B, §40, is further amended by adding at the end a new paragraph to read:

In the case of a vacancy in the term of a register of deeds who was nominated by primary election before the general election, the register of deeds appointed by the Governor must be enrolled in the same political party as the register of deeds whose term is vacant. In making the appointment, the Governor shall choose from any recommendations submitted by the county committee of the political party from which the appointment is to be made.

See title page for effective date.

CHAPTER 246

H.P. 974 - L.D. 1383

**An Act to Establish Periodic
Adjustments in the Mileage
Reimbursements**

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

Sec. 1. 5 MRSA §8002, sub-§2, as amended by PL 1989, c. 700, Pt. A, §19, is further amended to read:

2. Agency. "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory

proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term ~~shall~~ does not include the Legislature, Governor, courts, University of Maine System, Maine Maritime Academy, technical colleges, the Commissioner of Education for schools of the unorganized territory, school administrative units, community action agencies as defined in Title 22, section 5321, special purpose districts or municipalities, counties or other political subdivisions of the State.

See title page for effective date.

CHAPTER 247

H.P. 679 - L.D. 930

**An Act to Amend the Motor Vehicle
Laws**

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

Sec. 1. 29-A MRSA §351, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Temporary permit to tow unregistered vehicle. A law enforcement officer; or an employee of the bureau designated by the Secretary of State ~~or a certified reserve officer while on duty, when necessary and not detrimental to public safety,~~ may issue a permit in writing to allow:

A. An unregistered motor vehicle to be towed either by a regular service wrecker or by the use of a towbar; or

~~B. The operation of an unregistered motor vehicle only to the owner's residence or to an office of the bureau for the sole purpose of renewing the registration by the same owner; or~~

C. An unregistered trailer or semitrailer with a gross weight of 3,000 pounds or less to be towed, for one trip only, between the points of origin and destination.

~~A permit may be issued under paragraphs A and B only when the previous registration on the vehicle has expired within 30 days. A permit issued under this subsection is valid for no more than 3 days, including the date of issuance.~~

Sec. 2. 29-A MRSA §351, sub-§3-A is enacted to read:

3-A. Permit to operate unregistered vehicle.
Upon stopping a vehicle with a registration that has

been expired for more than 30 days, a law enforcement officer may issue a permit to the owner or operator of the vehicle to operate the vehicle to the owner's residence or to an office of the bureau for the sole purpose of renewal of the registration by the owner.

Sec. 3. 29-A MRSA §2052, sub-§7 is enacted to read:

7. Backing. An operator may not drive a vehicle in reverse or back a vehicle on a limited-access way or on an entrance or exit of a limited-access way.

Sec. 4. 29-A MRSA §2054, sub-§2, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. Only a police vehicle may be equipped with a device that provides for alternate flashing of the vehicle's brake or rear directional lights and back-up lights or strobe lights behind the rear brake lenses.

Sec. 5. 29-A MRSA §2076, sub-§3, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. A motor vehicle that, in accordance with 49 Code of Federal Regulations, Part 172, Subpart F, is required to be marked or placarded ~~with one of the following markings:~~

- ~~(1) Explosives A;~~
- ~~(2) Explosives B;~~
- ~~(3) Poison gas;~~
- ~~(4) Flammable solid W;~~
- ~~(5) Radioactive;~~
- ~~(6) Flammable;~~
- ~~(7) Blasting agent;~~
- ~~(8) Nonflammable gas;~~
- ~~(9) Chlorine;~~
- ~~(10) Poison;~~
- ~~(11) Oxygen;~~
- ~~(12) Flammable gas;~~
- ~~(13) Combustible;~~
- ~~(14) Flammable solid;~~
- ~~(15) Oxydizer;~~

~~(16) Organic peroxide;~~

~~(17) Corrosive; or~~

~~(18) Dangerous;~~

Sec. 6. 29-A MRSA §2380, sub-§5, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. When the load will pitch to the center of the vehicle, a strip of wood or metal 3 inches thick must extend along the sides of the platform, from front to rear, securely fastened to the platform;
~~or.~~

Sec. 7. 29-A MRSA §2380, sub-§5, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 8. 29-A MRSA §2386, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

See title page for effective date.

CHAPTER 248

H.P. 925 - L.D. 1306

An Act to Amend the Laws Governing Civil Liability for Individual Medical Providers with Whom the Department of Corrections Contracts

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

Sec. 1. 34-A MRSA §1213 is enacted to read:

§1213. Contract to provide medical care

Any individual medical provider contracting with the department when providing medical care within a correctional or detention facility pursuant to section 3031, subsection 2 under a contract with the department is deemed for purposes of civil liability to be an employee of a governmental entity under the Maine Tort Claims Act, Title 14, chapter 741.

See title page for effective date.

CHAPTER 249

H.P. 772 - L.D. 1069

An Act to Promote the Use of Alternative Dispute Resolution in State Government

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

Sec. 1. 5 MRSA §8051, as amended by PL 1989, c. 297, §1, is further amended to read:

§8051. Adoption of rules of practice

In addition to other rule-making requirements imposed by law, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by law. The first time after October 1, 1995 that an agency proposes to adopt or modify the rules of practice governing the conduct of adjudicatory proceedings or licensing proceedings, the agency shall also propose any rules reasonably necessary to promote, when appropriate, the efficient and cost-effective use of alternative dispute resolution techniques, including the use of neutral facilitators, mediators or arbitrators. If the agency determines that it is unnecessary or inappropriate to propose these rules, it shall so state in the notice of rulemaking required under section 8053. A written explanation of the reasons for the agency's determination must be included in the basis statement of rule. Any agency rule of practice which that imposes a time period or deadline for the filing of any submission or for the service of any paper shall must provide that filing or service is complete:

1. Upon an agency. Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or

2. Upon a party. Upon a party, when the paper is mailed to the party or the party's attorney, ~~upon~~ by in-hand delivery to the recipient or by delivery to the recipient's office.

See title page for effective date.

CHAPTER 250

S.P. 370 - L.D. 1047

**An Act to Allow Towns to Register
Vehicles on Loan through the
Federal Excess Property Program
without Local Title**

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

Sec. 1. 29-A MRSA §652, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. United States' vehicle. A vehicle owned by the Federal Government, unless it is registered in this State or, at the discretion of the Secretary of State, a vehicle owned by the Federal Government that is loaned to the State or a municipality for forest fire control activities;

See title page for effective date.

CHAPTER 251

H.P. 1057 - L.D. 1486

**An Act to Add Types of Pharmacies
That Are Subject to Record Seizure**

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

Sec. 1. 32 MRSA §13723, sub-§7, as amended by PL 1991, c. 274, §2, is further amended to read:

7. Investigatory powers. The board shall notify the Department of the Attorney General upon receipt of a complaint. Upon receipt of the notifications, the Attorney General shall notify the department within a timely period if the alleged violation requires criminal investigation. If a case does not require criminal investigation, the board or its authorized representatives may investigate and gather evidence concerning alleged violations of this Act or of the rules of the board. The board or an officer authorized pursuant to paragraph A may remove from any ~~drug outlet or wholesaler premises~~ premises authorized for inspection pursuant to section 13721, subsection 1, paragraph D certain original records relating to scheduled drugs or controlled substances, including, but not limited to, prescription records, shipping and delivery records, patient profiles, inventories and other drug records for the purposes of analysis, duplication and furthering the investigation. A signed inventory receipt of any records being removed must be furnished to the ~~drug outlet or wholesaler premises~~ by the board or an authorized officer. When a means of producing legible photocopies is readily available at the site of the records being removed, an authorized officer removing the records shall leave photocopies of the records as part of an inventory receipt in accordance with this subsection. Except when photocopies are left as part of an inventory receipt, the board or an authorized officer removing records from a ~~drug outlet or wholesaler premises~~ the premises shall, within 48 hours from the time of removal, provide to a representative of the ~~drug outlet or wholesaler premises~~ photocopies of any removed records, together with a certificate identifying the agency in possession of the records, or return the original records. Inventory receipts and photocopies of any

removed records provided by the board or an authorized officer are admissible as evidence if offered by ~~the drug outlet or wholesaler~~ any representative of the premises to prove compliance with any rule of the board or requirement of law.

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's inspectors and investigators, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board or the Attorney General for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. No officer having knowledge by virtue of the officer's office of any such prescription, order or record may divulge that knowledge, except before a licensing or registration board or officer or in connection with a prosecution or proceeding in court.

B. The Bureau of Health, the board, their officers, agents, inspectors and representatives, all peace officers within the State and all prosecuting attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to prescription or legend drugs or their equivalent.

See title page for effective date.

CHAPTER 252

H.P. 842 - L.D. 1173

An Act to Amend the Maine Criminal Code Sentence Alternative for Forfeiture of Firearms

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

Sec. 1. 17-A MRSA §1158, as amended by PL 1989, c. 815, is further amended to read:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm that constitutes the basis for conviction under Title 15, section 393 or under section 1105, subsection 1, paragraph C or that is used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13 must be forfeited to the State and the court

shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

See title page for effective date.

CHAPTER 253

S.P. 466 - L.D. 1262

An Act to Make Certain Changes to the Maine Juvenile Code

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

Sec. 1. 15 MRSA §3310, sub-§5, ¶B, as enacted by PL 1977, c. 520, §1, is repealed and the following enacted in its place:

B. Following the issuance of the order of adjudication, a dispositional hearing must be commenced. Upon motion of any interested party or on the court's own motion, the time for the commencement of the dispositional hearing may be increased to 2 weeks or, upon cause shown, for a longer period. Once commenced, the dispositional hearing may be continued one or more times for any of the reasons specified in section 3312, subsection 3 or, upon cause shown, for any other reason.

Sec. 2. 15 MRSA §3311, sub-§3, as amended by PL 1983, c. 480, Pt. B, §16, is further amended to read:

3. Requirement for dispositional hearing. ~~Unless waived~~ If ordered by the court, the Department of Corrections shall make a social study and prepare a written report on every juvenile adjudicated as having committed a juvenile crime and shall present that report to the juvenile court prior to that juvenile's dispositional hearing. The person who prepared the report may be ordered to appear, as provided in subsection 1.

Sec. 3. 15 MRSA §3312, sub-§1, as amended by PL 1979, c. 681, §28, is further amended to read:

1. Evidence of proper disposition. After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. ~~¶~~

~~not waived by the court, such~~ Such evidence shall must include, but is not necessarily be limited to, the social study and written report, if ordered prepared under section 3311, subsection 3, and other reports as provided in section 3311, subsection 1. Any person who would be entitled to address the court pursuant to Title 17-A, section 1257 if the conduct for which the juvenile has been adjudicated had been committed by an adult, as provided in that section, must be accorded notice of the dispositional hearing and the right to address the court. The Maine Rules of Evidence shall do not apply in dispositional hearings.

Sec. 4. 15 MRSA §3314, sub-§6 is enacted to read:

6. Forfeiture of firearms. As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393 or Title 17-A, section 1105, subsection 1, paragraph C and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1158 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1158 govern forfeitures under this subsection.

See title page for effective date.

CHAPTER 254

H.P. 1040 - L.D. 1459

An Act to Make Changes to the Public Utilities Laws

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

Sec. 1. 35-A MRSA §307, first ¶, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

No change may be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes must be plainly indicated upon existing schedules by filing new schedules in lieu of them 30 days prior to the time they are to take effect. The commission may,

for good cause shown, allow changes upon less than the notice specified or modify the requirements of this section and section 308 in respect to publishing, posting and filing of ~~tariffs~~ schedules, either in particular instances or by a ~~general order rule~~ applicable to special or peculiar circumstances or conditions.

Sec. 2. 35-A MRSA §703, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Existing contracts. The furnishing by a public utility of a product or service at the rates and upon terms and conditions provided for in a contract in existence January 1, 1913, may not be construed as constituting a discrimination or undue or unreasonable preference or advantage within the meaning specified. When any such contract or contracts are or become terminable by notice of a utility, the commission may order that the contract or contracts be terminated by the utility as and when directed by the order. ~~It shall be lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates shall not be changed during the term of the contract without the commission's consent.~~

Sec. 3. 35-A MRSA §703, sub-§3-A is enacted to read:

3-A. Special contracts. It is lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates may not be changed during the term of the contract without the commission's consent.

Sec. 4. 35-A MRSA §1309, sub-§9, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

9. Utility refusal or neglect to make refund; court action. If the utility refuses or neglects to make the refund within 30 days, the party aggrieved may maintain an action in the courts of the State to recover the amount. In the trial the findings of the commission ~~shall be~~ are prima facie evidence of the truth of the facts found by it, and no utility may avail itself of the defense of the action that the service involved was in fact made on the published ~~tariff~~ schedule rate in force at the time it was rendered.

Sec. 5. 35-A MRSA §2503, sub-§20, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

20. Exclusive method. Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply

with or be subject to any other law, including, but not limited to, Title ~~30~~ 30-A, chapter ~~240-A~~ 165.

Sec. 6. 35-A MRSA §3132, first ¶, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

~~No~~ An electric utility may not construct any generating facility or transmission line covered by ~~subsections~~ subsection 1, 1-A or 2 or rebuild or relocate any transmission line as investigated by the commission under subsection 3 unless the commission has issued a certificate of public convenience and necessity approving construction.

Sec. 7. 35-A MRSA §3903, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Election. After a determination by the municipal officers, or upon petition in accordance with subsection 2, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting called and held by them, submit the following question to the legal voters in accordance with their charter or Title ~~30~~ 30-A, section ~~2064~~ 2528:

"Shall the (name of municipality) Power District be created and incorporated under the Maine Revised Statutes, Title 35-A, chapter 39?"

Sec. 8. 35-A MRSA §3904, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Election. After a determination by the municipal officers or upon petition of the legal voters of each municipality wishing to form a district, the municipal officers shall, at the next regular election or town meeting, or at a special election or town meeting if the petition so requests, submit the following question to the legal voters of their respective municipalities in accordance with their charter or Title ~~30~~ 30-A, section ~~2064~~ 2528:

"Shall the (name of municipalities) Power District be created and incorporated under the Maine Revised Statutes, Title 35-A, chapter 39?"

Sec. 9. 35-A MRSA §3906, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Trustee. Upon formation of a district under section 3903, all the affairs of the district ~~shall~~ must be managed by a board of 3 trustees who must be residents of the district. They ~~shall~~ hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of the district, ~~his office~~

~~as trustee~~ that trustee's position becomes vacant. Trustees are subject to Title ~~30~~ 30-A, section ~~2254~~ 2605, concerning conflict of interest.

Sec. 10. 35-A MRSA §3907, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Trustees. Upon formation of a district under section 3904, all the affairs of the district ~~shall~~ must be managed by a board of trustees comprised of 2 trustees from each municipality. Trustees ~~shall~~ must be residents of their respective municipalities. They ~~shall~~ hold office as provided in subsection 2 and until their respective successors are elected and qualified. When any trustee ceases to be a resident of ~~his~~ the trustee's municipality, ~~his office as trustee~~ that trustee's position becomes vacant. Trustees are subject to Title ~~30~~ 30-A, section ~~2254~~ 2605, concerning conflict of interest.

Sec. 11. 35-A MRSA §3915, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§3915. Existing service areas

~~No~~ A municipal power district may not serve as a public utility, as defined in section 102, without consent from the commission in accordance with section ~~2404~~ 2102.

Sec. 12. 35-A MRSA §4131, sub-§3, ¶C, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

C. The Director of the ~~Office of Energy Resources~~ State Planning Office, or another employee of the ~~Office of Energy Resources~~ State Planning Office, as the director may from time to time designate in writing filed with the clerk of the agency, shall serve as a member of the board of directors.

Sec. 13. 35-A MRSA §4134, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Restrictions. The agency shall exercise the power of eminent domain in the manner provided in Title ~~30~~ 30-A, section ~~4807~~ 5108. References in Title ~~30~~ 30-A, section ~~4807~~ 5108, to an urban renewal project and a renewal project area and the like are inapplicable. Notwithstanding Title ~~30~~ 30-A, section ~~4807, subsection 2~~ 5108:

A. No facility for the generation, transmission or distribution of electricity owned by any person may be taken, except for the purpose of acquiring property or rights in it in order to permit the crossing of existing transmission or distribution facilities. In the event of a taking, the respective

rights and obligations of the agency and the property owner shall, upon petition of either party, be determined by the commission.

B. No site for a project for which any utility or person had filed an application for preliminary permit, a license or application for exemption from the Federal Energy Regulatory Commission on or before November 1, 1977, may be taken until the time, if ever, that the application is denied, and no further renewals or appeals are available to the utility or person, or the utility or person abandons its application, permit or license; and

C. No property may be taken, except as may be necessary for the proper location of transmission or distribution lines and necessary appurtenances to them, unless the property is located within the territory in which a municipality or cooperative provides service or within one mile of the territory.

See title page for effective date.

CHAPTER 255

S.P. 522 - L.D. 1420

An Act to Permit Consumer-owned Utilities to Seek Rate Reductions

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

Sec. 1. 35-A MRSA §3502, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Public hearing. ~~No A~~ consumer-owned electric utility ~~which that~~ elects to set rates under this section may ~~file with the commission or not~~ increase or decrease any rate, toll or charge without first holding a public hearing at which the Public Advocate and any customer of the consumer-owned electric utility may present testimony and may question the officials present regarding the proposed increase rate change.

Sec. 2. 35-A MRSA §3502, sub-§2, as amended by PL 1989, c. 159, §4, is further amended to read:

2. Notification. The consumer-owned electric utility shall, at least 30 days prior to the hearing, publish a notice of the amount of the proposed rate increase change, the percent of increase change for each customer class and the hearing, including the date, time, place and purpose of the hearing in a newspaper of general circulation in the area encom-

passed by the consumer-owned electric utility. In addition, 60 days prior to the hearing, the consumer-owned electric utility shall notify the commission and the Public Advocate of its intent to increase change rates, tolls or charges.

Sec. 3. 35-A MRSA §3502, sub-§3, as amended by PL 1993, c. 589, §§3 to 5, is further amended to read:

3. Ratepayer notification. Each consumer-owned electric utility shall give, at least 30 days prior to the public hearing, one notice to each of its ratepayers of:

A. The amount of the proposed rate increase change;

B. The percent of increase change for each customer class;

C. The customer's right to request information relating to the present and proposed rates;

D. The customer's right to an open and fair hearing and ~~his right~~ to further hearings before the commission;

E. The availability of assistance from the Public Advocate;

F. The date, time, place and purpose of the hearing; and

G. The customer's right to petition the commission to investigate the proposed rate increase change, the requirement that signatures on petitions filed pursuant to subsection 8 are invalid unless accompanied by the printed names and addresses of the signers and the fact that the utility will, upon request, provide customers with petition forms that include space for signatures and the printed names and addresses of the signers.

Sec. 4. 35-A MRSA §3502, sub-§4, as amended by PL 1993, c. 589, §6, is further amended to read:

4. Customer rights. At the commencement of each hearing held pursuant to this section, the consumer-owned electric utility shall inform those present of customer rights as specified in subsection 3, that the rate increase change may be investigated by the commission in accordance with subsection 8 and that petitions filed pursuant to subsection 8 must bear the signature, printed name and address of the signer. Upon request, the utility shall provide customers with petition forms that include a place for signatures and the printed names and addresses of the signers.

Sec. 5. 35-A MRSA §3502, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Supporting materials. The consumer-owned electric utility shall file a copy of all materials supporting the proposed increase rate change with the commission and the Public Advocate, at least 30 days prior to the hearing. A copy of all material supporting the proposed ~~increase shall~~ rate change must be made available to customers for examination at the offices of the consumer-owned electric utility for at least 30 days prior to the hearing. The consumer-owned electric utility shall promptly provide any relevant additional material or information requested by a customer or by the commission or by the Public Advocate.

Sec. 6. 35-A MRSA §3502, sub-§13, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

13. Penalty. If, upon the filing of a rate increase change pursuant to this section, the commission finds that the utility has failed to comply with this section, the commission may suspend the rates for investigation pursuant to section 310. If there is a substantial procedural violation of this section, the commission may prohibit the utility from filing rates pursuant to this section in its next rate case.

Sec. 7. 35-A MRSA §6104, sub-§1, as amended by PL 1987, c. 490, Pt. B, §12, is further amended to read:

1. Application of this section. Notwithstanding section 310, ~~consumer-owned water utilities are subject to the suspension, investigation, hearing and rate substitution provisions of section 310 under the conditions specified in this section~~ any consumer-owned water utility that proposes to increase or decrease rates, tolls or charges may elect to set rates pursuant to this section.

Sec. 8. 35-A MRSA §6104, sub-§2, as amended by PL 1987, c. 628, §2, is further amended to read:

2. Utilities that elect to set rates under this section. Consumer-owned water utilities ~~which that~~ elect to set rates under this section may not ~~file with the commission or~~ increase or decrease any rate, toll or charge without first holding a public hearing at which the Public Advocate and any customer may testify and may question the officials present regarding the proposed increase rate change.

Sec. 9. 35-A MRSA §6104, sub-§3, as amended by PL 1993, c. 589, §9, is further amended to read:

3. Notice of proposed rate change and hearing. The consumer-owned water utility shall, at least 14 days prior to the hearing, publish a notice of the proposed rate increase change and the hearing, including the date, time, place and purpose of the hearing, in a newspaper of general circulation in the area encompassed by the consumer-owned water utility and give one notice of the proposed rate increase change and the date, time, place and purpose of the hearing to each of its customers. The published and individual notices must include a statement describing the amount of the increase rate change and the percentage increase change for each customer class, the customer's right to request information relating to the present and proposed rates, the right to an open and fair hearing and the right to further hearings before the commission, and the availability of assistance from the Public Advocate. The published and individual notices must inform customers that they can petition the commission to investigate the proposed rate increase change and must include a statement that signatures on petitions filed pursuant to subsection 7 are invalid unless accompanied by the printed names and addresses of the signers. The published and individual notices must also inform customers that the utility will, upon request, provide customers with petition forms that include space for signatures and the printed names and addresses of the signers. Copies of the notice must be sent to the commission and the Public Advocate at least 14 days prior to the hearings.

Sec. 10. 35-A MRSA §6104, sub-§4, as amended by PL 1993, c. 589, §10, is further amended to read:

4. Notice that rate change may be investigated by commission. At the commencement of each hearing held pursuant to this section, the consumer-owned water utility shall inform those present that the rate increase change may be investigated by the commission in accordance with this section and that petitions filed pursuant to subsection 7 must bear the signatures and the printed names and addresses of the signers. Upon request, the utility shall provide customers with petition forms that include space for signatures and the printed names and addresses of the signers.

Sec. 11. 35-A MRSA §6104, sub-§4-A, as enacted by PL 1987, c. 628, §3, is amended to read:

4-A. Supporting materials. The water utility shall file a copy of all materials supporting the proposed increase rate change with the commission and the Public Advocate, at least 30 days prior to the hearing. A copy of all material supporting the proposed increase rate change shall be made available to customers for examination at the offices of the utility for at least 30 days prior to the hearing. The

utility shall promptly provide any readily available relevant additional material or information requested by a customer, the commission or the Public Advocate.

See title page for effective date.

CHAPTER 256

H.P. 1103 - L.D. 1550

An Act Concerning Environmental Registration Plates

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

Whereas, the continuing success of the environmental plate program is dependent on changes in the distribution of the annual contribution; and

Whereas, the Environmental Trust Fund is important to improving our state parks and management of nongame wildlife; 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. 29-A MRSA §455, sub-§§4 and 5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

4. Initial contribution to the Maine Environmental Trust Fund; renewal contribution. In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the ~~annual~~ initial contribution for environmental registration plates is \$20, which must be deposited with the Treasurer of State and credited to the Maine Environmental Trust Fund established in Title 12, section 7759.

In addition to the regular motor vehicle registration fee prescribed by law for the particular class of vehicle registered, the annual renewal contribution for environmental registration plates is \$15, which must be deposited with the Treasurer of State and credited to the Maine Environmental Trust Fund established in Title 12, section 7759.

5. Reimbursement for production and issuance costs. The Treasurer of State shall transfer

annually from the Maine Environmental Trust Fund to the ~~Secretary of State~~ \$10 Highway Fund \$6 for each initial set of environmental registration plates issued ~~or renewed~~ and \$1 for each renewal of environmental registration plates. This transfer is to reimburse the Secretary of State for costs associated with production and issuance of the plates.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
CONSERVATION, DEPARTMENT OF		
Maine State Parks Program		
All Other	\$79,507	\$97,920
Capital Expenditures	79,510	106,080
Provides additional allocations to reflect increased revenues from the Maine Environmental Trust Fund.		
DEPARTMENT OF CONSERVATION TOTAL	<u>\$159,017</u>	<u>\$204,000</u>
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Endangered Nongame Operations		
All Other	\$106,010	\$136,000
Provides additional allocations to reflect increased revenues from the Maine Environmental Trust Fund.		
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	<u>106,010</u>	<u>136,000</u>
TOTAL ALLOCATIONS	<u>\$265,027</u>	<u>\$340,000</u>

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

Effective June 14, 1995.

CHAPTER 257**S.P. 96 - L.D. 236****An Act to Amend the Laws
Governing Reciprocity in the
Licensure of Pharmacists****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 32 MRSA §13733, sub-§1, ¶D**, as enacted by PL 1987, c. 710, §5, is amended to read:

D. Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in this State, except that if the state requirement of graduation from a pharmacy degree program accredited by the American Council on Pharmaceutical Education applies, this requirement may be waived for an applicant who, notwithstanding paragraph E, has graduated from a college of pharmacy in the United States prior to June 1, 1985, has engaged in the practice of pharmacy within the United States for a period of at least 5 years within the 10 years immediately preceding the application and who has passed the national pharmacy examination prepared by the National Association of Boards of Pharmacy;

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.**1995-96****PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF****Board of Commissioners of the
Profession of Pharmacy**

Personal Services	\$735
All Other	6,605

Provides an allocation for additional per diem and rule-making costs.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

\$7,340See title page for effective date.

CHAPTER 258**H.P. 357 - L.D. 477****An Act to Increase Police Authority
in Certain Cases of Disorderly
Conduct****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 17-A MRSA §501, sub-§3**, as enacted by PL 1975, c. 499, §1, is amended to read:

3. In a private place, ~~he the person~~ makes loud and unreasonable noise ~~which that~~ which that can be heard by another person, who may be a law enforcement officer, as unreasonable noise in a public place or in another private place, after having been ordered by a law enforcement officer to cease ~~such~~ the noise.

See title page for effective date.

CHAPTER 259**H.P. 844 - L.D. 1175****An Act to Simplify the Licensure
Requirements of the Board of
Counseling Professionals Licensure****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 32 MRSA §13858, sub-§6**, as repealed and replaced by PL 1991, c. 263, §4, is repealed.**Sec. 2. 32 MRSA §13858, sub-§7**, as enacted by PL 1989, c. 895, §14, is amended to read:

7. **License not allowed.** Notwithstanding subsections 1 to ~~6~~ 5, an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field, may not be licensed under this section, unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has taken place been accomplished.

See title page for effective date.

CHAPTER 260

S.P. 545 - L.D. 1493

An Act to Modernize Vital Statistics Reporting

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

Sec. 1. 22 MRSA §2701, sub-§3 is amended to read:

3. Forms and reports. The state registrar shall prescribe and furnish forms and issue instructions necessary to the administration of the vital statistics system or prescribe other means of transmission of data that accomplishes the purpose of complete and accurate reporting and registration. ~~He~~ The state registrar shall prepare and publish annual reports of vital statistics and such other reports as are requested by the department.

Sec. 2. 22 MRSA §2701, sub-§7 is enacted to read:

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

A. "File" means the presentation and acceptance of a vital record or report for registration by the Office of Vital Statistics or a municipal clerk as specified in departmental rule.

B. "Date of filing" means the date a vital record is accepted for registration by the Office of Vital Statistics or a municipal clerk.

Sec. 3. 22 MRSA §2701-A is enacted to read:

§2701-A. Contents of certificates and reports

1. Format. Each certificate, report or other document required by this section must be prepared in the format approved by the state registrar.

2. Filing date. All vital records must contain the date of filing.

Sec. 4. 22 MRSA §2702, sub-§2, as amended by PL 1989, c. 225, §5, is repealed and the following enacted in its place:

2. Transmittal of certificates to state registrar. Except as authorized by the state registrar, a record received in a municipal office must be transmitted by the clerk of the municipality to the state registrar within a reasonable period of time as specified by department rule and in the format specified by the state registrar.

Sec. 5. 22 MRSA §2702, sub-§3, as amended by PL 1985, c. 25, is further amended to read:

3. Transmittal of certificates to other municipalities. ~~When~~ Except as authorized by the state registrar, when the parents of any child born are residents of any other municipality in this State, or when any deceased person was a resident of any other municipality in this State, the clerk of the municipality where that live birth or death occurred shall, ~~between the 10th and the 15th of the month next following at the same time,~~ transmit the record to the state registrar and transmit a certified copy of the certificate of the live birth or death to the clerk of the municipality where the parents reside, or where the deceased was a resident.

Sec. 6. 22 MRSA §2761, as amended by PL 1993, c. 410, Pt. V, §13, is further amended to read:

§2761. Registration of live births

A certificate of each live birth ~~which~~ that occurs in this State ~~shall~~ must be filed with the clerk of the municipality in which ~~such~~ the live birth occurred ~~within 14 days after the date of birth or with the state registrar within a reasonable period of time as specified by the department and must be registered if the certificate has been completed and filed in accordance with this section.~~

1. Certificate from hospital. When the live birth occurs in a hospital or related an institution, or en route to the hospital or institution, the person in charge of such the institution or the person's authorized designee shall be responsible for entering information on the certificate, for securing signatures required on the certificate, and for filing the certificate with the clerk of the municipality obtain the personal data, prepare the certificate, certify by signature or by electronic process that the child was born alive at the place and time and on the date stated and file the certificate as directed in this section. The physician or other person in attendance shall provide the medical information required by the certificate in a timely fashion, in accordance with department rule.

2. Date of birth. ~~On each such certificate, the physician in attendance shall verify or provide the date of birth and medical information required within 7 days after birth.~~

3. Birth outside an institution. ~~Except as provided in this section, the certificate shall be prepared and filed by~~ When a birth occurs outside an institution, the certificate must be prepared and filed by one of the following in the indicated order of priority:

- A. The physician or other person in attendance ~~on at or immediately after the birth, or in the absence of such a person;~~
- B. The father; ~~or in the absence of both of these,~~
- C. The mother; ~~or in the absence of the afore-said, and in the inability of the mother;~~
- D. The person in charge of the premises where the live birth occurred.

3-A. Parentage. For the purposes of birth registration, the mother is deemed to be the woman who gives birth to the child, unless otherwise determined by a court of competent jurisdiction prior to the filing of the birth certificate. If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband must be entered on the certificate as the father of the child, unless paternity has been determined otherwise by a court of competent jurisdiction.

4. Out-of-wedlock birth. Except as otherwise provided in this subsection, ~~in the case of a child conceived and born out of wedlock, if the mother was not married at the time of either conception or birth, or between conception and birth, neither~~ the name of the putative father ~~nor any other information about the putative father may not~~ be entered on the certificate without his written consent and that of the mother. The signature of the putative father on the written consent must be acknowledged before an official authorized to take oaths. The signature of the mother on her written consent must also be acknowledged before an official authorized to take oaths. If a determination of paternity has been made by a court of competent jurisdiction, then the name of the father as determined by the court must be entered on the birth certificate without the father's or the mother's consent. If the putative father executes an acknowledgement of paternity with the department and the putative father is either named in writing by the mother as the father or is presumed to be the father based on the results of blood or tissue-typing tests, the name of the father must be entered on the birth certificate without the father's or the mother's consent.

4-A. Information verified. Either of the parents of the child or an informant shall verify the accuracy of the personal data to be entered on the certificate.

5. Certificate signed by father and mother. ~~In every case, the father or mother of the child shall sign the certificate and shall attest to the accuracy of the personal data entered thereon in time to permit its filing within the 14 days prescribed. If father and mother are unable to sign, then no signature need be required.~~

6. Disclosure of social security number. In connection with the preparation and issuance of a birth certificate pursuant to this section, section 2764 or section 2765, each parent shall furnish the social security account number, or numbers if the parent has more than one number, issued to the parent unless the State Registrar of Vital Statistics, in accordance with regulations prescribed by the Secretary of the United States Department of Health and Human Services, finds good cause for not requiring the furnishing of those numbers. The state registrar shall make numbers furnished under this subsection available to the department in its capacity as the state agency administering the State's plan under the United States Social Security Act, Title IV, Part D. Except as required by federal law, those numbers may not be recorded on the birth certificate in such a manner that the numbers would appear on a certified copy of the certificate. Except as required by federal law, the department may not use any social security number, obtained with respect to the issuance of a birth certificate, for any purpose other than for the administration of the State's plan under the United States Social Security Act, Title IV, Part D. The department shall adopt rules to implement this subsection.

See title page for effective date.

CHAPTER 261

H.P. 1096 - L.D. 1540

An Act Concerning Potato Blight Eradication and the Disposal of Cull Potatoes

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

Whereas, the practice of maintaining potato cull piles has created a threat to the potato industry in that the disease may grow and be spread to nearby potato crops; and

Whereas, the discovery of the A2 strain of late blight has raised the possibility of devastating economic losses due to this disease; and

Whereas, these potential losses could negatively affect the health, safety and welfare of the citizens of this State and the potato industry unless action is taken to remove the potato culls and potato cull piles; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §1007 is repealed.

Sec. 2. 7 MRSA §1007-A is enacted to read:

§1007-A. Penalty for maintaining potato cull piles

1. Purpose. The Legislature hereby declares that the A2 strain of late blight and other potato diseases constitute a clear and present danger to the production of potatoes in the State and to a substantial portion of the economy of the State. Control of the A2 strain of late blight and other potato diseases through the control of potato cull piles could result in the saving of potato crops and improvement in the economy. In the exercise of the police power of the State, the Legislature finds that it is necessary to require the proper disposal of cull potatoes and potato cull piles and to provide a procedure for disposal of those potatoes by the department by implementing best management practices pursuant to Title 17, section 2805 when the owner or lessee of the property on which those potatoes were grown, stored or disposed of fails to comply with the requirements of this section.

2. Disposal of cull potatoes required. The owner or lessee of any real property in this State on which potato plants are grown or on which potato cull piles are maintained or disposed of shall properly dispose of potato cull piles for the purpose of killing the A2 strain of late blight and other potato diseases. The disposal must take place no later than June 10th of each year unless the commissioner designates otherwise. In addition, a person may not maintain a cull potato pile between June 10th and October 1st of each year, or between such other dates as the commissioner may designate. A person who fails to dispose properly of cull potatoes and cull potato piles as required by this section commits a civil violation for which a forfeiture not to exceed \$1,000 for each violation and not more than \$200 for each succeeding day that the violation fails to be in compliance with the requirements of this section may be adjudged.

3. Rules. The commissioner is authorized to adopt any rules necessary to implement this section in accordance with the provisions of the Maine Administrative Procedure Act, except that the commissioner may suspend the notice requirements to the extent necessary and may adopt rules without making the findings required for emergency rules under Title 5, section 8054. In adopting any rules necessary to implement this section, the commissioner shall consult with the Maine Potato Board. The commissioner may determine best management practices for the handling

of cull potatoes in accordance with Title 17, section 2805.

4. Authorization. The commissioner may properly dispose of potato culls and potato cull piles that constitute a violation of subsection 2 for the purpose of potato disease control. The commissioner or the commissioner's designee may enter on private property to effectuate the disposal and to inspect the disposal to determine whether proper disposal has been made. The commissioner has a cause of action against the owner or lessee of any real property of this State to recover the actual costs of removing and disposing of cull potatoes and cull potato piles. The commissioner or the commissioner's designee must be held harmless for any such entry on private property if the entry is related to the inspection and disposal of cull potatoes and cull potato piles.

Employees and agents of the department may enter at reasonable hours any farm where potatoes are grown or other premises where potatoes are stored, packed, loaded for shipment or handled and enter any building with the consent of the property owner, lessee, occupant or agent or, pursuant to an administrative search warrant, to inspect the farm or other premises to determine compliance with subsection 2. Notwithstanding the provisions of the Maine Rules of Civil Procedure, Rule 80E, paragraph (b), the commissioner may obtain an administrative inspection warrant pursuant to this subsection by describing the farm or other premises to be inspected and the purpose of the inspection and demonstrating that the inspection sought is reasonable and represents a minimal intrusion in furtherance of a legitimate governmental obligation of the department. This demonstration is deemed to be a demonstration of probable cause.

5. Potato Cull Removal Fund. The Potato Cull Removal Fund is established and may be used by the commissioner to enforce the provisions of this section and to pay the expenses of potato cull removal. The commissioner may receive funds from any source to be deposited into this fund, which does not lapse. If at any time the balance of the fund falls below \$15,000, any penalties collected under this section must be deposited into the fund. Whenever the balance of the fund exceeds \$15,000, any penalties collected must be deposited to the General Fund.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96	1996-97
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**AGRICULTURE, FOOD
AND RURAL
RESOURCES,
DEPARTMENT OF**

Potato Cull Removal Fund

All Other	\$15,000	\$15,000
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Allocates funds to authorize expenditures related to potato cull removal and enforcement.

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

Effective June 15, 1995.

CHAPTER 262

H.P. 425 - L.D. 582

**An Act to Implement the
Recommendations of the
Commission to Study the Statutory
Procedures for Local Property Tax
Abatement Appeals**

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

Sec. 1. 36 MRSA §271, sub-§5, as enacted by PL 1985, c. 764, §8, is amended to read:

5. Hearings. Upon receipt of an appeal, the ~~chairman~~ chair of the board shall determine whether the appeal is within the jurisdiction of the board. If the board does not have jurisdiction authority to hear the appeal, the chair shall notify all parties in writing within 10 days of making the determination. Either party may appeal to the board a decision of the chair relating to jurisdictional issues within 30 days after receiving written notice of that decision by filing a request with the board to have that decision reviewed by the board. If the board does have jurisdiction over the appeal or if either party appeals the determination that the board lacks jurisdiction, the chair shall select from the list of board members 5 persons to hear the appeal or jurisdictional issue and shall notify all parties of the time and place of the hearing. The selection of members for an appeal hearing shall be or appeal of a jurisdictional issue is based upon availability, geographic convenience and area of expertise. Three of the 5 members shall constitute a quorum.

Sec. 2. 36 MRSA §273, as enacted by PL 1985, c. 764, §8, is amended to read:

§273. Nonresidential property of \$1,000,000 or greater

~~If the owner of~~ With regard to appeals relating to nonresidential property or properties with an equalized municipal valuation of \$500,000 \$1,000,000 or greater

~~appeals to the State Board of Property Tax Review either separately or in the aggregate, as provided in sections 843 and 844, the state board shall hold a hearing de novo. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.~~

Sec. 3. 36 MRSA §471-A is enacted to read:

§471-A. Board of assessment review

The legislative body of a primary assessing area consisting of only one municipality may establish a primary assessing area board of assessment review. The executive committee of a primary assessing area consisting of more than one municipality may establish a primary assessing area board of assessment review. The primary assessing area board of assessment review has the powers and duties of a municipal board of assessment review, including those provided under section 844-N.

Sec. 4. 36 MRSA §843, as amended by PL 1993, c. 395, §12, is further amended to read:

§843. Appeals

1. Municipalities. If a municipality has adopted a board of assessment review and the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property or properties with an equalized municipal ~~value~~ valuation of ~~\$500,000~~ \$1,000,000 or greater either separately or in the aggregate, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial ~~or the applicant may appeal to the State Board of Property Tax Review.~~

1-A. Nonresidential property of \$1,000,000 or greater. With regard to nonresidential property or properties with an equalized municipal valuation of ~~\$500,000~~ \$1,000,000 or greater either separately or in the aggregate, either party may appeal the decision of the local board of assessment review or the primary

assessing area board of assessment review to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied, as provided in subsections 1 and 2. The board shall hold a hearing de novo. If the board thinks that the ~~owner~~ applicant is over-assessed, it shall grant such reasonable abatement as the board thinks proper. For the purposes of this section, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

2. Primary assessing areas. If a primary assessing area has adopted a board of assessment review and the chief assessor, municipal officer or the State Tax Assessor refuses to make the abatement asked for, the applicant may apply in writing to the ~~State Board of Property Tax Review~~ board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and if the board thinks the applicant is over-assessed, the applicant is granted such reasonable abatement as the board thinks proper. ~~The decision of the State Board of Property Tax Review is deemed final agency action by that board under the Maine Administrative Procedure Act.~~ Except with regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater, either separately or in the aggregate, either party may appeal the decision of the board of assessment review directly to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

3. Notice of decision. Any agency to which an appeal is made under this section is subject to the provisions for notice of decision in section 842.

4. Payment requirements for taxpayers. A taxpayer must pay ~~If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, provided that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by~~ or after the due date in order to enter an appeal under this section or to continue prosecution of an appeal pending under this section, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date for payment of taxes in a

particular municipality, without the appropriate amount of taxes having been paid, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This section applies to any property tax year beginning on or after April 1, 1993. This section does not apply to property with a valuation of less than \$500,000.

Sec. 5. 36 MRSA §844, sub-§1, as amended by PL 1993, c. 395, §13, is further amended to read:

1. Municipalities without board of assessment review. Except when the municipality or primary assessing area has adopted a board of assessment review or has been designated as a primary assessing area, if the assessors or the municipal officers refuse to make the abatement asked for, or, with respect to a primary assessing area, the chief assessor, municipal officer or State Tax Assessor refuses to make the abatement asked for, the applicant may apply to the county commissioners within 60 days after notice of the decisions from which the appeal is being taken or within 60 days after the application is deemed to have been denied. If the commissioners think that the applicant is over-assessed, the applicant is granted such reasonable abatement as the commissioners think proper. If the applicant has paid the tax, the applicant must be is reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against the applicant for collection of such the amount as may be due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made or a copy of it. Either party may appeal from the decision of the county commissioners to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial or the applicant may appeal to the State Board of Property Tax Review.

Sec. 6. 36 MRSA §844, sub-§1-A is enacted to read:

1-A. County board of assessment review. The county commissioners in a county may establish a county board of assessment review to hear all appeals to the county commissioners. The board has the powers and duties of a municipal board of assessment review, including those provided under section 844-M.

Sec. 7. 36 MRSA §844, sub-§2, as enacted by PL 1985, c. 764, §18, is amended to read:

2. Nonresidential property of \$1,000,000 or greater. Notwithstanding subsection 1, ~~the owner of with regard to nonresidential property or properties~~ with an equalized municipal valuation of ~~\$500,000~~ \$1,000,000 or greater ~~either separately or in the aggregate, either party~~ may choose to appeal the decision of the assessors or the municipal ~~officials~~ officers with regard to a request for abatement to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. If the state board thinks that the ~~owner~~ applicant is over-assessed, it shall grant such reasonable abatement as the board thinks proper. For the purposes of this subsection, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

Sec. 8. 36 MRSA §844, sub-§4, as enacted by PL 1993, c. 242, §2, is amended to read:

4. Payment requirements for taxpayers. ~~A taxpayer must pay~~ If the taxpayer has filed an appeal under this section without having paid an amount of current taxes equal to the amount of taxes paid in the next preceding tax year, provided that amount does not exceed the amount of taxes due in the current tax year, or the amount of taxes in the current tax year not in dispute, whichever is greater, by or after the due date in order to enter an appeal under this section or to continue prosecution of an appeal pending under this section, the appeal process must be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of a due date for payment of taxes in a particular municipality, without the appropriate amount of taxes having been paid, the appeal process must be suspended until the appropriate amount of taxes described in this subsection, together with any accrued interest and costs, has been paid. This section applies to any property tax year beginning on or after April 1, 1993. This section does not apply to property with a valuation of less than \$500,000.

Sec. 9. 36 MRSA §§844-M and 844-N are enacted to read:

§844-M. County board of assessment review

1. Organization. A county board of assessment review, as authorized by section 844, subsection 1-A, consists of 5 or 7 members, at least one of whom must be a licensed real estate appraiser and one of whom must be a member of the general public, who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board.

The board shall elect annually a chair and a secretary from among its members. A county official or the spouse of a county official may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The county commissioners may dismiss a member of the board for cause before the member's term expires.

2. Meetings; records. The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the county commissioners. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the county commissioners' office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. Hearing. The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. Evidence. The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. Testimony; record; notice. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the county commissioners within 10 days of the board's decision.

6. Appeals. A party may appeal the decision of the county board of assessment review to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county board of assessment review fails to give written notice of its decision within 60 days of the date the application was filed, unless the applicant agrees in writing to further delay, the application is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial.

§844-N. Primary assessing area board of assessment review

1. Organization. A primary assessing area board of assessment review, as authorized by section 471-A, consists of 5 or 7 members who serve staggered terms of at least 3 but no more than 5 years. The terms must be determined by rule of the board. The board shall elect annually a chair and a secretary from among its members. A municipal officer or the spouse of a municipal officer may not be a member of the board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting on that issue must be decided by a majority vote of the members, excluding the member who is being challenged. The municipal officers or the executive committee, where applicable, may dismiss a member of the board for cause before the member's term expires.

2. Meetings; records. The chair shall call meetings of the board as required. The chair shall also call meetings of the board when requested to do so by a majority of the board members or by the municipal officers or the executive committee, where applicable. A majority of the board's members constitutes a quorum. The chair shall preside at the meetings of the board and is the official spokesperson of the board. The secretary shall maintain a permanent record of the board meetings, the correspondence of the board and the records that are required as part of the various proceedings brought before the board. The records maintained or prepared by the secretary must be filed in the primary assessing area board of assessment review office and subject to public inspection in accordance with Title 1, chapter 13, unless excepted from the definition of public records under Title 1, section 402, subsection 3 or otherwise exempt from disclosure under Title 1, chapter 13.

3. Hearing. The board shall adopt rules to establish the procedure for the conduct of a hearing; however, the chair may waive any rule upon good cause shown.

4. Evidence. The board shall receive oral or documentary evidence and, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Each party may present

its case or defense by oral or documentary evidence, submit rebuttal evidence and conduct cross-examination that is required for a full and true disclosure of the facts.

5. Testimony; record; notice. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the board, and the exhibits, with all papers and requests filed in the proceeding, constitute the record. Decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for those findings and conclusions, upon the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief. If the board determines that the applicant is over-assessed, it shall grant such reasonable abatement as the board determines proper. Notice of a decision must be mailed or hand delivered to all parties and the municipal officers or the executive committee, where applicable, within 10 days of the board's decision.

Sec. 10. 36 MRSA §850, as enacted by PL 1985, c. 764, §19, is repealed.

Sec. 11. Application. This Act applies for any appeal filed that is based on assessments made for any property tax year that begins on or after April 1, 1996.

See title page for effective date.

CHAPTER 263

S.P. 550 - L.D. 1509

An Act to Prohibit the Sale of Firearms to Minors without Parental Approval

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

Sec. 1. 17-A MRSA §554, sub-§1, ¶B, as enacted by PL 1991, c. 672, §1, is amended to read:

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, ~~firearms~~ or ammunition for ~~firearms~~; or

Sec. 2. 17-A MRSA §554, sub-§2, ¶C, as enacted by PL 1991, c. 672, §2, is amended to read:

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished a child under 16 years of age an air rifle, ~~a firearm~~ or

ammunition for a firearm for use in a supervised manner.

Sec. 3. 17-A MRSA §554-A is enacted to read:

§554-A. Unlawful transfer of a firearm to a minor

1. As used in this section, the following terms have the following meanings.

A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration.

B. "Minor" means a person under 16 years of age.

2. A person is guilty of unlawfully transferring a firearm to a minor if that person, who is not the parent, foster parent or guardian of the minor, knowingly transfers a firearm to a minor.

3. It is an affirmative defense to a prosecution under subsection 2 that:

A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief can not be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or

B. The transfer of the firearm to the minor was approved by the parent, foster parent or guardian of the minor.

4. Unlawful transfer of a firearm to a minor is a Class D crime.

See title page for effective date.

CHAPTER 264

H.P. 692 - L.D. 943

**An Act to Create an Honorary
Position of Maine State Poet
Laureate**

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

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

<u>5-A.</u>	<u>State Poet</u>	<u>Not</u>	<u>27</u>
<u>Culture</u>	<u>Laureate</u>	<u>Authorized</u>	<u>MRSA</u>
	<u>Selection</u>		<u>§421</u>
	<u>Advisory</u>		

Panel

Sec. 2. 27 MRSA c. 15 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 15

THE ARTS

SUBCHAPTER I

MAINE ARTS COMMISSION

Sec. 3. 27 MRSA c. 15, sub-c. II is enacted to read:

SUBCHAPTER II

STATE POET LAUREATE

§421. Honorary office created

The honorary office of State Poet Laureate is created.

1. Appointment. On March 31st of each year, the Governor shall appoint an individual to serve as State Poet Laureate, selected from the names presented by the advisory panel created in subsection 3.

2. Term. The State Poet Laureate shall serve a one-year term from March 31st to March 31st of the following year. An individual may serve as State Poet Laureate for no more than 3 consecutive terms, but may be reappointed after a year's break from service.

3. Advisory panel. The State Poet Laureate Selection Advisory Panel as established in Title 5, section 12004-I, subsection 5-A, referred to in this subchapter as the "panel," is created in accordance with the following provisions.

A. The panel is composed of one representative of the University of Maine System with expertise in poetry, selected by the Board of Trustees of the University of Maine System; one representative of private colleges and universities in the State with expertise in poetry, selected by an association of independent colleges; one public school teacher with expertise in poetry, selected by an association of secondary English teachers in the State; and the director of the Maine State Library and the Director of the Maine Arts Commission, who serve as cochairs.

B. Each panel member shall annually survey the colleagues the member represents to identify the names of potential candidates to be considered by the full panel for the position of State Poet Laureate. By March 1st of each year, the panel

shall select one or more names to recommend to the Governor from which the Governor shall appoint the State Poet Laureate.

C. If a vacancy occurs within the term of the State Poet Laureate, the panel shall as soon as possible select a nominee for appointment by the Governor to fill the remainder of the term.

D. Members of the panel are not entitled to per diem or compensation for expenses.

4. Eligibility. The individual appointed State Poet Laureate must be a resident of the State and must have published poems of recognized merit.

5. Duties. The duties of the State Poet Laureate are as follows:

A. To provide free consultation on poetry to state educational institutions; and

B. To write annually at least one poem addressing the beauty, history, heritage or character of the State or the spirit of its people, to be presented to the Governor and the presiding officers of the Legislature by March 15th, Maine Statehood Day.

6. Copyright. The copyright to the poems described in subsection 5, paragraph B must be held by the people of the State. The director of the Maine State Library shall maintain the copyright.

§422. Public employment permitted

Acceptance of the honor of serving as State Poet Laureate does not constitute state employment and does not preclude an individual from election, appointment or service as an employee or official in state or local government.

Sec. 4. Transition provision. For 1995, the 175th anniversary year of Maine statehood, the State Poet Laureate Selection Advisory Panel shall make recommendations to the Governor and the Governor shall appoint the first State Poet Laureate as soon as possible after the effective date of this Act, the term to run until March 31, 1996.

See title page for effective date.

CHAPTER 265

H.P. 275 - L.D. 377

An Act to Extend to Businesses the Laws Concerning Protection from Harassment

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

Sec. 1. 5 MRSA §4651, sub-§2, as amended by PL 1993, c. 199, §1, is further amended to read:

2. Harassment. "Harassment" means any repeated act of intimidation, harassment, physical force or threat of physical force directed against any person, family, business, landlord or their property or advocate with the intention of causing fear, intimidation or destruction of business or rental property or to deter free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine and the United States Constitution. This definition does not include any act protected by the constitutional guarantee of free speech or by labor relations laws.

Sec. 2. 5 MRSA §4651, sub-§4 is enacted to read:

4. Business. "Business" means any corporation, partnership, limited liability corporation, professional corporation or any other legal business entity recognized under the laws of the State.

Sec. 3. 5 MRSA §4653, sub-§1, as amended by PL 1993, c. 199, §2, is further amended to read:

1. Filing. Any person who has been a victim of harassment, including a business or a landlord acting on behalf of an aggrieved tenant, may seek relief by filing a sworn petition in an appropriate court alleging that harassment.

Sec. 4. 5 MRSA §4654, sub-§2, ¶A, as amended by PL 1993, c. 199, §3, is further amended to read:

A. It appears clearly from a verified petition or an affidavit accompanying the petition that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or is in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct or the plaintiff's business or rental property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment;

Sec. 5. 5 MRSA §4654, sub-§4, ¶¶A and B, as enacted by PL 1987, c. 515, §1, are amended to read:

A. Imposing any restraint upon the person or liberty of the plaintiff or the plaintiff's employees;

B. Threatening, assaulting, molesting, harassing or otherwise disturbing the peace of the plaintiff or the plaintiff's employees;

Sec. 6. 5 MRSA §4654, sub-§4, ¶C, as repealed and replaced by PL 1993, c. 680, Pt. A, §10, is amended to read:

C. Entering the plaintiff's residence or property, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff;

Sec. 7. 5 MRSA §4655, sub-§1, ¶A, as amended by PL 1987, c. 708, §5, is further amended to read:

A. Directing the defendant to refrain from harassing, threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff or the plaintiff's employees;

Sec. 8. 5 MRSA §4655, sub-§1, ¶B, as amended by PL 1993, c. 199, §6, is further amended to read:

B. Directing the defendant to refrain from going on the premises of the plaintiff's residence or property, provided that the court may not use this subsection to evict a defendant from the rental premises in an action brought by a plaintiff;

Sec. 9. 5 MRSA §4655, sub-§1, ¶D, as amended by PL 1993, c. 475, §2, is further amended to read:

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. Compensatory losses are limited to loss of earnings or support; reasonable expenses incurred for safety protection; reasonable expenses incurred for personal injuries or property damage; and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded. If it appears from the petition that an order under this paragraph may be granted, the plaintiff or defendant may remove the issue of monetary compensation to the Superior Court where a jury trial may be had. Removal must be

requested by motion prior to a hearing under section 4654;

See title page for effective date.

CHAPTER 266

H.P. 785 - L.D. 1102

An Act to Exempt Bows from the Firearms Discharge Ordinances

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

Sec. 1. 30-A MRSA §3007, sub-§5 is enacted to read:

5. Firearms and bows and arrows. Municipalities may not include bows and arrows in any firearms discharge ordinances.

See title page for effective date.

CHAPTER 267

S.P. 467 - L.D. 1263

An Act to Delegate Permit-granting Authority to Municipalities

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

Sec. 1. 38 MRSA §480-F, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §74, is further amended to read:

1. Delegation. A municipality may apply to the board for authority to issue permits under this article. The board shall grant such authority if it finds that the municipality has:

A. Established a planning board and a board of appeals;

B. Adopted a comprehensive plan and related land use ordinances consistent with the criteria set forth in Title 30-A, chapter 187, subchapter II;

C. The financial, technical and legal resources to adequately review and analyze permit applications and oversee and enforce permit requirements;

D. Made provision by ordinance or rule for prompt notice to the commissioner and the public upon receipt of application and written notification to the applicant and the commissioner of

the issuance or denial of a permit stating the reasons for issuance or denial; ~~and~~

E. Provided an application form that is substantially the same as that provided by the commissioner; and

F. Appointed a code enforcement officer, certified by the Department of Economic and Community Development.

See title page for effective date.

CHAPTER 268

S.P. 387 - L.D. 1064

An Act to Increase the Amount of Reimbursement to Animal Shelters Housing Stray Dogs

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

Sec. 1. 7 MRSA §3913, sub-§2-A, as amended by PL 1993, c. 657, §15, is further amended to read:

2-A. Animal shelter. An animal shelter, as defined in section 3907, to which a stray dog is taken, shall accept the dog for a period of 6 days, unless the shelter is in quarantine or has a bona fide lack of adequate space. The acceptance entitles the animal shelter to receive from the department the sum of ~~\$2.50~~ \$4 a day for the period for which food and shelter are furnished to the dog. An animal shelter may refuse to accept dogs from municipalities not contracting with that shelter.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Public Services - Agriculture		
All Other	\$63,750	\$85,000
Provides allocations for increased reimbursements to animal shelters for the housing of stray dogs.		

See title page for effective date.

CHAPTER 269

H.P. 1014 - L.D. 1429

An Act Pertaining to the Purchase Deposit on Automobiles

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

Sec. 1. 10 MRSA §1174, sub-§4, as amended by PL 1981, c. 470, Pt. A, §§24 and 25, is further amended to read:

4. Dealer violations. Motor vehicle dealer:

A. To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser; provided, however, that this prohibition ~~shall~~ does not apply as to special features, appliances, equipment, parts or accessories ~~which~~ that are already installed on the car when received by the dealer; provided further, that the motor vehicle dealer prior to the consummation of the purchase reveals to the purchaser the substance of this paragraph;

B. To represent and sell as a new motor vehicle any motor vehicle ~~which~~ that has been used and operated for demonstration purposes or ~~which~~ is otherwise a used motor vehicle; ~~or~~

C. To resort to or use any false or misleading advertisement in connection with ~~his~~ business as ~~such a~~ motor vehicle dealer; or

D. To fail to disclose conspicuously in writing the motor vehicle dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears.

Sec. 2. 10 MRSA §1475, sub-§2-A, ¶¶F and G, as enacted by PL 1989, c. 878, Pt. F, §3, are amended to read:

F. A statement, if applicable, disclosing that the vehicle was returned to the manufacturer, its agent or authorized dealer, for its nonconformity with express warranties. The statement must identify the nature of the nonconformities; ~~and~~

G. If the vehicle is repossessed, a statement identifying this fact; and

Sec. 3. 10 MRSA §1475, sub-§2-A, ¶H is enacted to read:

H. The dealer's duty to disclose conspicuously in writing the dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears.

See title page for effective date.

CHAPTER 270

H.P. 830 - L.D. 1161

An Act Regarding the Granting of Hotel Liquor Licenses to Establishments

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

Whereas, current law provides different criteria for the issuing of a hotel liquor license depending on whether the establishment is in a heavily populated area; and

Whereas, there are many places where large municipalities consist of varied population areas, such as a lightly populated offshore island being part of a large mainland city; and

Whereas, the islands of Maine are a unique and special part of the State's culture, history and economy, especially in the summer months when so much of the State's income depends on the tourist trade; and

Whereas, it is necessary to support and maintain the businesses that make up the State's economy; 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. 28-A MRSA §1061, as amended by PL 1991, c. 824, Pt. D, §4, is further amended to read:

§1061. Hotels

1. Issuance of licenses. The ~~commission~~ bureau may issue licenses under this section for the sale of spirits, wine and malt liquor to be consumed on the premises to hotels, as defined in section 2, subsection 15, paragraph H.

2. Minors not permitted on premises. Except as provided in ~~paragraphs A and~~ paragraph B, no hotel licensee may permit any minor in any ~~part of the hotel where the license privilege is exercised~~ lounge that serves alcoholic beverages.

~~A. Minors may be permitted in public dining rooms and sleeping rooms.~~

B. This subsection does not apply when:

- (1) The minor is accompanied by a parent, legal guardian or custodian, as defined in Title 22, section 4002;
- (2) The minor is employed under section 704; or
- (3) The licensee does not permit consumption of liquor on the licensed premises.

3. Income from sale of food requirement. At least 10% of the gross annual income must be from the sale of food for each hotel.

4. Required number of sleeping rooms. Each hotel must be equipped with at least the required number of adequate sleeping rooms.

A. The number of rooms required is based on the population of the municipality in which the hotel is located, as reported in the 1960 Federal Decennial Census. If the population reported in the most recent Federal Decennial Census is at least 20% less than the population reported in the 1960 census, the most recent Federal Decennial Census must be used to determine the number of rooms required.

- (1) If the hotel is located in a municipality having a population of 7,500 or less, the hotel must have at least 12 adequate sleeping rooms.
- (2) If the hotel is located in a municipality having a population of more than 7,500, the hotel must have at least 30 adequate sleeping rooms.

If the hotel is located on an offshore island that is part of a mainland municipality, then the number of rooms required is based on the population of the island, rather than that of the municipality as a whole.

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

Effective June 21, 1995.

CHAPTER 271

H.P. 919 - L.D. 1295

**An Act to Conform Maine Law with
the Provisions of the Federal Clean
Air Act and the Internal Revenue
Code Pertaining to the Use of Dyed
Fuel on Highways**

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

Whereas, recent changes in federal law require that certain high-sulphur diesel fuel be color-dyed in order to help reduce air pollution by identifying fuel not suitable for highway use and to help increase tax compliance by identifying fuel on which taxes have not been paid; and

Whereas, reducing the sulphur content of highway fuel is beneficial to the health and safety of the people of this State; and

Whereas, fuel tax revenues are an important source of revenues for the Highway Fund; and

Whereas, the tax laws of this State do not currently contain any disincentives to the operation of vehicles using high-sulphur diesel fuel on the public ways, which are needed if truckers operating illegally are to be prevented from placing other Maine businesses at an extreme competitive disadvantage; 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. 36 MRSA §3202, sub-§2-A is enacted to read:

2-A. Dyed fuel. "Dyed fuel" means a distillate that is dyed pursuant to the requirements of the Federal Government.

Sec. 2. 36 MRSA §3202, sub-§4, as enacted by PL 1983, c. 94, Pt. D, §6, is repealed and the following enacted in its place:

4. Motor vehicle. "Motor vehicle" means any vehicle, engine, machine or mechanical contrivance that is propelled by an internal combustion engine or motor.

Sec. 3. 36 MRSA §3202, sub-§5, as enacted by PL 1983, c. 94, Pt. D, §6, is repealed.

Sec. 4. 36 MRSA §3202, sub-§5-A is enacted to read:

5-A. Public way. "Public way" has the same meaning as provided in Title 29-A, section 101.

Sec. 5. 36 MRSA §3203, as amended by PL 1991, c. 592, Pt. D, §5, is repealed and the following enacted in its place:

§3203. Tax levied; consignment sales; credited to Highway Fund

Except as provided in section 3204-A, an excise tax is levied and imposed on all suppliers of special fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 20¢ per gallon and for each gallon of low-energy fuel at the rate of 18¢ per gallon. When special fuel is delivered by a supplier on a consignment basis to a consumer or to a retail outlet, whether or not the retail outlet is wholly owned by the supplier, it is considered to have been "sold" within the meaning of this Act. All taxes and fines collected under this chapter must be credited to the Highway Fund.

Sec. 6. 36 MRSA §3203-A, as amended by PL 1991, c. 592, Pt. D, §6, is repealed.

Sec. 7. 36 MRSA §§3204-A and 3204-B are enacted to read:

§3204-A. Exemptions; affidavit of exempt use

The following fuels are exempt from the tax imposed by section 3203:

1. Single lot. Special fuel purchased in a single lot of no more than 275 gallons and used solely for heating or cooking purposes;

2. Delivered into tank. Special fuel delivered into a tank used solely for heating or cooking purposes, sold for resale to a licensed or registered supplier;

3. Political subdivision. Special fuel sold to this State or any political subdivision of this State;

4. Precludes collection of tax. Special fuel sold or used in such form or under such circumstances as precludes the collection of tax by reasons of federal law;

5. Exportation. Special fuel sold only for exportation from this State;

6. Generation. Special fuel sold to a person for the generation of power for resale or manufacturing; and

7. Retail sale. Kerosene delivered into a separate tank for retail sale, in which case the excise tax must be remitted by licensed users pursuant to section 3207, rather than by the supplier.

The purchaser of special fuel that qualifies for one of the above exemptions must sign and provide to the seller a sworn statement indicating that the fuel will be used for the exempt purpose. The State Tax Assessor shall make forms available to suppliers for this purpose. The signed form must be retained by the supplier for at least 3 years.

§3204-B. Dyed fuel; prohibition on highway use

1. Generally. Except as provided in subsection 2, a person may not operate a motor vehicle on the public ways of this State if the fuel supply tanks of the vehicle contain dyed fuel or other fuel on which the tax imposed by section 3203 has not been paid.

2. Exceptions. The following motor vehicles are not subject to the prohibition provided in subsection 1:

A. Motor vehicles owned and operated by this State or any political subdivision of this State; and

B. Motor vehicles authorized to use dyed fuel on the public ways of this State under the provisions of the Code, section 4082 or rules adopted under the Code.

3. Penalty. A person who violates the prohibition provided in subsection 1 commits a Class D crime and is subject to a fine of not less than \$1,000, which may not be reduced. Refusal to permit inspection pursuant to section 3219-A in order to enforce the provisions of this section constitutes prima facie evidence that the tank or container in question contains dyed fuel.

Sec. 8. 36 MRSA §3208, as amended by PL 1985, c. 127, §1, is further amended to read:

§3208. Credit; users

Every user subject to the tax imposed by section 3203 ~~shall be~~ is entitled to a credit on the tax equivalent to the existing rate of taxation per gallon on all fuels purchased by that user from a supplier licensed in accordance with section 3204 upon which fuel the tax is imposed by section 3203 has been paid by that user. Evidence of the payment of that tax, in such form as may be required by or is satisfactory to the State Tax Assessor, ~~shall~~ must be furnished by each user claiming the credit allowed. When the amount of

the credit to which any user is entitled for any quarter exceeds the amount of the tax for which that user is liable for the same quarter, the excess may, under rules of the State Tax Assessor, be allowed as a credit on the tax for which that user would be otherwise liable for another quarter or quarters, or upon application within 3 months from the end of any quarter, duly verified and presented in accordance with ~~regulations promulgated~~ rules adopted by the State Tax Assessor and supported by such evidence as may be satisfactory to the State Tax Assessor, such excess may be refunded if it ~~shall appear~~ appears that the applicant has paid to another state or province under a lawful requirement of such jurisdiction a tax similar in effect to the tax levied in section 3203, on the use or consumption of the same fuel ~~without~~ outside the State, at the same rate per gallon that such tax was paid in this State on that number of gallons used in and a tax paid on in such other jurisdiction, but in no case to exceed the rate per gallon of the then current Maine state fuel tax. Upon receipt of the application, the State Tax Assessor, if satisfied after investigation that a refund is justified, shall so certify to the State Controller and it ~~shall~~ must be paid out of the Highway Fund. This credit ~~shall lapse~~ lapses at the end of the last quarter of the year following that in which the credit arose.

For those accounts in good standing, a monthly refund application, on a form prescribed by the State Tax Assessor, may be filed at the close of any month to claim credits described in this section. That application ~~shall~~ must be processed and approved for payment promptly. Interest ~~shall be~~ is paid at the same rate as is computed under section 186, calculated from the date of receipt of the monthly claim for all proper claims not paid within 30 days of receipt of the claim. ~~Nothing in this~~ This paragraph may not be construed to relieve the applicant from filing quarterly substantiating information as prescribed by this section.

Sec. 9. 36 MRSA §3216, as amended by PL 1995, c. 65, Pt. A, §148 and affected by Pt. A, §153 and Pt. C, §15, is repealed.

Sec. 10. 36 MRSA §3217, as amended by PL 1991, c. 592, Pt. D, §8, is repealed.

Sec. 11. 36 MRSA §3219-A is enacted to read:

§3219-A. Enforcement; penalties

1. Enforcement. The State Tax Assessor shall notify the Secretary of State and the Bureau of State Police of any carrier who has failed to comply with the provisions of this chapter. In order to enforce the provisions of this chapter, any duly authorized and designated agent or officer of the assessor, the

Secretary of State or the Commissioner of Public Safety may:

A. Inspect any fuel tank or container that can or may be used for the production, storage or transportation of special fuel;

B. Inspect any equipment that can or may be used for, or in connection with, the production, storage or transportation of special fuel;

C. Inspect the books and records of any supplier, user, distributor or importer;

D. Detain any motor vehicle for the purpose of inspecting its fuel tanks. Detainment may continue for a reasonable period of time as necessary to determine the amount and composition of the fuel. Designated agents and officers may take and remove samples of fuel in reasonable quantities in order to determine compliance with the provisions of this chapter;

E. Suspend vehicle registrations in the name of any carrier that has violated the provisions of this chapter and the right to operate as provided in Title 29-A, section 2458; and

F. Refuse to issue or reissue authority required by Title 29-A, section 552.

2. Penalties. A person who commits one of the following acts is guilty of a Class E crime and is subject to a fine of not less than \$250, which may not be reduced:

A. If the person is a supplier, selling special fuel without collecting tax on the fuel when the supplier knows or has reason to believe that the fuel will not be used for an exempt purpose;

B. Refusing or failing to make any statement, report, payment or return required by this chapter;

C. Refusing or failing to pay interest or penalties arising from the nonpayment of taxes required by this chapter;

D. Knowingly collecting or attempting to collect, directly or indirectly, a refund of tax without being entitled to that refund;

E. Knowingly making, or aiding or assisting any other person in making, a materially false statement in any return or report submitted to the State Tax Assessor, in any application for refund of tax, in any other application or affidavit submitted to the State Tax Assessor pursuant to this chapter or in any affidavit of exempt use submitted to a supplier pursuant to section 3204-A;

F. Refusing or failing to permit an inspection pursuant to subsection 1; or

G. If the person is a user or an agent or employee of a user, consuming special fuel in a registered motor vehicle when the user does not have a valid license issued pursuant to section 3207. Each day or part of a day during which this paragraph is violated constitutes a separate violation within the meaning of this section.

The fine provided by this subsection is in addition to any other applicable penalty or tax.

Sec. 12. 36 MRSA §3234, sub-§2, as enacted by PL 1983, c. 94, Pt. D, §7, is amended to read:

2. Supplier, distributor or importer; definition. For the purposes of this section, the term supplier, distributor or importer includes, ~~in addition to the persons described in section 3202, subsection 5,~~ any officer, director, member, agent or employee of any supplier, distributor or importer who, in that capacity, is responsible for the control or management of the funds or finances of that supplier, distributor or importer or responsible for either the collection or payment of that supplier, distributor or importer's taxes.

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

Effective June 21, 1995.

CHAPTER 272

S.P. 438 - L.D. 1206

An Act to Amend the Medical Examiner Act

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. 22 MRSA §3028, sub-§4, as amended by PL 1991, c. 97, §2, is further amended to read:

4. Possession of useful objects. Except as otherwise directed by the Attorney General, the Attorney General's deputies or assistants, the medical examiner or Office of the Chief Medical Examiner may direct that a law enforcement officer at the scene make measurements, take photographs and take possession of all objects that in the opinion of the medical examiner or Office of the Chief Medical Examiner may be useful in establishing the cause, manner and circumstances of death. For these same purposes, the medical examiner or the Office of the Chief Medical Examiner may direct that a law enforcement officer take possession of any objects or specimens that have been removed from the victim at the scene or elsewhere while under medical care.

Sec. 2. 22 MRSA §3028, sub-§5, as amended by PL 1985, c. 611, §7, is further amended to read:

5. Requests for objects. Any person having possession of any object or objects, as described in subsection 4, shall at the request of the medical examiner give that object or objects to a law enforcement officer, to the medical examiner or to the Office of the Chief Medical Examiner. Medical personnel and institutions turning over any objects or specimens that have been removed from the victim while under medical care are immune from civil or criminal liability when complying with this subsection. Original written or recorded material that might express suicidal intent shall must be sent to the Office of the Chief Medical Examiner. The Chief Medical Examiner may elect to accept copies in place of originals.

Sec. 3. 22 MRSA §3028, sub-§7, as enacted by PL 1979, c. 538, §8, is amended to read:

7. Written report. Upon completing his an investigation, the medical examiner shall submit a written report of his findings to the Chief Medical Examiner on forms provided for that purpose. The medical examiner shall retain one copy of the report.

If a medical examiner reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the medical examiner, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011.

See title page for effective date.

CHAPTER 273

H.P. 522 - L.D. 712

An Act to Make Allocations from the Transportation Safety Fund for the

Fiscal Years Ending June 30, 1996 and June 30, 1997

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the Department of Public Safety and the Department of the Secretary of State will become due and payable on or immediately after July 1, 1995; 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. 29-A MRSA §561, sub-§3, ¶¶A and B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

A. There must be allocated to the Department of Public Safety for the State Police no more than ~~\$2,600,000~~ \$2,200,000 in fiscal year ~~1993-94~~ 1995-96 and ~~\$2,600,000~~ \$2,300,000 in fiscal year ~~1994-95~~ 1996-97 for duties imposed by this chapter and Title 35-A and for related activities.

B. There must be allocated to the Department of the Secretary of State for the Bureau of Motor Vehicles no more than ~~\$660,000~~ \$750,000 annually for enforcement of commercial driver license law.

Sec. 2. Allocation of funds. Income to the Transportation Safety Fund for the next 2 fiscal years, from July 1, 1995 to June 30, 1996 and from July 1, 1996 to June 30, 1997, must be segregated, apportioned and disbursed as designated in the following schedule.

1995-96 1996-97

PUBLIC SAFETY, DEPARTMENT OF

Traffic Safety - Commercial Vehicle Enforcement

Positions - Legislative Count	(41.0)	(41.0)
Personal Services	\$1,775,646	\$1,925,916
All Other	270,694	278,677
Capital Expenditures	122,500	72,800

Provides funds for one State Police Sergeant position, one State Police Specialist position, one State Police Corporal position, 30 State Police Trooper positions, one Safety Inspector Supervisor position, 7 Motor Carrier Inspector positions, general operating expenses and capital expenditures to enforce commercial vehicle laws throughout the State.

**DEPARTMENT OF
PUBLIC SAFETY
TOTAL**

	\$2,168,840	\$2,277,393
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**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Administration - Motor
Vehicles**

Positions - Legislative Count	(19.0)	(19.0)
Personal Services	\$595,763	\$602,290
All Other	125,127	127,829

Provides funds for 3 Driver License Examiner I positions, one Clerk IV position, 2 Clerk Typist III positions, one Clerk III position, 12 Clerk Typist II positions and general operating expenses to carry out the Single Point Contact Program.

**DEPARTMENT OF THE
SECRETARY OF STATE
TOTAL**

	\$720,890	\$730,119
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Sec. 3. Adjustments to allocations.

Allocations under this Act may be increased or adjusted by the State Budget Officer, with the approval of the Governor, to specifically cover those adjustments determined to be necessary under any salary plan approved by the Legislature and those reclassifications or range changes that have been approved by the Department of Administrative and Financial Services and submitted for legislative review prior to the effective date of this Act.

Sec. 4. Encumbered balance at year end.

At the end of each fiscal year, all encumbered balances may not be carried more than once.

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

Effective June 21, 1995.

CHAPTER 274

S.P. 559 - L.D. 1518

**An Act to Amend the Maine State
Retirement System with Respect to
the Consolidated Plan for
Participating Local Districts**

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

Whereas, the consolidated plan for participating local districts has been in operation since July 1, 1994 and will expand to include additional participating local districts that will join the consolidated plan on July 1, 1995; and

Whereas, current statutes do not accurately reflect the intent of the Participating Local District Advisory Committee as was originally intended by the Legislature; and

Whereas, immediate statutory revision is needed to ensure that the consolidated plan is established and operated to reflect the advisory committee's intent; 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. 5 MRSA §17001, sub-§13, ¶C, as amended by PL 1993, c. 580, §1 and affected by §3, and as amended by c. 595, §3 and affected by §16, is repealed and the following enacted in its place:

C. Notwithstanding the other provisions of this subsection, for the purposes of determining average final compensation, "earnable compensation" does not include any increase that exceeds the prior year's earnable compensation by more than 5% or that results in a total increase of more than 10% during the 3-year period used in the calculation of average final compensation, unless the cost of the additional actuarial liability arising from the excess increase is paid by the employer

as provided in section 17154. Any payment made under paragraph B, subparagraph (1) must be included in determining the amount of increase in the year in which the payment is made. This paragraph does not apply to excess increases resulting from compensation paid prior to July 1, 1993, from compensation paid in accordance with an individual employment contract executed prior to July 1, 1993 or a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 for the initial term of that contract or agreement or from other action by the governing body of a school administrative unit in effect on July 1, 1993. This paragraph does not apply to increases in compensation of state employees during fiscal year 1993-94 and fiscal year 1994-95. In all circumstances in which this paragraph does not apply to earnable compensation of state employees and teachers, the provisions of this paragraph that were in effect prior to June 30, 1993 apply. This paragraph does not apply to earnable compensation of employees of participating local districts.

Sec. 2. 5 MRSA §17001, sub-§32, ¶B, as repealed and replaced by PL 1993, c. 250, §1, is amended to read:

B. For a retired participating local district employee:

(1) Except as provided in subparagraph (2), "restoration to service" means acceptance of employment with the participating local district from which the employee retired; and

(2) After the date on which a participating local district's consolidated plan under chapter 427 goes into operation, for a participating local district employee who retires from a participating local district that at the time of the employee's retirement is in the consolidated plan, "restoration to service" means acceptance of employment with any district that participates in the consolidated plan. This subparagraph applies to employees who retire before a consolidated plan goes into operation as well as to those who retire after a consolidated plan has gone into operation the participating local district from which the employee retired or with any other participating local district that is in the consolidated plan at the time the employee accepts employment.

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

Effective June 21, 1995.

CHAPTER 275

H.P. 699 - L.D. 957

An Act to Require Licensure for Use of the Title Athletic Trainer

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

Sec. 1. 32 MRSA c. 127-A is enacted to read:

CHAPTER 127-A

ATHLETIC TRAINERS

§14351. Purpose

The Legislature finds that the practice of athletic training affects the public health, safety and welfare and is subject to regulation and control in the public interest. The purpose of this chapter is to protect the public from the unqualified use of the term "athletic trainer" and from unprofessional conduct by persons licensed to use the term "athletic trainer."

§14352. Definitions

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

1. Athlete. "Athlete" means a physically active individual training for or participating in an amateur, educational or professional athletic organization or any other association that sponsors athletic programs or events in the State.

2. Athletic injury. "Athletic injury" means a disruption of tissue continuity that is sustained by an athlete or recreational athlete when that injury:

A. Results from that individual's participation in or training for sports, fitness training or other athletic competition; or

B. Restricts or prevents that individual from participation in those activities.

3. Athletic trainer. "Athletic trainer" means a person licensed by the department to use that title after meeting the requirements of this chapter.

4. Athletic training. "Athletic training" means:

A. Prevention of athletic injuries;

B. Recognition and evaluation of athletic injuries;

C. Management, treatment and disposition of athletic injuries;

D. Rehabilitation of athletic injuries;

E. Organization and administration of an athletic training program; and

F. Education and counseling of athletes, recreational athletes, coaches, family members, medical personnel and communities in the area of care and prevention of athletic injuries.

5. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

6. Department. "Department" means the Department of Professional and Financial Regulation.

7. Recreational athlete. "Recreational athlete" means an individual participating in fitness training and conditioning, sports or other athletic competition, practices or events requiring physical strength, agility, flexibility, range of motion, speed or stamina and who is not affiliated with an amateur, educational or professional athletic organization or any association that sponsors athletic programs or events in the State.

§14353. Commissioner; powers and duties

The commissioner or the commissioner's designee has the following powers and duties in addition to all other powers and duties set forth in this chapter.

1. Standards. The commissioner shall administer and enforce the standards under this chapter.

2. Rules. The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out the purposes of this chapter.

3. Complaints. The commissioner shall investigate all complaints and cases of noncompliance concerning violations of this chapter or rules adopted by the department, made on the commissioner's own motion or on written complaint filed with the department.

4. Contracts. The commissioner may enter into contracts to carry out the commissioner's responsibilities under this chapter.

5. Hearings. The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial of reregistration,

suspension of registration or other action necessary to the fulfillment of the commissioner's responsibilities under this chapter.

6. Advisory council. The commissioner shall select members of the athletic training community to serve on an advisory council and to consult with the commissioner concerning the regulation of athletic trainers. The council membership must represent each of the following categories: high schools, clinical or industrial organizations, colleges or universities and professional sports. The department shall solicit recommendations from the council relative to rules involving athletic trainers and may solicit the council's advice on any other matter. The council may submit recommendations to the department concerning any matter and the department shall consider the recommendations in making its decisions. Membership on the council is not a conflict of interest regardless of the occupations or associations of the members.

7. Employees. The commissioner may appoint, subject to the Civil Service Law, employees necessary to carry out this chapter and those employees are considered to be under the department.

8. Budget. The commissioner shall prepare a budget in accordance with Title 5, section 1665 to carry out the purposes of this chapter.

§14354. Necessity for licensure

Beginning January 1, 1996 a person may not profess to be an athletic trainer or use the title "athletic trainer" alone or in connection with other words or the initials "AT" alone or in connection with other initials, whether or not compensation is received, unless licensed in accordance with this chapter.

1. Athletic training. When providing athletic training to an athlete without referral from a doctor of medicine, osteopathy, podiatry or dentistry, the athletic trainer is subject to the following requirements.

A. An athletic trainer may not make a medical diagnosis. The athletic trainer shall refer to a licensed doctor of medicine, osteopathy, podiatry or dentistry an athlete whose physical condition, either at the initial evaluation or during subsequent treatment, the athletic trainer determines to be beyond the scope of the practice of the athletic trainer.

B. If there is no improvement in an athlete who has sustained an athletic injury within 15 days of initiation of treatment, the athletic trainer shall refer the athlete to a licensed doctor of medicine, osteopathy, podiatry or dentistry or a licensed physical therapist.

C. If an athletic injury requires treatment for more than 45 days, the athletic trainer shall consult with, or refer the athlete to, a licensed doctor of medicine, surgery, osteopathy, podiatry or dentistry or a licensed physical therapist. The athletic trainer shall document the action taken.

2. Training of recreational athlete. When providing athletic training to the recreational athlete, for other than emergency care or the care of minor sprains, strains and contusions, the athletic trainer shall refer the athlete to a doctor of medicine, osteopathy, podiatry or dentistry or a licensed physical therapist.

For the treatment of the recreational athlete, for other than emergency care or the care of minor sprains, strains and contusions, the athletic trainer must receive referral from a doctor of medicine, osteopathy, podiatry or dentistry or a licensed physical therapist.

When providing care and treatment to the recreational athlete sustaining minor sprains, strains and contusions, the athletic trainer is subject to the following requirements.

A. An athletic trainer may not make a medical diagnosis. The athletic trainer shall refer to a licensed doctor of medicine, osteopathy, podiatry or dentistry an athlete whose physical condition, either at the initial evaluation or during subsequent treatment, the athletic trainer determines to be beyond the scope of practice of the athletic trainer.

B. If there is no improvement in a recreational athlete who has sustained an athletic injury within 15 days of initiation of treatment, the athletic trainer shall refer the recreational athlete to a licensed doctor of medicine, osteopathy, podiatry or dentistry or a licensed physical therapist.

C. If an athletic injury requires treatment for more than 45 days, the athletic trainer shall consult with or refer the recreational athlete to a licensed doctor of medicine, osteopathy, podiatry or dentistry or a licensed physical therapist.

§14355. License violations

Beginning January 1, 1996 a person who violates section 14354 or employs an unlicensed person in violation of that section is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether procedures have been instituted in the Administrative Court or whether criminal proceedings have been introduced.

§14356. Exemptions

Nothing in this chapter prevents or restricts the practice, services or activities of:

1. Federal employee. A person employed as an athletic trainer by the Federal Government or any federal agency if that person provides athletic training under the direction or control of that person's employing organization;

2. Student athletic trainer. A person fulfilling the requirements for licensure or pursuing a supervised course of study leading to a degree or certificate in athletic training at an accredited or approved educational program if the person is designated by a title that indicates that person's status as a student or trainee;

3. Experience requirement. A person fulfilling the supervised practical training requirements of this chapter if that training is necessary to meet the requirements of this chapter; or

4. Visiting team. A person performing athletic training services in the State for an out-of-state team that is in the State for competition at which an athletic trainer licensed under this chapter or a physician is available if these services are performed for no more than 4 days at a time or for no more than 30 days a year.

§14357. Qualifications for licensure

1. Qualifications. To qualify for a license as an athletic trainer an applicant must:

A. Demonstrate that the applicant is trustworthy and competent to engage in practice as an athletic trainer in a manner that safeguards the interests of the public;

B. Be a graduate of a college or university approved by the department and have successfully completed that college's or university's curriculum in athletic training or other curricula acceptable to the department and have completed an athletic training education program approved by the National Athletic Trainers' Association or a program of practical training in athletic training acceptable to the department; and

C. Have passed the National Athletic Trainers' Association Board of Certification examination or be currently certified by the National Athletic Trainers' Association and approved by the department.

§14358. Applications for licensure; fees

An applicant for initial licensure must submit a written application with supporting documents to the

department on forms provided by the department. The applicant must pay a nonrefundable application fee established by the department in an amount not to exceed \$50.

The department may license an applicant who meets the requirements of this chapter and pays the licensure fee as specified in section 14359. The original license and the renewal license for the current year must be conspicuously displayed at the place of employment of the licensee.

§14359. Renewal

All licenses must be renewed annually on or before March 31st of each year or such other times as the commissioner may designate. The annual licensure renewal fee must be established by the department by rulemaking and may not exceed \$100. The commissioner shall notify each licensee, at the licensee's last known address, 30 days in advance of the expiration of the license. Renewal notices must be on forms provided by the department. A license not renewed by March 31st automatically expires. The department may renew an expired license if the renewal application is returned within 90 days after the license expiration date and upon payment of a late fee of \$10 in addition to the renewal fee. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the department may in its discretion, giving consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration.

For the purposes of satisfying the continuing education requirements each application for license renewal must include current National Athletic Trainers' Association certification.

§14360. Temporary permits

A temporary permit may be granted to a person who has completed the education and experience requirements of this chapter. This permit allows the person to use the title "student athletic trainer" when practicing under the direction of a licensed athletic trainer. This permit becomes invalid after 6 months or upon failure by the permittee of the National Athletic Trainers' Association Board of Certification examination, whichever event occurs first. The permit may not be renewed.

§14361. Revocation and reissuance

The department may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the department may refuse to issue or renew a license pursuant to Title 10, subsection 8003 or the Adminis-

trative Court may revoke, suspend or refuse to renew a license of an athletic trainer for:

1. Fraud. The practice of fraud in obtaining a license under this chapter or in connection with services rendered as a licensed athletic trainer;

2. Addiction. Addiction to alcohol or other drugs resulting in the licensed athletic trainer's inability to perform that trainer's duties safely and competently;

3. Incompetency. A court finding of mental incompetency;

4. Accomplice. Aiding a person not duly licensed as an athletic trainer in misrepresentation as an athletic trainer;

5. Misconduct. Gross negligence, incompetency or misconduct in the practice of athletic training;

6. Criminal conviction. Conviction of a crime subject to the limitations of Title 5, chapter 341 that if committed in the State is punishable by one year or more of imprisonment;

7. Violation. Violation of this chapter or any rule adopted by the department; or

8. Unethical conduct. A finding of a violation of the National Athletic Trainers' Association Code of Professional Ethics by the National Athletic Trainers' Association Ethics Committee or a violation of the Professional Practice and Disciplinary Procedures of the National Athletic Trainers' Association Board of Certification by that board.

§14362. Disposition of fees

All money received pursuant to this chapter must be paid to the Treasurer of State and credited to the athletic trainers account within the budget of the Division of Licensing and Enforcement.

Money credited to the athletic trainers account must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony and procuring the attendance of witnesses, the costs of all legal proceedings initiated for enforcement and administrative expenses.

Sec. 2. Report. By January 1, 1997, the Department of Professional and Financial Regulation shall submit a brief written report and make an oral report on the status of licensing of athletic trainers to the joint standing committee of the Legislature having jurisdiction over business legislation and economic development matters and to the Executive Director of the Legislative Council with any implementing legislation.

1. This report must include a good faith effort to provide statistical information on the following subjects:

- A. The number of people who previously practiced athletic training who are no longer able to do so;
- B. The reduction in the number or severity of injuries due to the licensing of athletic trainers; and
- C. The fees charged by athletic trainers before and after the effective date of this Act.

2. The department shall include in the report the following data:

- A. A quantitative survey of school superintendents designed by the department, using as many closed-ended questions as possible on the final questionnaire and doing the necessary background work necessary to make the questionnaire easily answered. At least one followup must be made to nonrespondents;
- B. A report on the written and verbal responses received in connection with the public hearings necessitated by the requirement that athletic trainers be licensed; and
- C. The department shall develop a short quantitative questionnaire suitable to be placed in any newsletter published by the association athletic trainers of any state. The department shall encourage the association to include the questionnaire in its publication together with a brief summary of the new law.

Sec. 3. Working capital advance. The State Controller is authorized to advance to the Department of Professional and Financial Regulation, Division of Licensing and Enforcement, athletic trainers account up to \$7,630 in fiscal year 1995-96 from the General Fund unappropriated surplus for the operating costs of licensing athletic trainers. These funds will be used to provide the working capital advance necessary to cover the operating expenses of licensing athletic trainers until receipt of licensing fees as other special revenue. Funds advanced for this purpose must be returned to the General Fund unappropriated surplus no later than June 30, 1996.

Sec. 4. Allocation. The following funds are allocated from the Other Special Revenue fund to carry out the purposes of this Act.

1995-96 1996-97

**PROFESSIONAL AND
FINANCIAL
REGULATION,
DEPARTMENT OF**

**Division of Licensing and
Enforcement - Athletic
Trainers**

All Other	\$7,630	\$5,700
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Allocates funds to
establish the licensure of
athletic trainers.

See title page for effective date.

CHAPTER 276

H.P. 437 - L.D. 603

**An Act to Allow the Sale of
Irradiated Food in the State**

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

Sec. 1. 22 MRSA §2152, sub-§5-A, as enacted by PL 1987, c. 174, §1, is repealed.

Sec. 2. 22 MRSA §2155, sub-§10, as amended by PL 1989, c. 376, is repealed.

See title page for effective date.

CHAPTER 277

H.P. 1017 - L.D. 1432

**An Act to Amend the Laws
Regarding Workers' Compensation
Pilot Projects**

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

**Sec. 1. 39-A MRSA §403, sub-§2, ¶¶A, B
and D,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, are amended to read:

- A. The Superintendent of Insurance shall adopt rules to enable employers and employees to enter into agreements to provide the employees with health care benefits covering workplace injury and illness and nonworkplace injury and illness and other health care benefits, or health care and indemnity benefits covering workplace injury and illness and nonworkplace injury and illness

and other health care and indemnity benefits, in comprehensive pilot projects. The health care and indemnity benefits may be provided by: organizations authorized to do business under Title 24; insurers or health maintenance organizations authorized to do business under Title 24-A; employee benefit plans; and benefit plans of employers who self-insure under this section. The superintendent shall review all pilot project proposals and may approve a proposal only if it confers medical benefits, or medical and indemnity benefits depending on the pilot project proposal, upon injured employees substantially similar to that are equal to or greater than the benefits available under this Title. Indemnity benefits may only be modified in those pilot projects providing medical and disability benefits for all workplace and nonworkplace diseases and injuries. The superintendent shall revoke approval if the pilot project fails to deliver the intended benefits to the injured employees contained in the proposal. A pilot project proposal that provides indemnity benefits deviating in any way from the indemnity benefits provided under this Title must include in its application to the superintendent for approval under this section a methodology for identifying both the costs and benefits of the deviations and a methodology for comparing those costs and benefits to the costs and benefits provided under this Title. The superintendent may not approve a pilot project that does not provide, as determined by the superintendent, an adequate basis for making the foregoing cost-benefit comparison between the pilot project and this Title.

B. Notwithstanding the provisions of section 206, the comprehensive health care benefits pilot project may allow for case management and cost control mechanisms, including the use of preferred provider organizations. The premium for coverage of the employee for benefits available under this Title must be paid entirely by the employer. The premium for other benefits may be paid by the employer, the employee or the employer and employee together. The deductible for the health care of the employee may not exceed a maximum of \$50 per injury or illness and the coinsurance may not exceed \$5 per treatment of the employee by the health care provider.

D. Unless continued or modified by law, this subsection is repealed ~~on October 31, 1996~~ January 1, 2001.

See title page for effective date.

CHAPTER 278

H.P. 605 - L.D. 815

An Act to Limit the Size of Drag Nets Used in South Bay in Eastport

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

Sec. 1. 12 MRSA §6954-B is enacted to read:

§6954-B. Drag limits in South Bay in Eastport

It is unlawful to fish in South Bay in Eastport, including all waters south and east of a line drawn from Gove Point westerly to Youngs Point, with any one combination of drags or drag in excess of 5 feet 6 inches in width by measuring from the extreme outside edge of the mouth of the drag or drags. In addition, any drag used for the taking of scallops is limited to no more than 8 rings deep. The ring size must be the legal size in effect that applies to a holder of a license or federal permit.

See title page for effective date.

CHAPTER 279

H.P. 1062 - L.D. 1497

An Act to Clarify the Operations of the Maine Board of Bar Examiners

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

Sec. 1. 4 MRSA §801-B, as enacted by PL 1977, c. 604, §1, is repealed.

See title page for effective date.

CHAPTER 280

S.P. 250 - L.D. 647

An Act to Amend the Laws Regarding Use and Acquisition of State Property

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

Sec. 1. 5 MRSA §20, sub-§2, as enacted by PL 1985, c. 737, Pt. A, §15, is amended to read:

2. **State property.** "State property" means personal property, including, but not limited to, furnishings, supplies and equipment ~~which are~~ that is

owned or leased by or in the control of the State or any department or agency of the State or independent state agency. "State property" includes property purchased with funds, such as fees for conferences and seminars conducted by a state agency, received by or on behalf of the State or any department or agency outside of the normal system of accounts and controls.

Sec. 2. 5 MRSA §20-A, as amended by PL 1991, c. 780, Pt. Y, §8, is repealed and the following enacted in its place:

§20-A. Use and acquisition of state property

1. Use of state property. An employee of the State may not take state property off the premises of the State for personal use or for the use of others without prior written approval of the head of the department for which that employee works.

2. Acquisition of state property. Within 3 months of leaving office or employment with the State, an employee of the State, in accordance with rules adopted by the Commissioner of Administrative and Financial Services and this chapter, may purchase at fair market value state property that was assigned to the employee or state property of which the employee was the principal user at the time of that employee's employment. The commissioner, by rule, shall determine state property that may be offered for sale under this chapter. State property may not be offered for sale under this chapter until the commissioner determines that the property is eligible for sale and that no state agency has any need or use for the property. This section may not be interpreted to prohibit an employee of the State or any other person from purchasing state property at fair market value in accordance with this chapter as a gift to an employee of this State upon that employee's retiring or leaving office.

3. Return of state property. If an employee or former employee of the State is in possession of state property in violation of subsection 1, the State may bring an action for injunctive relief seeking the return of the state property. The action may be brought in Superior Court in the county where the alleged violation occurred, Kennebec County or the county where the person against whom the civil complaint is filed resides. If a violation of subsection 1 is established, the court may enjoin the violation and order the return of the state property.

See title page for effective date.

CHAPTER 281

H.P. 686 - L.D. 937

An Act Concerning Technical Changes to the Tax Laws

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

Whereas, delay in making technical changes to the tax laws would interfere with administration of those laws; and

Whereas, legislative action is immediately necessary in order to ensure continued and efficient administration of the tax laws; 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. 36 MRSA §112, sub-§1, as amended by PL 1991, c. 873, §1, is further amended to read:

1. General powers and duties. The State Tax Assessor shall administer and enforce the tax laws enacted under this Title and, ~~pursuant to this under Title 29-A, and~~ may adopt rules and require such information to be reported as necessary. The ~~State Tax Assessor~~ ~~assessor~~ shall provide, at the time of issuance ~~by the assessor~~, to one or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices of rulemaking, any other taxpayer information issued by the ~~State Tax Assessor~~ ~~assessor~~, and all substantive amendments or modifications of the same, for publication by that entity or entities. When a significant change has occurred in Bureau of Taxation policy or practice or in the interpretation by the ~~Bureau of Taxation~~ ~~bureau~~ of any law, rule or instruction bulletin, the ~~State Tax Assessor~~ ~~assessor~~ shall, within 60 days of the change, provide to the same publishing entity or entities written notice, suitable for publication, of the change.

Sec. 2. 36 MRSA §113, as enacted by PL 1989, c. 880, Pt. B, §1, is amended to read:

§113. Audit and collection expenses

Funds derived from contract audit and collection efforts are treated as revenues only to the extent that collections resulting from those efforts exceed the costs associated with the audit and collection efforts.

~~The State Tax Assessor shall annually report to the Legislature the costs and collections of the Maine Tax Amnesty Program established by chapter 913. The State Tax Assessor shall annually report to the joint standing committee of the Legislature having jurisdiction over taxation matters the costs and collections of programs administered pursuant to this section.~~

Sec. 3. 36 MRSA §114 is enacted to read:

§114. Contract services provided by the Bureau of Taxation

Notwithstanding any other provision of law, when the Bureau of Taxation provides a service to any state or quasi-state agency, the bureau shall bill that entity at what it determines, in conjunction with the entity served, to be a reasonable rate. An account may be established by the bureau for receipt of these revenues. This account must be used to defray costs associated with the facilities and personnel necessary to provide the services. The bureau shall annually report to the joint standing committee of the Legislature having jurisdiction over taxation matters the extent of such services provided and the details of revenues and costs involved.

Sec. 4. 36 MRSA §135, as enacted by PL 1979, c. 378, §3, is amended to read:

§135. Record-keeping requirements

~~1. Taxpayers. The State Tax Assessor shall by rule or regulation require persons subject to tax under this Title to keep such records as he deems the State Tax Assessor determines necessary for the reasonable administration of this Title and he shall determine the period for which all such records shall be preserved. Records pertaining to taxes imposed by chapters 371 and 575 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. They shall The records must be kept in such a manner as to ensure their security and accessibility for inspection by the State Tax Assessor assessor or any of his employees designated agent engaged in the administration of this Title. The period of preservation shall not exceed 7 years.~~

2. Bureau of Taxation. Returns filed under this Title or microfilm reproductions of those returns ~~shall~~ must be preserved for 3 years and thereafter until the State Tax Assessor orders their destruction.

Sec. 5. 36 MRSA §144 is enacted to read:

§144. Application for refund

1. Generally. A taxpayer may request a credit or refund of any tax imposed by this Title within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever period expires later. Every claim for refund must be submitted to the State Tax Assessor in writing and state the specific grounds upon which it is founded. The taxpayer may in writing request an informal conference regarding the claim for refund, in which case the claim for refund is considered a request for reconsideration of an assessment under section 151.

2. Exceptions. This section does not apply in the case of sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists.

Sec. 6. 36 MRSA §171, as enacted by PL 1985, c. 691, §3, is amended to read:

§171. Demand letter

If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the State Tax Assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating tax, interest and penalty, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice ~~shall~~ must include a warning that, upon failure of that taxpayer to pay as demanded, the State Tax Assessor may proceed to collect the amount due by any collection method authorized by this Title. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first.

Sec. 7. 36 MRSA §175-A, sub-§4 is enacted to read:

4. Recording fees part of tax liability. Fees paid by the State Tax Assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and may be collected by all the methods provided for in chapter 7.

Sec. 8. 36 MRSA §187-B, sub-§2, ¶¶A and B, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, are amended to read:

A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title is liable for a penalty of ~~\$5 or 1% of the unpaid tax, whichever is greater,~~ for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of ~~\$25 or 25% of the unpaid tax, whichever is greater.~~

B. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available pursuant to section 151 and the Maine Administrative Procedure Act is liable for a penalty in the amount of ~~\$25 or 25% of the amount of the tax due, whichever is greater,~~ if the payment of the tax is not made within 10 days of the person's receipt of notice of demand for payment as provided by this Title. This penalty must be explained in the notice of demand and is final when levied.

Sec. 9. 36 MRSA §187-B, sub-§7, ¶¶D and E, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, are amended to read:

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

Sec. 10. 36 MRSA §653, sub-§1, ¶D-1, as amended by PL 1993, c. 739, §2, is further amended to read:

D-1. The estates up to the just value of \$47,500, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign, the Vietnam War and the Persian Gulf War, and who are paraplegic veterans, ~~so called,~~ within the meaning of the ~~United States~~ Code, Title 38, Chapter 21, Section 2101, and who received a grant from the United States Government for ~~the specially adapted~~ any such housing, or of the unmarried widows of ~~the such~~ veterans. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964 and before May 7, 1975, unless the veteran died in service or was discharged for a service-connected disability after that date. "Vietnam War" means the period between August 5, 1964 and May 7, 1975. "Persian Gulf War" means service on active duty between August 7, 1990 and April 11,

1991. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with ~~that veteran's~~ a spouse.

Sec. 11. 36 MRSA §1752, sub-§1-B, as amended by PL 1993, c. 701, §1, is further amended to read:

1-B. Automobile. "Automobile," for purposes of subsection 17-A, ~~paragraphs B and~~ paragraph H, means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks.

Sec. 12. 36 MRSA §1752, sub-§11, ¶B, as amended by PL 1993, c. 670, §1 and c. 701, §2, is repealed and the following enacted in its place:

B. "Retail sale" does not include:

(1) Any casual sale;

(2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;

(3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;

(4) The sale, to a person engaged in the business of renting video tapes and video equipment, of video tapes or video equipment for rental; or

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more.

Sec. 13. 36 MRSA §1752, sub-§17-A, ¶B, as enacted by PL 1987, c. 497, §25, is repealed.

Sec. 14. 36 MRSA §1752, sub-§17-A, ¶H, as enacted by PL 1993, c. 701, §5, is amended to read:

H. Rental or lease of an automobile ~~for more than one year.~~

Sec. 15. 36 MRSA §1760, sub-§49, as enacted by PL 1985, c. 535, §3, is amended to read:

49. Community action agencies. Sales to community action agencies designated in accordance with Title ~~5~~ 22, section ~~3549~~ 5324, except sales,

storage or use for activities ~~which~~ that are mainly commercial enterprises;

Sec. 16. 36 MRSA §1760, sub-§68, as amended by PL 1993, c. 410, Pt. E, §23, is further amended to read:

68. Maine Science and Technology Foundation. Sales to institutions incorporated as nonprofit organizations that conduct scientific and technological research ~~solely~~ for the Maine Science and Technology Foundation and receive funding pursuant to Title 5, chapter 385;

Sec. 17. 36 MRSA §1764, as amended by PL 1991, c. 546, §23, is further amended to read:

§1764. Tax against certain casual sales

The tax imposed by chapters 211 to 225 must be levied upon all casual sales involving the sale of camper trailers, motor vehicles, special mobile equipment, livestock trailers, watercraft or aircraft except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership.

Sec. 18. 36 MRSA §1811, 6th ¶, as amended by PL 1995, c. 5, Pt. F, §1 and affected by Pt. F, §2, is further amended to read:

For the period beginning July 1, 1993 and ending June 30, 1995, the State Tax Assessor shall transfer each month to the Tourism Marketing and Development Fund all receipts of taxes imposed pursuant to this section on the value of liquor sold in licensed establishments, as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43, on the value of rental of living quarters in any hotel, rooming house, tourist or trailer camp and rental for a period of less than one year of an automobile and on the value of ~~prepared food sold in establishments as defined in section 1752, subsection 8-A~~ food products served on the premises of retailers that are primarily engaged in the restaurant business, less transfers pursuant to Title 30-A, section 5681, subsection 5, in excess of the base General Fund revenue estimates effective July 1, 1993 for the previous month. The State Tax Assessor shall reduce any subsequent transfers to the Tourism Marketing and Development Fund by an amount equal to the amount of General Fund revenues defined in this paragraph that are below the base General Fund estimates effective July 1, 1993 for the previous month. This paragraph is repealed July 1, 1995.

Sec. 19. 36 MRSA §1811, last ¶, as enacted by PL 1993, c. 701, §7 and affected by §10, is amended to read:

Rental or lease of an automobile for ~~more than~~ one year or more must be taxed at the time of the lease or rental transaction at 6% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

Sec. 20. 36 MRSA §1812, sub-§1, ¶D is enacted to read:

D. If the tax rate is 10%:

<u>Amount of Sale Price</u>	<u>Amount of Tax</u>
<u>\$0.01 to \$0.10, inclusive</u>	<u>0¢</u>
<u>.11 to .20, inclusive</u>	<u>2¢</u>
<u>.21 to .40, inclusive</u>	<u>4¢</u>
<u>.41 to .60, inclusive</u>	<u>6¢</u>
<u>.61 to .80, inclusive</u>	<u>8¢</u>
<u>.81 to 1.00, inclusive</u>	<u>10¢</u>

Sec. 21. 36 MRSA §2726, sub-§6, as enacted by PL 1985, c. 514, §2, is amended to read:

6. Enforcement. The tax imposed by this chapter may be enforced by the ~~same~~ enforcement and collection procedures ~~as those provided for income taxes in chapter 835 7.~~

Sec. 22. 36 MRSA §4064, as enacted by PL 1981, c. 451, §7, is amended to read:

§4064. Tax on estate of nonresident

A tax is imposed upon the transfer of real property situated in this State and upon the transfer of tangible personal property ~~having an actual situs located in this State of every person who at the time of his death was not a resident of this State.~~ The amount of this tax is a sum equal to ~~the~~ that proportion of the credit ~~for state death taxes provided by section 2011 of the code which~~ that the value of Maine real and tangible personal property taxed in this State ~~which~~ that qualifies for the credit bears to the value of the decedent's total federal gross estate. All values ~~shall be~~ are as finally determined for federal estate tax purposes.

Proceeds from the sale of property are taxable under this section if such proceeds are included in the total federal gross estate and the sale was made in

contemplation of death. A sale of property made within 6 months prior to the death of the grantor is deemed to be in contemplation of death within the meaning of this section.

Sec. 23. 36 MRSA §4075-A is enacted to read:

§4075-A. Authority to make refunds

1. Refund. In the case of any overpayment of tax imposed by this chapter, the State Tax Assessor shall authorize the Treasurer of State to refund the overpayment and any applicable interest to the personal representative or the responsible party otherwise liable for the tax imposed by this chapter.

2. Limitation on payment of interest. Notwithstanding subsection 1, if any overpayment of tax imposed by this chapter is refunded within 3 months after the date prescribed or permitted by extension of time for filing the return of that tax or within 3 months after the return is filed or within 3 months after a return requesting a refund of the overpayment is filed, whichever is later, no interest may be paid by the assessor.

Sec. 24. 36 MRSA cc. 704-A and 705, as amended, are repealed.

Sec. 25. 36 MRSA §5102, sub-§8, as amended by PL 1991, c. 546, §32, is further amended to read:

8. Maine net income. "Maine net income" means, for any taxable year for any corporate taxpayer, the taxable income of that taxpayer for that taxable year under the laws of the United States as modified by section 5200-A and apportionable to this State under chapter 821. To the extent that it derives from a unitary business carried on by 2 or more members of an affiliated group, the Maine net income of a corporation is determined by apportioning that part of the federal taxable income of the entire group ~~which~~ that derives from the unitary business, except income of an 80-20 corporation. If a taxable corporation is an S corporation, "Maine net income" means the amount taxable at the federal level pursuant to the Code, ~~Section~~ Sections 1374 and 1375.

Sec. 26. 36 MRSA §5121, as repealed and replaced by PL 1989, c. 596, Pt. J, §3, is amended to read:

§5121. Taxable income

The ~~entire~~ taxable income of a resident individual of this State ~~shall be that~~ is equal to the individual's federal adjusted gross income as defined by federal law, ~~as amended~~ with the modifications, and

less the deductions and personal exemptions provided in this chapter.

Sec. 27. 36 MRSA §5125, sub-§2, as repealed and replaced by PL 1987, c. 819, §7, is amended to read:

2. Spouses. Spouses, both of whom are required to file returns under this Part, ~~shall be~~ are allowed to claim itemized deductions only if both do so. The total of itemized deductions allowable for determining federal income tax as adjusted by this section may be taken by either or divided between them, as they may elect, if their federal income tax is determined on a joint return but their tax pursuant to this Part is determined on ~~married~~ separate returns.

Sec. 28. 36 MRSA §5125, sub-§3, as enacted by PL 1987, c. 819, §7, is repealed and the following enacted in its place:

3. Amount. The sum of an individual's allowable federal itemized deductions must be:

A. Reduced by any amount representing income taxes imposed by this State or any other taxing jurisdiction and interest or expenses incurred in the production of income exempt from tax under this Part; and

B. Increased by any amount of interest or expense incurred in the production of income taxable under this Part but exempt from federal income tax, and which has not been deducted in determining federal adjusted gross income.

Sec. 29. 36 MRSA §5203-B, as enacted by PL 1991, c. 591, Pt. AAA, §1 and affected by §2, is amended to read:

§5203-B. Corporate income tax surcharge

In addition to the tax liability otherwise established by this Part, a tax surcharge of 10% of the total amount of state tax liability established by sections 5200 and 5203-A is imposed on taxable corporations for tax years beginning in 1991 or 1992.

Sec. 30. 36 MRSA §5204-B is enacted to read:

§5204-B. Certain capital gains of trusts

The tax imposed under this Part on any trust whose federal income tax for any taxable year is increased because of a capital gain on property transferred to the trust at less than fair market value must be increased by 30% of the amount by which the trust's federal income tax was increased pursuant to the Code, Section 644. This section applies to tax years beginning on or after January 1, 1995.

Sec. 31. 36 MRSA §5227, as amended by PL 1985, c. 535, §22, is further amended to read:

§5227. Time and place for filing returns and paying tax

The income tax return or franchise tax return required by this Part ~~shall~~ must be filed on or before the date a federal income tax return, (without regard to extension), is due to be filed. A taxpayer required to make and file a return under this Part shall, without assessment, notice or demand, pay any tax due thereon to the assessor on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return). ~~The assessor shall prescribe by regulation the place for filing any return, declaration, statement or other document required pursuant to this Part and for the payment of any tax.~~

Sec. 32. 36 MRSA §5256, sub-§1, as enacted by P&SL 1969, c. 154, §F, is amended to read:

1. General. For purposes of the tax imposed by this Part, a taxpayer's taxable year ~~shall be~~ is the same as ~~his~~ the taxpayer's taxable year for federal income tax purposes.

Sec. 33. 36 MRSA §5256, sub-§2, as amended by PL 1989, c. 596, Pt. J, §6, is further amended to read:

2. Change of taxable year. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of the tax imposed by this Part ~~shall~~ must be similarly changed. The income tax for a period of less than 12 months resulting from a change in accounting period is computed by first determining the taxable income for the period. That taxable income is then multiplied by 12 and divided by the number of months in the period of less than 12 months. A tax is computed on the resulting taxable income. The tax is then divided by 12 and multiplied by the number of months in the period of less than 12 months. The result is the tax liability before credits. ~~Itemized deductions for the period of less than 12 months shall be reduced as provided in section 5125, subsection 3, paragraph A, subparagraph (3), except that the amount established by the Code, Section 63(c) shall be divided by 12 and multiplied by the number of months in the period of less than 12 months. Standard deduction and personal exemption~~ Exemption amounts ~~shall be~~ are divided by 12 and multiplied by the number of months in the period of less than 12 months.

Sec. 34. 36 MRSA §5317, as repealed and replaced by PL 1981, c. 364, §74, is repealed.

Sec. 35. 36 MRSA §5319, sub-§2, as amended by PL 1979, c. 541, Pt. A, §247, is further amended to read:

2. Failure to furnish records or testimony. If any taxpayer willfully refuses to make available any books, papers, records or memoranda for examination by the assessor or ~~his~~ the assessor's representative or willfully refuses to attend and testify pursuant to the powers conferred on the assessor by section ~~5340, subsection 3~~ 112, the assessor may apply to a Justice of the Superior Court of Kennebec County for an order directing the taxpayer to comply with the assessor's request for books, papers, records or memoranda or for ~~his~~ the taxpayer's attendance and testimony. If the books, papers, records or memoranda required by the assessor are in the custody of a corporation, the order of the court may be directed to any principal officer of ~~such~~ the corporation. If a person fails or refuses to obey such an order, ~~he shall~~ be the person is guilty of contempt of court.

Sec. 36. 36 MRSA §5322, as amended by PL 1979, c. 378, §49, is repealed.

Sec. 37. 36 MRSA c. 839, as amended, is repealed.

Sec. 38. 36 MRSA c. 909, as amended, is repealed.

Sec. 39. 36 MRSA c. 910, as enacted by PL 1987, c. 876, §7, is repealed.

Sec. 40. 36 MRSA c. 911, as enacted by PL 1987, c. 876, §8, is repealed.

Sec. 41. 36 MRSA c. 913, as enacted by PL 1989, c. 880, Pt. A, §1, is repealed.

Sec. 42. Retroactivity. Those sections of this Act that affect the Maine Revised Statutes, Title 36, sections 1752 and 1811 are effective retroactively to January 1, 1995.

Sec. 43. Application date. Those sections of this Act that amend the Maine Revised Statutes, Title 36, sections 5102 and 5256 apply to tax years beginning on or after January 1, 1995.

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

Effective June 21, 1995.

CHAPTER 282**S.P. 493 - L.D. 1352****An Act to Amend the Laws Relating to Administrator Certification****Be it enacted by the People of the State of Maine as follows:****Sec. 1. 20-A MRSA §13019-F** is enacted to read:**§13019-F. One-year conditional certificates for administrators**

An individual may be granted a one-year, nonrenewable conditional administrator certificate in a specific capacity if the individual:

1. Conditional administrator certificate. Will be employed in this State under that one-year nonrenewable conditional administrator certificate;

2. Basic level knowledge areas. Meets a majority of the basic level knowledge areas described in sections 13019-A, 13019-B and 13019-C; and

3. Other requirements. Meets other requirements in accordance with state board rules that are adopted pursuant to this section.

See title page for effective date.

CHAPTER 283**S.P. 350 - L.D. 978****An Act to Transfer Responsibility for Approval of Employee Assistance Programs****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 26 MRSA §683, sub-§1, ¶B, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

B. The employee assistance program must be certified by the ~~Department of Human Services~~ Office of Substance Abuse under rules adopted pursuant to section 687. The rules ~~shall~~ must ensure that the employee assistance programs have the necessary personnel, facilities and procedures to meet minimum standards of professionalism and effectiveness in assisting employees.

Sec. 2. 26 MRSA §687, sub-§1, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

1. Office of Substance Abuse. The ~~Department of Human Services~~ Office of Substance Abuse shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, as provided in this subchapter.

Sec. 3. 26 MRSA §688, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

§688. Substance abuse education

All employers shall cooperate fully with the Department of Labor, Office of Substance Abuse, the Department of Human Services, the Department of Public Safety and any other state agency in programs designed to educate employees about the dangers of substance abuse and about public and private services available to employees who have a substance abuse problem.

See title page for effective date.

CHAPTER 284**H.P. 1023 - L.D. 1438****An Act to Create Wet-weather Water Quality Standards****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 38 MRSA §464, sub-§2-B is enacted to read:

2-B. Temporary removal of designated uses; use attainability analysis and creation of subcategory of uses for combined sewer overflows. When designated uses are not being met as a result of combined sewer overflow discharges, the board may, consistent with this subsection and 40 Code of Federal Regulations, Part 131, temporarily remove designated uses that are not existing uses and create a temporary combined sewer overflow subcategory referred to as a CSO subcategory. Notwithstanding this subsection, it remains the goal of the State to fully maintain and restore water quality and eliminate or control combined sewer overflows as soon as practicable.

A. The board may create temporary CSO subcategories in classes B, C and SB and SC waters only when, due to the age, condition and design of an existing sewer system, technical or financial limitations prevent the timely attainment of all designated uses. In a CSO subcategory, uses are suspended only in the smallest area possible, for the shortest duration practicable and include only those designated uses and areas determined by the board to have the least potential for public benefit.

B. Notwithstanding subsections 2 and 2-A, CSO subcategories may be created by the board upon application by a municipality or quasi-municipality having licensed combined sewer overflow discharges, if the following standards are met.

(1) The applicant submits to the department for approval, with or without conditions, a study and plan, including an implementation schedule, for combined sewer overflow abatement, referred to as the CSO plan. In order for the board to create a CSO subcategory, the CSO plan must:

(a) Place high priority on abatement of combined sewer overflows that affect waters having the greatest potential for public use or benefit and plan to relocate any remaining discharges to areas where minimal impacts or losses of uses would occur; and

(b) Provide for the implementation as soon as practical of technology-based control methods to achieve best practicable treatment or ensure that cost-effective best management practices are being implemented.

(2) The board finds that attainment of a designated use is not feasible and such determination must be supported by demonstration that the conditions of 40 Code of Federal Regulations, Part 131.10(g) are met.

(3) The board finds that the uses to be affected are not existing uses as defined in subsection 4, paragraph F, subparagraph (1).

(4) The board finds that discharges from combined sewer overflows are not affecting uses that, in the board's judgment, constitute high value or important resources. In determining if a resource is high value or important the board shall consider its economic, recreational and ecological significance, the likelihood that removal of a combined sewer overflow will lead to utilization of that resource and the effects of other discharges or conditions on that resource.

C. Prior to creating any CSO subcategory, the board shall adopt rules regarding required studies, best practicable treatment, abatement options and related issues for combined sewer overflows. CSO subcategories may be created only after completion of the following.

(1) Either during or following development of combined sewer abatement plans, licensees shall conduct public hearings in the area that would be affected by a CSO subcategory. Notices and records of hearings must be kept and included as part of an application made to the board.

(2) Combined sewer overflow abatement plans must be submitted to the department for technical review and approval.

(3) Licensees proposing CSO subcategories shall submit formal applications to the board. Information in the application must include: description of the areas and uses to be affected, the time and duration of effects, comments received at public hearings, a description of continuing efforts to abate impacts and proposals for periodic review and update of abatement plans.

(4) The board shall provide public notice of applications for CSO subcategories and solicit public comments. The board shall also consult with agencies, public officials and other persons identified as having interest in the area to be affected. Based on the results of public hearings held by the applicant, the comments received and the nature of the application, the board may hold a public hearing.

(5) The board may approve, approve with conditions or deny applications for CSO subcategories. In cases when a water body is affected by combined sewer overflows from more than one licensee, the board shall, to the maximum extent possible, consider regional impacts and seek to establish common goals and uses for those waters.

(6) In a manner prescribed by the board, applicants receiving approval of CSO subcategories shall provide notice to the public in the area affected, describing the limitations on use of the water body.

D. Upon creation of a CSO subcategory and removal of a designated use, the board may temporarily suspend or modify water quality criteria associated with that use as appropriate, but only to the extent and duration that those criteria are affected by the licensee for whom the assignment is made. Action by the board under this subsection does not relieve other discharge sources from any requirement to provide necessary treatment or best management practices or to comply with water quality criteria.

E. Either independently or in conjunction with the requirements of subsection 3 and upon renewal of individual waste discharge licenses, the department shall periodically review all CSO subcategories. Reviews of CSO subcategories must take into consideration water quality criteria and uses, combined sewer overflow abatement technology, monitoring data, financial information and regulatory requirements affecting CSO subcategories.

Upon petition by the department or any person or on its own motion, the board may, at its discretion, and following notice and opportunity for hearing, revise or revoke a CSO subcategory when it finds any change in the conditions under which the existing designation was made. The failure to comply with the measures specified in an approved combined sewer overflow abatement plan is cause for revocation of a CSO subcategory.

Sec. 2. 38 MRSA §466, sub-§2-B is enacted to read:

2-B. Combined sewer overflow. "Combined sewer overflow" means a discharge of excess wastewater from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt. Combined sewer overflow discharges do not include dry weather discharges that occur as a result of nonstorm events or are caused solely by groundwater infiltration.

See title page for effective date.

CHAPTER 285

H.P. 977 - L.D. 1386

An Act to Make Minor Adjustments to the 1993 Apportionment Plan

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

Sec. 1. 21-A MRSA §1203, sub-§11, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Knox County, the municipality of Appleton; and ~~the following census units of the municipality of Hope: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 128, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 155, Block~~

~~156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 178, Block 179 and Block 180 of BNA 013/9703; and~~

Sec. 2. 21-A MRSA §1203, sub-§12, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Knox County, the municipalities and unorganized territories of Camden, Criehaven unorganized territory, Cushing, Friendship, Hope, Isle Au Haut, Matinicus Isle Plantation, North Haven, Owls Head, Rockland, Rockport, St. George, South Thomaston, Thomaston, Union, Vinalhaven, Warren and Washington; ~~and the following census units of the municipality of Hope: Block 127, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 150, Block 151, Block 152, Block 153, Block 154, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 181, Block 182 and Block 434 of BNA 013/9703.~~

Sec. 3. 21-A MRSA §1204, sub-§65, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Franklin County, the municipalities and unorganized territories of Coplin Plantation, Dallas Plantation, Eustis, Madrid, North Franklin unorganized territory, Rangeley Plantation, Rangeley, Sandy River Plantation, Weld and West Central Franklin unorganized territory; and the following census units of East Central Franklin unorganized territory: Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, ~~Block 110,~~ Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, ~~and Block 121, Block 168 and Block 169 of BNA 007/9905; and~~

Sec. 4. 21-A MRSA §1204, sub-§66, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Franklin County, the municipalities and unorganized territories of Carrabassett Valley, Kingfield, New Vineyard, Salem unorganized territory and Wyman unorganized territory; and the following census units of East Central Franklin unorganized territory: Block 139, Block 141, Block 142, ~~Block 143, Block 145, Block 146, Block 148,~~ Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, ~~Block 164, Block 165, Block 166, Block 167, Block 170, Block 171, Block 172,~~

~~Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 188, Block 189, Block 190, Block 191, Block 192, Block 193, Block 194, Block 195, Block 196 and Block 197 of BNA 007/9905; and~~

Sec. 5. 21-A MRSA §1204, sub-§133, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Washington County, the municipalities of Beals, Cutler, Jonesboro, Jonesport, Machias, Machiasport, Roque Bluffs and Whiting; ~~and the following census units of East Central Washington unorganized territory: Block 334, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 353, Block 354, Block 355, Block 356, Block 357, Block 358, Block 359, Block 360 and Block 361 of BNA 029/9558.~~

Sec. 6. 21-A MRSA §1204, sub-§134, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Washington County, the municipalities ~~and unorganized territories~~ of Charlotte, Cooper, Crawford, Dennysville, Eastport, Lubec, Meddybemps, Passamaquoddy Indian Township Reservation, Passamaquoddy Pleasant Point Reservation, Pembroke ~~and~~ Perry; ~~and Trescott unorganized territory;~~ and the following census units of North Washington unorganized territory: Block 101, Block 102, Block 103, Block 104, Block 107, Block 141, Block 142, Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 222, Block 224, Block 225 and Block 289 of BNA 029/9552; Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220 and Block 267 of BNA 029/9553; ~~and the following census units of East Central Washington unorganized territory: Block 219, Block 220, Block 221, Block 222, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 259, Block 262, Block 263, Block 264, Block 265, Block 267, Block 268, Block 279 and Block 280 of BNA 029/9558;~~ and Block 119, Block 159, Block 160, Block 161, Block 162, Block 163, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 175, Block

176, Block 177, Block 178, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 188, Block 194, Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 217, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 255 and Block 256 of BNA 029/9560.

Sec. 7. 21-A MRSA §1204, sub-§139, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Penobscot County, the municipalities of Chester, East Millinocket, Maxfield, Medway, Seboeis Plantation and Woodville; and the following census units of the municipality of Lincoln: Block 310, Block 311, Block 313, Block 314, Block 315, Block 316 and Block 317 of Tract 019/0080.02; Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 113, Block 114, Block 115, Block 116, Block 117 and Block 118 of Tract 019/0270; and the following census units of North Penobscot unorganized territory: Block 203, Block 204B, Block 205B, Block 206, ~~Block 213, Block 214, Block 216, Block 217A,~~ Block 217B, Block 217C, Block 217D, that portion of Block 217E not in Long A Township, Block 217F, ~~Block 217G,~~ Block 217H, Block 218, ~~Block 219,~~ Block 220, that portion of Block 221 not in T3 Indian Purchase, Block 222A, that portion of Block 222B not in T3 Indian Purchase, Block 223, Block 224, Block 225, Block 226, Block 227A, Block 227B, Block 228A, Block 228B, Block 229, Block 230A, Block 230B, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236A, Block 236B, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251A, Block 251B, ~~Block 251C,~~ Block 252, Block 253A, Block 253B, Block 253C, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264A, Block 264B, Block 264C, ~~Block 265,~~ Block 266, ~~Block 276,~~ Block 277, Block 278, Block 279, ~~Block 281,~~ Block 282, Block 290, ~~Block 291,~~ Block 292, Block 293, Block 294, Block 295, Block 296 and Block 297 of Tract 019/0290; and Block 725, Block 737 and Block 738 of Tract 019/0300; and

Sec. 8. 21-A MRSA §1204, sub-§140, ¶A, as enacted by PL 1993, c. 628, §2, is amended to read:

A. In Penobscot County, the municipalities and unorganized territories of Long A Township, Millinocket, Mount Chase and Stacyville, T3 Indian Purchase and T4 Indian Purchase; and the following census units of North Penobscot unorganized territory: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120A, Block 120B, Block 120C, Block 120D, Block 121, Block 122, Block 123A, Block 123B, Block 123C, Block 123D, Block 124A, Block 124B, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145A, Block 145B, Block 146A, Block 146B, Block 147, Block 148, Block 149, Block 150, ~~Block 151B~~, Block 152, Block 153, Block 154, Block 155, ~~Block 156~~, ~~Block 157~~, ~~Block 158~~, ~~Block 159~~, ~~Block 160~~, ~~Block 161~~, ~~Block 162~~, ~~Block 163~~, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176A, Block 176B, Block 176C, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 188, Block 189, Block 190, Block 191, Block 192, Block 193, Block 194, Block 195, Block 196, Block 197, Block 201, Block 202, Block 207, Block 208, ~~Block 209~~, ~~Block 210~~, ~~Block 211~~, ~~Block 212~~, ~~Block 215~~, Block 267, Block 268, ~~Block 269~~, ~~Block 270~~, ~~Block 271~~, ~~Block 272~~, ~~Block 273~~, ~~Block 274~~, ~~Block 275~~, ~~Block 283~~, Block 284, ~~Block 285~~, and Block 286, ~~Block 287~~, ~~Block 288~~ and ~~Block 289~~ of Tract 019/0290; and Block 303 of Tract 019/0310.

See title page for effective date.

CHAPTER 286

H.P. 955 - L.D. 1344

An Act to Make Certain Changes to Postconviction Review

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

Sec. 1. 15 MRSA §103, as amended by PL 1981, c. 493, §2, is further amended to read:

§103. Commitment of persons acquitted on basis of mental disease or defect

When a respondent is ~~acquitted~~, found not criminally responsible by reason of mental disease or mental defect ~~excluding responsibility~~, the verdict and judgment ~~shall~~ must so state. In such case the court shall order such person committed to the custody of the Commissioner of Mental Health and Mental Retardation to be placed in an appropriate institution for the mentally ill or the mentally retarded for care and treatment. Upon placement in such appropriate institution and in the event of transfer from one such institution to another of persons committed under this section, notice thereof ~~shall~~ must be given by the commissioner to the committing court.

Sec. 2. 15 MRSA §2121, sub-§1, as enacted by PL 1979, c. 701, §15, is amended to read:

1. Criminal judgment. "Criminal judgment" means a judgment of conviction of a crime ~~or~~ the orders of adjudication and disposition in a juvenile case and a judgment of not criminally responsible by reason of mental disease or defect.

Sec. 3. 15 MRSA §2124, sub-§1-A is enacted to read:

1-A. Present or future restraint by commitment to the Commissioner of Mental Health and Mental Retardation. Present restraint or impediment as a direct result of commitment to the custody of the Commissioner of Mental Health and Mental Retardation pursuant to section 103 imposed as a result of being found not criminally responsible by reason of mental disease or defect, that is challenged, or future restraint or impediment as a result of such an order of commitment that is challenged when a sentence involving imprisonment is or will be served first.

A claim for postconviction review is not allowed under this subsection relative to any court proceeding or administrative action that affects release or discharge pursuant to section 104-A;

Sec. 4. 15 MRSA §2128, sub-§5, as enacted by PL 1979, c. 701, §15, is repealed and the following enacted in its place:

5. Delay; application of equitable doctrine of laches. A petition may be dismissed if it appears that by delay in its filing the State has been prejudiced in its ability to respond to the petition or to retry the petitioner, unless the petitioner shows that it is based on grounds of which the petitioner could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the State occurred. If the delay is more than 5 years following the final disposition of any direct appeal to the Maine Law Court or if an appeal is not taken within 5 years

following the running of the period within which that appeal must have been initiated, prejudice is presumed, although this presumption is rebuttable by the petitioner. For purposes of this subsection, "final disposition" means that point in time when the mandate of the Law Court is entered in the docket of the trial court and "presumption" has the same meaning as under Rule 301(a) of the Maine Rules of Evidence.

See title page for effective date.

CHAPTER 287

S.P. 525 - L.D. 1423

An Act to Amend the Laws Pertaining to the Regulation of Borrow Pits

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

Whereas, deadlines have expired for the owners or operators of medium-sized gravel pits to participate in the procedures for performance standards for medium borrow pits; and

Whereas, standards are needed for rock quarries 2 acres or less in size to allow quarry owners or operators to provide the Department of Transportation with the necessary aggregate to perform road projects during the upcoming construction season; and

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

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

Sec. 1. 38 MRSA §484, sub-§1, as repealed and replaced by PL 1987, c. 812, §§10 and 18, is amended to read:

1. Financial capacity. The developer has the financial capacity and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon a developer providing the commissioner with evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or with evidence of any other

form of financial assurance the board determines by rule to be adequate.

Sec. 2. 38 MRSA §484, sub-§3, ¶¶D and E are enacted to read:

D. The department may issue a permit under this article for operation of a borrow pit conditioned upon the owner or operator of a borrow pit complying with rules pertaining to noise within 30 days after the commencing of processing operations.

E. Calcium chloride may be used to control dust on roads, providing the calcium chloride is applied according to the manufacturer's labeling guidelines.

Sec. 3. 38 MRSA §484-A, sub-§1, ¶¶A and B, as enacted by PL 1993, c. 350, §4, are amended to read:

A. April 1, ~~1994~~ 1995, for pits having reclaimed or unreclaimed areas that drain externally or having reclaimed or unreclaimed areas where internal drainage is achieved with berms or other structures; or

B. October 1, ~~1994~~ 1995, for pits where all reclaimed and unreclaimed lands are naturally internally drained; and

Sec. 4. 38 MRSA §484-A, sub-§2, as enacted by PL 1993, c. 350, §4, is amended to read:

2. Adherence to compliance schedule. By October 1, ~~1995~~ 1996:

A. All reclaimed and unreclaimed areas that were not naturally internally drained on October 1, 1993 are stabilized or reclaimed;

B. All other conditions existing on October 1, 1993 comply with the performance standards under article 7; and

C. All activities conducted after filing a notice of intent to comply are conducted in compliance with article 7.

Sec. 5. 38 MRSA §488, sub-§16 is enacted to read:

16. Small road quarry. A quarry regulated by the department under article 8 is exempt from review under this article.

Sec. 6. 38 MRSA §490-A, sub-§5, as enacted by PL 1993, c. 350, §5, is repealed and the following enacted in its place:

5. Public drinking water source of supply. "Public drinking water source of supply" means any groundwater well or any surface water source that directly or indirectly serves a water distribution system that has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 30 days out of the year.

Sec. 7. 38 MRSA §490-C, sub-§2, as enacted by PL 1993, c. 350, §5, is amended to read:

2. Map and site plan. A location map and site plan drawn to scale showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, all applicable private drinking water supplies or public drinking water source of supplies and all existing or proposed solid waste disposal areas;

Sec. 8. 38 MRSA §490-D, sub-§§2 and 3, as enacted by PL 1993, c. 350, §5, are amended to read:

2. Solid waste. Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be disposed of in accordance with ~~section 421 and~~ chapter 13, including any rules adopted to implement those laws. The department may not grant a variance from the provisions of this subsection.

3. Groundwater protection. Excavation may not occur within 5 feet of the seasonal high water table. A benchmark sufficient to verify the location of the seasonal high water table must be established and at least one test pit or monitoring well must be established on each 5 acres of unreclaimed land. To further ensure adequate groundwater protection:

A. ~~A 300-foot~~ 200-foot separation must be maintained between any ~~area used to store oils~~ excavation and any private drinking water supply that is a point-driven or dug well and was in existence prior to that excavation;

B. ~~A 200-foot~~ 100-foot separation must be maintained between any excavation and any private drinking water supply that is drilled into saturated bedrock and was in existence prior to that excavation; and

C. ~~A 1,000-foot separation must be maintained between any excavation and any public drinking water supply;~~ Separation must be maintained between any excavation and any public drinking water source of supply as follows:

(1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet;

(2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet;

(3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and

(4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.

The department may grant a variance from the provisions of this paragraph upon consultation with the public water supply affected by the excavation. The department may not grant a waiver from the provisions of paragraph A, B or D; and

D. Refueling operations, oil changes and other maintenance activities requiring the handling of fuels, petroleum products, hydraulic fluids, and other on-site activity involving the storage or use of products ~~which that~~, if spilled, may contaminate groundwater, must be conducted in accordance with the department's spill prevention, control and countermeasures plan. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. The spill prevention, control and countermeasures plan must be posted at the site.

~~The department may not grant a variance from the provisions of paragraphs A to D.~~

The separation distance requirements described in paragraphs A, B and C do not apply when the private or public water supply is owned by the owner of the excavation site.

The department may grant a variance allowing excavation between 2 and 5 feet of the seasonal high water table. The department may grant a variance allowing reclamation as a pond, provided the pond resulted from excavation below the seasonal high water table prior to October 1, 1993.

Sec. 9. 38 MRSA §490-D, sub-§3-A is enacted to read:

3-A. Medium borrow pits unlicensed on October 1, 1993. Notwithstanding subsection 3, the following provisions apply to a medium borrow pit that on October 1, 1993 was not licensed under article 6 and on which gravel had been extracted to a level less than 5 feet above the seasonal high water table.

A. The department may not require the medium borrow pit owner or operator to elevate the me-

dium borrow pit floor to 5 feet or more above the seasonal high water table as a condition of operation.

B. The department may permit excavation between 5 feet and 2 feet of the seasonal high water table, providing sufficiently detailed information is submitted to allow the department to determine that groundwater will not be adversely affected.

C. The medium borrow pit owner or operator may reclaim as a pond that area of the medium borrow pit less than 5 feet above the seasonal high water table.

Sec. 10. 38 MRSA §490-D, sub-§5, as enacted by PL 1993, c. 350, §5, is repealed.

Sec. 11. 38 MRSA §490-D, sub-§5-A is enacted to read:

5-A. Protected natural resources. A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, freshwater wetland or coastal wetland as defined in section 480-B. Any excavation activities conducted within 100 feet of a protected natural resource requires a permit under article 5-A. The width requirements for natural buffer strips are as follows.

A. A natural buffer strip at least 100 feet wide must be maintained between the working edge of the excavation and the normal high water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA.

B. A natural buffer strip at least 75 feet wide must be maintained between the working edge of the excavation and any other water body, stream, brook or Class I or Class II wetland, as defined in 06-096-CMR 310.

C. A natural buffer strip at least 25 feet wide must be maintained between the working edge of the excavation and a Class III wetland, as defined in 06-096-CMR 310.

For purposes of this subsection, the width of a natural buffer strip is measured from the upland edge of floodplain wetlands; if no floodplain wetlands are present, the width of the natural buffer strip is measured from the normal high water mark of a great pond, river, stream, brook or upland edge of a wetland.

Sec. 12. 38 MRSA §490-D, sub-§6, as enacted by PL 1993, c. 350, §5, is repealed.

Sec. 13. 38 MRSA §490-D, sub-§6-A is enacted to read:

6-A. Public and private roads. A natural buffer strip must be maintained between the working edge of an excavation and a road as follows.

A. A natural buffer strip at least 150 feet wide must be maintained between the working edge of an excavation and a road designated as a scenic highway by the Department of Transportation.

B. A natural buffer strip at least 100 feet wide must be maintained between the working edge of an excavation and any public road not designated as a scenic highway by the Department of Transportation.

C. A natural buffer strip at least 50 feet wide must be maintained between the working edge of an excavation and any private road or right-of-way. The width of the natural buffer strip adjacent to a private road may be reduced if the applicant receives written permission from the person or persons having a right-of-way over the private road.

Except for paragraph B, the department may not grant a variance from the provisions of this subsection. The department may grant a variance from paragraph B, provided that the variance will not result in the natural buffer strip being reduced to less than 50 feet between the working edge of the excavation and any road and provided that the owner or operator installs visual screening and safety measures as required by the department.

This distance is measured from the outside edge of the shoulder of the road.

Sec. 14. 38 MRSA §490-D, sub-§7, as enacted by PL 1993, c. 350, §5, is amended to read:

7. Property boundary. A natural buffer strip at least ~~450~~ 50 feet wide must be maintained between any excavation and a property boundary, ~~including a road right of way~~. This distance may be reduced to not less than 10 feet with the written permission of the affected ~~abutting~~ property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The ~~distance~~ buffer strip between borrow pits owned by abutting owners may be ~~reduced to not less than 50 feet~~ eliminated with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff from either excavation across the property boundary. All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees. The department may not grant a variance from the provisions of this ~~section~~ subsection.

Sec. 15. 38 MRSA §490-D, sub-§§11, 13 and 14, as enacted by PL 1993, c. 350, §5, are amended to read:

11. Traffic. Entrances and exits of the borrow pit must be located, posted and constructed in accordance with standards for ~~commercial or industrial entrances of the Department of Transportation roadways in rules adopted by the board.~~ Adequate sight distances for entering, exiting and stopping must be maintained in accordance with these standards. The department may not grant a variance from the provisions of this subsection.

13. Dust. Dust generated by activities at the borrow pit, including dust associated with traffic to and from the borrow pit, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. The department may not grant a variance from the provisions of this subsection.

14. Reclamation. The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation should be conducted in accordance with the department's best management practices for erosion and sediment control, and must include:

A. Regrading side slopes to a slope no steeper than 2 1/2 horizontal feet for each vertical foot;

B. Establishing a vegetative cover by seeding within one year of the completion of excavation. Vegetative cover is acceptable if, within one year of seeding:

(1) The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession, sufficient to ensure a 75% survival rate; and

(2) The planting of all materials results in permanent 90% ground coverage;

C. Removing all structures and, once no longer in productive use, reclaiming all access roads, haul roads and other support roads; and

D. Reclaiming all affected lands within 2 years after final grading.

Except for paragraph A, the department may not grant a variance from the provisions of this subsection. The department may grant a variance from paragraph A, provided that ~~the variance will not result in a reclaimed slope steeper than 2 horizontal feet for each vertical foot~~ slopes exhibit substantial vegetation and

are stable. The department may not assess a fee for a request for a variance from paragraph A.

Sec. 16. 38 MRSA §490-F, first ¶, as enacted by PL 1993, c. 350, §5, is amended to read:

Before expanding a borrow pit beyond an area that exceeds a total of 10 acres of reclaimed and unreclaimed land, and before expanding a borrow pit beyond an area that exceeds a total of 20 acres of reclaimed and unreclaimed land, the owner or operator shall notify the regulator of an intent to expand and must request an inspection. In the same manner as prescribed in section 344-B, the department shall publish a timetable for responding to inspection requests and shall inspect the site within that time period to determine the pit's compliance with this article and other applicable laws administered by the department. The department may defer an inspection for a reasonable period when winter conditions at the site prevent the department from evaluating an expansion request. The department shall notify the owner or operator of a deferral under this section. Mining activities at the pit may continue after the filing of a notice of an intent to expand. The failure of a regulator to conduct a site visit within a published time period is not sufficient basis for a stop-work order under section 490-H, subsection 1.

Sec. 17. 38 MRSA §§490-K and 490-L are enacted to read:

§490-K. Transfer of ownership or operation

A person who purchases a borrow pit that operates under a notice of intent to comply or who obtains operating authority of a pit that operates under a notice of intent to comply must file within 2 weeks after the purchase or the obtaining of operating authority a notice of intent to comply on a form developed by the department. The new owner or operator may operate the borrow pit during this 2-week period without having filed a notice of intent to comply, providing the new owner or operator complies with all standards under this article.

§490-L. Exemption from common scheme of development

A borrow pit covered under this article is not part of a common scheme of development when a period of 5 years or more elapses between the ownership or operation of an existing borrow pit and the ownership or operation of an adjacent borrow pit, the acquisition of adjacent property to be used for operation of a borrow pit or the development of a borrow pit on adjacent property.

Sec. 18. 38 MRSA c. 3, sub-c. I, art. 8 is enacted to read:

ARTICLE 8**PERFORMANCE STANDARDS FOR SMALL ROAD QUARRIES****§490-P. Definitions**

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

A. "Affected land" means all reclaimed and un-reclaimed land, land that has or will have the overburden removed, land on which stumps, spoil or other solid waste has or will be deposited and a storage area or other land, except a natural buffer strip, that will be or has been used in connection with a quarry.

B. "Airblast" means an atmospheric compression wave resulting from the detonation of explosives, whether resulting from the motion of blasted materials or the expansion of gases from the explosion.

C. "Blast site" means the area where explosive material is handled during the loading of drilled blastholes, including the perimeter formed by the loaded blastholes and 50 feet in all directions from loaded blastholes.

D. "Blaster" means a person qualified to be in charge or responsible for the loading and firing of a blast.

E. "Blasting" means the use of explosives to break up or otherwise aid in the extraction or removal of a rock, ore or other consolidated natural formation, or in construction or demolition work.

F. "Matting" means a covering placed over load holes and adjacent areas in order to minimize generation of flyrock and limit airblast effects.

G. "Natural buffer strip" means an undisturbed area or belt of land that is covered with trees or other vegetation.

H. "Private drinking water supply" means a surface water supply, dug well or a spring or a hole drilled, driven or bored into the earth that is used to extract drinking water for human consumption and that is not part of a drinking water supply.

I. "Public drinking water source of supply" means a groundwater well or a surface water source that directly or indirectly serves a water distribution system that has at least 15 service connections or regularly services an average of at

least 25 individuals daily at least 30 days out of the year.

J. "Quarry" means a place where rock is excavated.

K. "Rock" means a hard, nonmetallic material that requires cutting, blasting or similar methods of forced extraction.

L. "Stemming" means inert material used in a blasthole to confine the gaseous products of detonation.

§490-Q. Applicability

This article applies to quarries that are of 2 acres or less including reclaimed and unreclaimed areas, if products from the quarry are used solely to supply aggregate for Department of Transportation projects.

This article does not apply to projects subject to quarry regulations under article 6 or a quarry within the jurisdiction of the Maine Land Use Regulation Commission. A person with a valid permit for a quarry under article 6 must operate that quarry in compliance with the terms and conditions of that permit.

§490-R. Notice of intent to comply

Except as provided in section 484-A, a person intending to operate a quarry under this article must file a notice of intent to comply before extracting or removing more than 1,000 cubic yards of rock or overburden from the earth within 12 successive calendar months. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality where the quarry is located, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the department must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the quarry.

A notice of intent to comply is not complete unless it includes all of the following:

1. Name, address and phone number. The name, mailing address and telephone number of the owner of the quarry and if different from the owner, the operator of the quarry;

2. Map and site plan. A location map and site plan drawn to scale showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, all applicable private or public drinking water source of supplies and all existing or proposed solid waste disposal areas;

3. Parcel description. A description of the parcel including size and deed description;

4. Legal interest. A copy of the lease or other document showing that an operator who is not the owner has a legal right to excavate on the property. Stumpage information does not have to be shown;

5. Information on abutters. The name and address of abutting property owners;

6. Signed statement. A statement signed and dated by the owner or operator certifying the quarry will be operated in compliance with this article; and

7. Fees. A fee of \$250 paid to the department.

If the department determines that a notice filed under this section is not complete, the department must notify the owner or operator no later than 45 days after receiving notice.

§490-S. Performance standards for quarries

1. Significant wildlife habitat. Affected land may not be located in a significant wildlife habitat as defined in section 480-B, subsection 10 or in an area listed under the Natural Areas Program, Title 5, chapter 383, subchapter III, article 2-A.

2. Solid waste. Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be disposed of in accordance with chapter 13, including any rules adopted to implement those laws.

3. Groundwater protection. To ensure adequate groundwater protection the following setbacks must be met:

A. A 200-foot separation must be maintained between an excavation and a private drinking water supply that is point driven or dug and was in existence prior to the excavation;

B. A 100-foot separation must be maintained between an excavation and a private drinking water supply that is drilled into saturated bedrock and was in existence prior to the excavation;

C. Separation must be maintained between an excavation and a public drinking water source of supply as follows:

(1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet;

(2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet;

(3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and

(4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet; and

D. Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other on-site activity involving storage or use of products that, if spilled, may contaminate groundwater must be conducted in accordance with the department's spill prevention, control and countermeasures plan. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. The spill prevention, control and countermeasures plan must be posted at the site.

4. Natural buffer strip. Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by activities related to operation of the quarry before submission of a notice of intent to comply, that vegetation must be reestablished as soon as practicable after filing the notice of intent to comply.

5. Protected natural resources. A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, freshwater wetland or coastal wetland as defined in section 480-B as follows.

A. A natural buffer strip at least 100 feet wide must be maintained between the working edge of the excavation and the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA.

B. A natural buffer strip at least 75 feet wide must be maintained between the working edge of the excavation and a river, stream or brook or Class I or Class II wetland as defined in department rules.

C. A natural buffer strip at least 25 feet wide must be maintained between the working edge of the excavation and a Class III wetland as defined in department rules.

Any excavation activity conducted within 100 feet of a protected natural resource requires a permit under article 5-A.

For purposes of this subsection, the width of a natural buffer strip is measured from the upland edge of a

floodplain wetland. If no floodplain wetlands are present, the width is measured from the normal high water mark of the river, stream or brook. The width is measured from the normal high water mark of a great pond and upland edge of a freshwater or coastal wetland.

6. Roads. A natural buffer strip must be maintained between the working edge of an excavation and a road as follows.

A. A natural buffer strip at least 150 feet wide must be maintained between the working edge of an excavation and a road designated as a scenic highway by the Department of Transportation.

B. A natural buffer strip at least 100 feet wide must be maintained between the working edge of the excavation and any other public road.

C. A natural buffer strip at least 50 feet wide must be maintained between the working edge of an excavation, a private road or a right-of-way. The width of the natural buffer strip adjacent to a private road may be reduced if the applicant receives written permission from the persons having a right-of-way over the private road.

7. Property boundary. A natural buffer strip at least 100 feet wide must be maintained between the excavation and a property boundary. This distance may be reduced to 10 feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground.

8. Erosion and sedimentation control. All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained at all times. Berms or structures may not be constructed to create or maintain internal drainage. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

9. Surface water protection and storm water management. Surface water discharges from areas not required to be naturally internally drained may not be increased as a result of storm water runoff from storms up to a level of a 25-year, 24-hour storm. Structures such as detention ponds, retention ponds and undersized culverts may not be used to meet this standard. Sediment may not leave the parcel or enter a protected natural resource.

Removal of accumulated water from precipitation must be put into sheet flow and the discharge point must be directed to an undistributed natural buffer strip. The discharge point must be at least 250 feet away from a protected natural resource. The slope of the discharge area may not exceed 5%.

Grubbed areas not internally drained must be stabilized. Erosion and sedimentation control for access roads must be conducted in accordance with the department's best management practices for erosion and sedimentation control.

Grading or other construction activity on the site may not alter natural drainageways so that the drainage, other than that which occurred before development, adversely affects adjacent parcels of land, or that the drainageways flowing from adjacent parcels of land to the parcel are impeded.

10. Traffic. Entrances and exits of the quarry must be located, posted and constructed in accordance with standards for roadways in rules adopted by the board. Adequate sight distances for entering, exiting and stopping must be maintained in accordance with these standards.

11. Noise. Noise levels may not exceed applicable noise limits in rules adopted by the board.

12. Dust. Dust generated by activities at the quarry, including dust associated with traffic to and from the quarry, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include calcium chloride as long as the manufacturer's labeling guidelines are followed.

13. Reclamation. The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation must be conducted in accordance with the department's best management practices for erosion and sedimentation control and must include the following.

A. Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of benches that have a minimum width of 25 feet, the use of flatter slopes or reduced face heights, or the use of benching near the top of the face or rounding the edge of the face.

B. A vegetative cover must be established by seeding within one year of the completion of excavation. Vegetative cover must be established on all affected land, including safety benches, except for quarry walls and flooded areas. Topsoil must be placed, seeded and mulched within 30 days of final grading. Vegetative cover is acceptable, if within one year of seeding:

(1) The planting of trees and shrubs results in a permanent stand or a stand capable of

regeneration and succession, sufficient to ensure a 75% survival rate; and

(2) The planting of all material results in permanent 90% ground cover.

Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture thereof.

C. All structures, once no longer in productive use, and all access roads, haul roads and other support roads must be reclaimed.

D. All affected lands must be reclaimed within 2 years after final grading.

E. Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas.

14. **Blasting.** The applicant must ensure the blasting is conducted in accordance with Title 25, section 2441.

A. The owner or operator shall use sufficient stemming, matting or natural protective cover to prevent flyrock from leaving property owned or under control of the owner or operator, or from entering protected natural resources or natural buffer strips.

B. The maximum allowable airblast at any inhabited building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or - 3 decibels) over the range of 5 to 300 hertz;

C. The maximum allowable airblast at an uninhabited building not owned or controlled by the developer may not exceed 140 decibels peak when measured by an instrument having a flat response (+ or - 3 decibels) over the range of 5 to 300 hertz.

D. The blast site must be at least 2,000 feet away from the nearest building not owned or controlled by the developer.

E. The peak particle velocity may not exceed one inch per second.

The department may not grant a variance for the performance standards of this section.

§490-T. Inspections

The department may periodically inspect a site, examine relevant records of the owner or operator of the quarry, take samples and perform tests necessary

to determine compliance with the provisions of this article.

§480-U. Enforcement and penalties

The department shall administer and enforce the provisions of this article.

1. **Stop-work order.** The department may order the owner or operator of a quarry that is not operating in compliance with this article to cease operations until the noncompliance is corrected or until the owner or operator of the quarry obtains a permit under article 6.

2. **Penalty.** A person who violates a provision of this article commits a civil violation and is subject to the penalties established under section 349. Penalties assessed for enforcement actions taken by the State are payable to the State.

§490-V. Repeal

This article is repealed December 31, 1995.

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

Effective June 23, 1995.

CHAPTER 288

S.P. 359 - L.D. 479

An Act to Provide Merchants Greater Recourse to Combat Deceptive and Illegal Practices

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

Sec. 1. 14 MRSA §6071, as amended by PL 1989, c. 502, Pt. D, §8, is further amended to read:

§6071. Civil penalties for bad checks

1. **Recovery of costs.** In any action against a person who makes, issues or draws any ~~liable for a dishonored check, draft or order for the payment of money which has been dishonored for lack of funds or credit to pay the check, draft or order, or because the maker, issuer or drawer has no account with the drawee~~, the holder may recover from the maker, issuer or drawer the amount of the check, draft or order, plus the court costs, service costs, collection costs and the processing charges incurred by the holder. ~~The amount of the check, draft or order, plus the enumerated costs, may be recovered only, plus interest at the rate of 12% per annum from the date of dishonor if:~~

A. The holder gives notice pursuant to section 6073 for payment of the check, ~~draft or order~~; and

B. The ~~maker, issuer or drawer~~ person liable fails to tender ~~an amount equal to~~ the amount of the check, ~~draft or order~~, plus bank fees and mailing costs, within 10 days of receiving the notice set forth in section 6073.

2. Attorney's fees. ~~If a judgment is made against a maker, issuer or drawer pursuant to subsection 1, paragraphs A and B and that person fails to make restitution on the date of judgment, the maker, issuer or drawer shall pay to the holder interest at the rate of 12% per annum from the date of dishonor and collection costs not to exceed \$40 or the face amount of the check, whichever is less. In the event of court action, the person liable does not pay the amount of the check, plus costs and interest, before the hearing, then the court may award reasonable attorney's fees to the prevailing party. In addition, the court may award to the holder of the check a civil penalty, not to exceed \$50, to be paid by the person liable for the check.~~

3. Written agreement. ~~Nothing in this chapter may be construed to limit the rights of parties to supersedes the terms of a written agreement between the parties.~~

4. Check defined. ~~As used in this chapter, "check" means a check, draft or order for the payment of money.~~

Sec. 2. 14 MRSA §6072, as enacted by PL 1989, c. 357, is repealed.

Sec. 3. 14 MRSA §6073, as enacted by PL 1989, c. 357, is amended to read:

§6073. Notice for nonpayment

The notice ~~shall~~ must be in substantially the following form.

~~"A- Your check, draft or order by you and~~ made payable to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. The check is dated and it is numbered

You are CAUTIONED that unless you pay the amount of this check within 10 days after the date this letter is postmarked, you may have to pay the following additional costs:

1. ~~Attorney~~ Attorney's fees;
2. ~~Services~~ Service costs;
3. Processing charges; ~~and~~

4. Interest; ~~and~~

5. A penalty not to exceed \$50.

You are advised to make payment to at the following address "

Sec. 4. 14 MRSA c. 749 is enacted to read:

CHAPTER 749

CIVIL RECOVERY FOR RETAIL THEFT

§8301. Short title

This chapter may be known and cited as the "Maine Civil Recovery for Retail Theft Act."

§8302. Civil recovery

1. Liability. Any person who unlawfully takes or attempts to take merchandise from a merchant is liable to the merchant in accordance with provisions of this chapter.

2. No limitation. The provisions of this chapter may not be construed to prohibit or limit any other cause of action that a merchant may have against a person who unlawfully takes merchandise from the merchant.

3. Civil recovery. Any person who unlawfully takes or attempts to take merchandise from a merchant is civilly liable to the merchant in an amount consisting of:

A. Damages equal to the retail price of the merchandise if the item is not returned in a merchantable condition; and

B. A civil penalty equal to 3 times the retail price of the merchandise, but not less than \$50 or more than \$500.

4. Written demand. The fact that an action may be brought against an individual as provided in this chapter does not limit the right of a merchant to make a written demand that a person who is liable for damages and penalties under this chapter remit the damages and penalties prior to the commencement of any legal action.

A. If a person to whom demand is made complies with the demand, that person incurs no further civil liability for that specific act of retail theft.

B. Any demand under this section must be accompanied by a copy of this chapter.

5. Criminal prosecution. A criminal prosecution under Title 17-A, chapter 15 is not a prerequisite to an action under this chapter and such a criminal prosecution does not bar civil action. An action under this chapter does not bar a criminal prosecution under Title 17-A, chapter 15.

6. Failure to prosecute. If a merchant files suit to recover damages and penalties pursuant to this chapter, and the merchant fails to appear at a hearing in such proceedings without excuse from the court, the court shall dismiss the suit without prejudice and award costs to the defendant.

7. Fraudulent prosecution. Any person who knowingly uses provisions of this chapter to demand or extract money from a person who is not legally obligated to pay a penalty may be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year or by both.

See title page for effective date.

CHAPTER 289

S.P. 594 - L.D. 1578

An Act to Create the Workers' Compensation Residual Market Deficit Resolution and Recovery Act

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

Whereas, by October 1987, virtually all insurers filed and had approved applications to withdraw from the Maine workers' compensation market, and the market faced complete collapse; and

Whereas, the Legislature convened a special session in October 1987, which ultimately resulted in the enactment of emergency legislation that overhauled the Maine workers' compensation system and included the so-called "Fresh Start" law, the Maine Revised Statutes, Title 24-A, sections 2386 and 2386-A and their predecessor statutes, sections 2366 and 2367. In response to the enactment of the Fresh Start law a core group of major insurers had formally rescinded their withdrawals from the Maine workers' compensation market; and

Whereas, due to various forces beyond the Legislature's control, the Fresh Start law did not resolve many of the major problems at which the statute was aimed; and

Whereas, the Legislature created the Maine Employers Mutual Insurance Company, or "MEMIC," to oversee and operate the workers' compensation

residual market in the State as of January 1, 1993, and workers' compensation rates in this State have decreased in each of the last 2 years, largely due to MEMIC's effectiveness; and

Whereas, the "Fresh Start" statute requires the Superintendent of Insurance to adopt rules establishing a plan of operation for the residual market mechanism to govern the operation of the State's workers' compensation insurance residual market; and

Whereas, the Superintendent of Insurance in bureau rules promulgated the "Plan of Operation for the Workers' Compensation Residual Market Mechanism," pursuant to which a residual market pool was created to collect funds and pay obligations of the residual market mechanism; and

Whereas, the residual market mechanism wrote workers' compensation insurance policies through participating insurers during the period January 1, 1988 to December 31, 1992, ceased writing new business as of December 31, 1992, and now conducts only operations limited to running off business written during that period; and

Whereas, the workers' compensation residual market in the State has generated substantial funding deficits and is projected to experience cash inadequacies that could render the residual market pool incapable of satisfying its obligations as they become due; and

Whereas, disputes concerning the operation of the residual market mechanism and the funding of residual market pool deficits have resulted in extensive and protracted litigation involving the Bureau of Insurance, employer representative groups, the Board of Governors of the residual market pool and many significant workers' compensation insurers in the State; and

Whereas, the current and continued operation of the residual market mechanism under existing law will hamper economic growth and development in the State by placing a substantial and undue financial burden on Maine employers, the residual market pool, the Bureau of Insurance and the former and current workers' compensation insurers, thereby fostering and perpetuating litigation and attendant uncertainty within the State; and

Whereas, a new funding scheme is necessary to enable the residual market pool to satisfy outstanding, ongoing and future obligations and to remove the financial burden and uncertainty attributable to the current and continued operation of the residual market mechanism; and

Whereas, the residual market mechanism must be modified in certain respects to provide for more efficient and cost-effective operations; and

Whereas, under certain circumstances it may be appropriate and beneficial that the workers' compensation residual market mechanism receive assistance in borrowing to meet its obligations; 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. 10 MRSA §963-A, sub-§10, ¶N, as amended by PL 1995, c. 4, §1, is further amended to read:

N. Any electric rate stabilization project; ~~or~~

Sec. 2. 10 MRSA §963-A, sub-§10, ¶O, as enacted by PL 1995, c. 4, §1, is amended to read:

O. Any major business expansion project; ~~or~~

Sec. 3. 10 MRSA §963-A, sub-§10, ¶P is enacted to read:

P. Any workers' compensation residual market mechanism project.

Sec. 4. 10 MRSA §963-A, sub-§52-A is enacted to read:

52-A. Workers' compensation residual market mechanism project. "Workers' compensation residual market mechanism project" means a loan or loans requested by the Board of Governors of the Maine Workers' Compensation Residual Market Pool pursuant to Title 24-A, section 2395, subsection 5.

Sec. 5. 10 MRSA §1041, sub-§19 is enacted to read:

19. Workers' compensation residual market mechanism projects. Provide loans for workers' compensation residual market mechanism projects, if the authority determines that the financing requested by the workers' compensation residual market pool is a reasonable and prudent extension of credit. Revenue obligation securities secured by capital reserve funds pursuant to section 1053 relating to any loan authorized by this section are limited obligations of the authority payable from revenues from the workers' compensation residual market pool and any capital reserve funds pledged for those securities and are not

payable from any other assets or funds of the authority.

Sec. 6. 10 MRSA §1053, sub-§6, as amended by PL 1995, c. 120, §1, is repealed and the following enacted in its place:

6. Securities outstanding. The authority may not have at any one time outstanding revenue obligation securities to which subsection 5 is stated in the trust agreement or other document to apply in principal amount exceeding an amount equal to \$150,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032. Notwithstanding any other provision of this subsection, the authority may additionally have outstanding at any one time:

A. Bonds under this subchapter relating to loans for electric rate stabilization projects, in the amount of \$264,000,000 consisting of not more than \$220,000,000 for loans and up to \$44,000,000 for use of bond proceeds to fund capital reserve funds;

B. Bonds under this subchapter relating to loans for major business expansion projects, in the amount of \$120,000,000 consisting of not more than \$100,000,000 for loans and up to \$20,000,000 for use of bond proceeds to fund capital reserve funds; and

C. Bonds under this subchapter relating to workers' compensation residual market mechanism projects, in the amount of \$57,000,000 consisting of not more than \$45,000,000 for loans and up to \$12,000,000 for use of bond proceeds to fund capital reserve funds.

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

Sec. 7. 24-A MRSA §2386, sub-§2, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is repealed.

Sec. 8. 24-A MRSA §2386, sub-§5, as amended by PL 1993, c. 364, §1, is further amended to read:

5. Plan of operation. The superintendent shall adopt rules pursuant to Title 5, chapter 375, subchapter II, establishing a plan of operation for the residual market mechanism. ~~The plan of operation must contain those terms that the superintendent in the superintendent's discretion determines necessary.~~

A. The plan must include an experience rating system and merit rating plan providing that the premium of each employer in the account is modified either prospectively or retrospectively. An experience modification may only be applied to the manual rate of the plan. The sensitivity of a rating system may vary by size of the risk involved.

B. The plan must include a procedure to handle appeals filed pursuant to former Title 39, section 106, subsection 2, paragraph B.

C. The plan must provide for premium surcharges for employers in the Accident Prevention Account based on their specific loss experience within a specified period or other factors that are reasonably related to their risk of loss.

(1) No premium surcharge may be applied to a risk whose threshold loss ratio is less than 1.0. The threshold loss ratio is based on the ratio of "L" to "P" where:

(a) "L" is the actual incurred losses of a risk during the previous 3-year experience period as reported, except that the largest single loss during the 3-year period is limited to the amount of premium charged for the year in which the loss occurred; and

(b) "P" is the premium charged to a risk during that 3-year period.

(2) Premium surcharges apply to a premium that is experience or merit rating modified.

(3) Premium surcharges are based on an insured's adverse deviation from expected incurred losses in the State. The surcharge is based on the ratio of "A" to "B" where:

(a) "A" is the actual incurred losses of a risk during the previous 3-year experience period as reported; and

(b) "B" is the expected incurred losses of a risk during that period as calculated under the uniform experience or merit rating plan multiplied by

the risk's current experience or merit rating modification factor.

(4) The premium surcharge is as follows:

Ratio of "A" to "B"	Surcharge
Less than 1.20	None
1.20 or greater, but less than 1.30	5%
1.30 or greater, but less than 1.40	10%
1.40 or greater, but less than 1.50	15%
1.50 or greater	20%

D. Commissions under a plan must be established at a level that is neither an incentive nor a disincentive to place an employer in the residual market.

E. In addition to factors in paragraphs A to C, any servicing contract must be approved on the basis of acceptable price and performance.

F. If after notice and hearing the superintendent determines that insurers are unwilling to provide services that are reasonably necessary for the operation of the plan, the superintendent may award service contracts within various areas of the State on the basis of acceptable price and performance. If the superintendent chooses to award such contracts, the specifications must give special consideration to loss control, safety engineering and any other factor that affects safety.

G. Beginning July 1, 1993, the plan must provide for a board of governors, which shall control the affairs and business of the residual market mechanism. The board of governors must be composed of 9 members, 5 of whom represent the business community of the State and 4 of whom represent insurers that are members of the residual market mechanism. The superintendent shall adopt rules to carry out the purposes of this paragraph.

(1) The representatives of insurers on the board of governors are elected by the membership at the annual meeting of the residual market mechanism for staggered terms of 3 years, with the first appointments of one member for one year, one member for 2 years and 2 members for 3 years. An insurer or a group of insurers under common ownership, management or control may not be represented by more than one person on the board of governors.

~~(2) The business community members of the board of governors are appointed by the superintendent for staggered terms of 3 years, with the first appointments of one member for one year, 2 members for 2 years and 2 members for 3 years.~~

Sec. 9. 24-A MRSA §2386, sub-§§10, 11, 12 and 15, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, are repealed.

Sec. 10. 24-A MRSA §2386-A, as corrected by RR 1993, c. 1, §59, is repealed.

Sec. 11. 24-A MRSA c. 26 is enacted to read:

CHAPTER 26

THE WORKERS' COMPENSATION RESIDUAL MARKET DEFICIT RESOLUTION AND RECOVERY ACT

§2391. Title and scope of chapter

1. Title. This chapter may be known and cited as "The Workers' Compensation Residual Market Deficit Resolution and Recovery Act."

2. Scope. This chapter establishes an efficient and effective mechanism for funding the obligations of the residual market mechanism in the State arising from workers' compensation insurance policies with initial effective dates or renewal dates between January 1, 1988 and December 31, 1992.

§2392. Definitions

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

1. Association. "Association" means the Maine Insurance Guaranty Association.

2. Board. "Board" means the governing board of the Maine Workers' Compensation Residual Market Pool.

3. Chapter 250. "Chapter 250" means Bureau of Insurance Rules, Chapter 250, "Requirements for Eligibility to Self-Insurer Workers' Compensation Benefits," as amended and as in existence prior to the effective date of this chapter.

4. Chapter 440. "Chapter 440" means Bureau of Insurance Rules, Chapter 440, "Plan of Operation for the Workers' Compensation Residual Market Mechanism," as amended, as in existence prior to the effective date of this chapter and as modified in this chapter.

5. Delinquent insurer. "Delinquent insurer" means an insurer that has not timely paid in full that insurer's allocated share pursuant to section 2393, subsection 1, paragraph A, subparagraphs (1) or (2) or section 2393, subsection 1, paragraph B, subparagraphs (1) to (5), except as provided in section 2393, subsection 1, paragraph A, subparagraph (3), division (d) and section 2393, subsection 1, paragraph B, subparagraph (6), division (d).

6. Employer. "Employer" means any employer in the State that, at any time relevant under this chapter, is required under the Workers' Compensation Act to secure workers' compensation benefits for its employees.

7. Expense constant. "Expense constant" means a premium charge approved by the superintendent that applies to every policy, in addition to other premium charges, covering expenses such as those for issuing, recording and auditing that are common to all workers' compensation policies regardless of premium size.

8. Fresh start period. "Fresh start period" means the period from January 1, 1988 to December 31, 1992.

9. Initial surcharge period. "Initial surcharge period" means the period from July 1, 1995 to June 30, 2003.

10. Insured employer. "Insured employer" means an employer in the State that, on or after July 1, 1995, secures or continues to secure workers' compensation benefits under the Workers' Compensation Act for its employees through the purchase of an insurance policy.

11. Insurer. "Insurer" means every insurer or group of affiliated insurers authorized to provide workers' compensation insurance in the State at any time during the fresh start period. For purposes of this chapter, a group of affiliated companies under common ownership, management or control is treated as one entity.

12. Large deductible policy. "Large deductible policy" means a workers' compensation policy written with a per occurrence deductible in excess of \$5,000 or a medical deductible in excess of \$500.

13. Major insurer. "Major insurer" means any insurer that was designated by the superintendent as a servicing carrier in the workers' compensation residual market in the State as of October 1, 1986.

14. Minor insurer. "Minor insurer" means any insurer other than a major insurer.

15. Net direct written premium. "Net direct written premium" means the Maine direct gross premiums charged less all return premiums, except dividends and savings refunded under participating policies, returned to policyholders for all Workers' Compensation and Occupational Disease Insurance written in this State. Excess workers' compensation insurance is not considered "net direct written premium."

16. Net present value. "Net present value" is the sum of future payments, discounted to a specified valuation date at the discount rate provided.

17. Plan year. "Plan year" means, for an employer, the period beginning on the self-insured employer's plan approval or renewal date and ending the day before the next plan renewal or anniversary date. The plan renewal date for a member of a group self-insurer is the group's plan renewal date; the plan approval date for a new member joining an established group is the effective date of group membership. The plan year may be less than 12 months as a result of changes in plan accounting periods, midyear entry into a group self-insurance plan or termination of self-insurance authorization.

18. Policy year. "Policy year" means the following:

A. With respect to a particular calendar year, all policies issued or renewed in that calendar year and all subsequent events occurring in later years relating to those policies, including premium adjustments, audit results and claims experience under those policies; and

B. With respect to a particular employer, the 12-month period beginning upon the date of issuance or renewal of a policy and ending the day before the next renewal date and all subsequent events occurring in later years relating to those policies, including premium adjustments, audit results and claims experience under that policy.

19. Pool. "Pool" means the Maine Workers' Compensation Residual Market Pool described in and governed by chapter 440.

20. Residual market. "Residual market" means the instrument to provide coverage to employers not able to obtain coverage in the voluntary market.

21. Self-insured employer. "Self-insured employer" means an employer that, on or after July 1, 1995, secures or continues to secure workers' compensation through a self-insured program under the Workers' Compensation Act as approved by the superintendent pursuant to the provisions of Title 39-A, section 403, subsection 3.

22. Self-insured group or groups. "Self-insured group or groups" means a self-insured group approved by the superintendent pursuant to chapter 250, section 3.

23. Superintendent. "Superintendent" means the Superintendent of Insurance.

24. Surchargeable premium. "Surchargeable premium" means:

A. For insured employers, the manual workers' compensation premium applicable to the insured employer, as adjusted by any applicable experience modification factor, premium discount, expense constant and any other debits or credits to a lawfully received premium. In calculating the surchargeable premium for retrospectively rated policies and large deductible policies, "surchargeable premium" means the discounted workers' compensation standard premium, which is the manual premium that would apply to the insured employer absent the retrospectively rated or large deductible nature of the policy, as adjusted by any applicable experience modification factor, premium discount and expense constant. For retrospectively rated and large deductible policies, the insurer shall calculate a discounted standard premium amount utilizing estimated payrolls at policy inception, subject to the final determination upon audit, applying the insurer's manual rates, the insured's experience modification factor, any premium discount, expense constant and other debits or credits to a lawfully received premium. When calculating the discounted standard premium for policies with large deductibles, the maximum credit for the deductible option may not be greater than the amount approved by the superintendent in the most recent advisory loss cost filing for a \$5,000 indemnity deductible.

B. For self-insured employers, the manual workers' compensation premium adjusted by the experience modification factor applicable to the self-insured employer, and any applicable premium discount and expense constant. For purposes of this definition, "manual premium" means the workers' compensation premium that would have been applicable to the individual self-insured employer if calculated using the advisory loss costs in effect at the time the surcharge is due multiplied by 1.2, applying the rating rules, excluding any premium discount, and experience rating procedure approved by the superintendent for the designated workers' compensation advisory organization pursuant to section 2382-B, to the exposure and experience of the individual self-insured employer. For a self-insured employer who is a member of a self-

insurance group, "surchargeable premium" means the actual amount of workers' compensation premium that is paid to the self-insurance group including experience modification, premium discount and expense constant in accordance with the requirements of chapter 250, but excluding any surplus distributions credited against or applied to reduce premiums.

25. Timely pay; timely paid; timely payment. "Timely pay," "timely paid" or "timely payment" means payment by the party responsible for the payments on or before the due date specified in this chapter.

26. Voluntary market. "Voluntary market" means the workers' compensation insurance market in which insurance companies voluntarily offer coverage to applicants who meet the insurers' underwriting standards or guidelines.

27. Workers' Compensation Act. "Workers' Compensation Act" means and refers to the Maine Workers' Compensation Act of 1992, as amended.

28. Worker's compensation residual market mechanism. "Worker's compensation residual market mechanism" or "residual market mechanism" means the workers' compensation residual market mechanism described in and governed by Chapter 440.

§2393. Initial funding of pool

1. Payments by insurers. Insurers shall pay to the pool on or before January 1, 1996 the amount of \$65,000,000, as follows.

A. Major insurers shall pay to the pool 90% of the \$65,000,000 payment, which is \$58,500,000. Each major insurer shall pay to the pool that major insurer's allocated share of the payment required by this paragraph as determined in accordance with the following:

(1) If the major insurer's percentage of the total net direct written premium in the voluntary workers' compensation market in the State for the calendar years 1989 and 1990 was less than 3.4% according to data compiled by the National Council on Compensation Insurance, then the major insurer must pay to the pool \$4,906,000;

(2) If the major insurer's percentage of the total net direct written premium in the voluntary workers' compensation market in the State for the calendar years 1989 and 1990 was equal to or greater than 3.4%, according to data compiled by the National Council on Compensation Insurance, then

the major insurer must pay \$4,906,000 less one of the following credits:

(a) If the major insurer's percentage of total net direct written premium in the voluntary market exceeded 25% for each of the calendar years 1989 and 1990, then \$1,811,000;

(b) If the major insurer's percentage of total net direct written premium in the voluntary market exceeded 10% for each of the calendar years 1989 and 1990, then \$1,772,000;

(c) If the major insurer's percentage of total net direct written premium in the voluntary market exceeded 10% for either calendar year 1989 or 1990, then \$807,000;

(d) If the major insurer's percentage of total net direct written premium in the voluntary market exceeded 7.5% for each of the calendar years 1989 and 1990, then \$596,000; or

(e) For any other major insurer that qualifies for credit under this subparagraph, \$289,000;

(3) One or more major insurers may agree in writing to pay more or less than the amount of their allocated share under subparagraph (1) or (2); except that:

(a) A major insurer may not pay less than the allocated share under subparagraph (1) or (2), unless the written agreement is executed by all major insurers that have timely paid or agreed in writing to timely pay in full at least their allocated share;

(b) The total amount of timely payments to the pool by major insurers is equal to or greater than \$58,500,000;

(c) The pool is made a 3rd-party beneficiary to a written agreement among certain major insurers that provides for:

(i) Timely payments to the pool by major insurers that are equal to \$58,500,000; and

(ii) An express right of the pool to enforce the payments required by that agreement; and

(d) Timely payment of any share agreed upon in writing pursuant to this subparagraph in an amount less than the allocated share under subparagraph (1) or (2) constitutes timely payment in full of an allocated share for purposes only of subsection 1, paragraph C or section 2396, subsection 1.

(4) If the total amount paid according to the requirements of subparagraphs (1), (2) and (3) exceeds \$58,500,000, the pool must disburse within 30 days the excess amount by refunding to each major insurer that has timely paid in full at least its allocated share under subparagraph (1) or (2) in direct proportion to the amount that each major insurer paid to the pool as part of the total major insurers' payment required by this paragraph.

B. Minor insurers shall pay to the pool 10% of the \$65,000,000 payment, which is \$6,500,000. Each minor insurer shall pay to the pool an allocated share of the payment required by this paragraph as determined in accordance with the following.

(1) Except as provided in subparagraph (2), an allocated share equal to the sum of the amounts described in divisions (a) to (c) must be paid to the pool.

(a) Minor insurers authorized to provide workers' compensation insurance in the State at any time during 1989 pay 59% of the \$6,500,000 payment, with each minor insurer paying a per capita share.

(b) Minor insurers authorized to provide workers' compensation insurance in the State at any time during 1990 pay 38% of the \$6,500,000 payment, with each minor insurer paying a per capita share.

(c) Minor insurers authorized to provide workers' compensation insurance in the State at any time during 1991 pay 3% of the \$6,500,000 payment, with each minor insurer paying a per capita share.

(2) A minor insurer that qualifies for a partial exemption under this subparagraph shall pay to the pool the greater of \$10,000 or 2% of the minor insurer's average annual after-tax adjusted earnings for the 3 calendar years immediately prior to enactment of

this chapter as reported in the minor insurer's annual statement filed with the superintendent. A minor insurer qualifies for a partial exemption from the per capita share payment required by this paragraph if, for the 3 calendar years immediately prior to enactment of this chapter, as reported in the minor insurer's annual statement filed with the superintendent, the minor insurer's:

(a) Average annual after-tax adjusted earnings were less than \$2,000,000; and

(b) Surplus as to policyholders did not exceed \$12,500,000.

(3) A minor insurer that has not received a partial exemption under subparagraph (2) is entitled to participation credits determined as follows.

(a) For any policy year beginning on or after January 1, 1989, the share for each minor insurer authorized to write workers' compensation insurance in the year to which the calculation in this division pertains is reduced by .05% for each .10% that its participation ratio for the year to which the assessment relates exceeds its participation ratio for the base period as calculated by dividing the minor insurer's net direct written premium for the base period by the total minor insurer's net direct written premium for the base period. For purposes of this division, "base period" means the calendar years 1983 to 1986. The participation ratio for the year to which the assessment relates is calculated by dividing the minor insurer's net direct written premium in that calendar year by the total net direct written premium of minor insurers that were authorized at any time during that year;

(b) Credits earned by a minor insurer may not result in a minor insurer's participation ratio being adjusted to less than 1/2 of its otherwise allocated share;

(c) For a minor insurer not authorized to write workers' compensation insurance in 1986, its adjusted participation ratio is 1/2 of its participation ratio in the year to which the calculation applies;

(d) Any deficiency must be distributed among all minor insurers in proportion to the adjusted participation ratio, after credit adjustments; and

(e) For purposes of this subparagraph, "adjusted participation ratio" means a minor insurer's participation ratio as calculated in accordance with this subparagraph and after application of any credits. For purposes of this subparagraph, net direct written premium does not include premiums for residual market risks reinsured by the pool or retrospective rating plan adjustments on policies effective prior to January 1, 1988.

(4) The total amount of the differences between the following must be paid by those minor insurers that actually paid their allocated share as of January 1, 1996 by allocating the difference to those minor insurers in the same proportion as each such minor insurer's payment bears to the total aggregate amount actually paid by minor insurers as of January 1, 1996:

(a) The otherwise allocated share payments under subparagraph (1); and

(b) The payments made by minor insurers that qualify for a partial exemption as provided in subparagraph (2) and any participation credits under subparagraph (3).

(5) In the event a minor insurer for any reason fails to pay its allocated share, as described in this paragraph, by January 1, 1996, then the pool may charge the deficiency resulting from those uncollected amounts to all minor insurers that actually pay their allocated share as of January 1, 1996 by allocating that deficiency to those minor insurers in the same proportion as each such minor insurer's payment bears to the total aggregate amount actually paid by minor insurers as of January 1, 1996. Those minor insurers are subrogated to the pool's right to collect such amounts from the delinquent minor insurer.

(6) One or more minor insurers may agree in writing to pay more or less than the amount of their allocated share under subparagraphs (1) to (4), except that:

(a) A minor insurer may not pay less than the allocated shares under subparagraphs (1) to (4) unless the writ-

ten agreement is executed by all minor insurers that have timely paid or agreed in writing to timely pay in full at least their allocated share;

(b) The total amount of timely payments to the pool by minor insurers is equal to or greater than \$6,500,000;

(c) The pool is made a 3rd-party beneficiary to a written agreement among certain minor insurers that provides for:

(i) Timely payments to the pool by minor insurers that are equal to \$6,500,000; and

(ii) An express right of the pool to enforce the payments required by that agreement; and

(d) Timely payment of any share agreed upon in writing pursuant to this subparagraph in an amount less than the allocated share under subparagraphs (1) to (4) constitutes timely payment in full of an allocated share for purposes only of subsection 1, paragraph C or section 2396, subsection 1.

(7) If the total amount paid according to the requirements of subparagraphs (1) to (6) exceeds \$6,500,000, the pool must disburse within 30 days the excess amount by refunding to each minor insurer that has timely paid in full at least its allocated share under subparagraphs (1) to (4) in direct proportion to the amount that each minor insurer paid to the pool as part of the total minor insurers' payment required by this paragraph.

C. The pool shall bill and collect from each insurer the allocated share established by paragraphs A and B. If an insurer has not timely paid its allocated share in full to the pool on or before January 1, 1996, then the insurer is considered delinquent and the following applies.

(1) The pool has all the rights, powers and authority to take all necessary and appropriate action, as determined in the pool's discretion, against the delinquent insurer to collect any amounts not paid as and when due, and any deficiency is assessed interest at the rate of 10% per annum from January 1, 1996 until full payment from the insurer is received by the pool. The pool is entitled to an award of and reimbursement from any

delinquent insurer of the costs of enforcement and collection of any amounts not paid as and when due, including all costs and expenses, reasonable attorney's and paralegal's fees and any other professional fees and expenses associated with the pool's enforcement and collection efforts.

(2) If the pool has received \$58,500,000 from major insurers or \$6,500,000 from minor insurers, valued as of January 1, 1996, the pool shall provide prompt written notice of this fact to insurers in the same category, either major or minor. Within 90 days following a request, the pool shall assign all such rights, powers and authority, including the entitlement to costs and expenses, to any insurers in the same category of the delinquent insurer that have requested an assignment and timely paid in full at least the allocated share established by paragraphs A and B.

(3) The pool has the right to set off any amounts due under this chapter to the pool from a delinquent insurer against any sums credited by or due from the pool to the delinquent insurer and against any other property of the delinquent insurer in the possession or under the control of the pool.

(4) Regardless of whether any action is taken pursuant to subparagraphs (1) to (3), the superintendent is authorized to exercise all authority as may be provided by and in accordance with law to take appropriate action against any delinquent insurer. In addition to any other authority the superintendent may possess under law, the superintendent upon notice and hearing may suspend a delinquent insurer's authority to transact the business of insurance in the State for so long as the insurer remains delinquent. The authority granted to the superintendent under this paragraph and jurisdiction vested in the bureau are concurrent with other actions by other parties authorized in this paragraph.

(5) Any collection by or on behalf of the pool, or amounts obtained by setoff with respect to a delinquent insurer, are retained by the pool, until the insurers in the same category as the delinquent insurer have paid the total amount required for that category, plus interest pursuant to subparagraph (1) and costs and expenses of the pool for collection in an amount not to exceed the delinquent share, valued as of January 1, 1996, to the pool. Any excess must be dis-

tributed within 90 days among the insurers in the same category as the delinquent insurer that have timely paid in full at least the allocated share established by paragraphs A and B in direct proportion to that insurer's payment to the pool as part of the total payments required by paragraph A or B, except that any collection on behalf of the pool as the result of an assignment pursuant to subparagraph (2) must be distributed as agreed among the insurers that receive the assignment from the pool.

(6) No defense or substantive argument that could have been raised or asserted related to an insurer's status as a major insurer or minor insurer or any purported contractual rights under prior or existing law is extinguished or otherwise abridged in any proceeding against a delinquent insurer instituted under subparagraphs (1) to (5).

2. Payments by employers. Employers shall pay to the pool the following amounts.

A. Employers shall pay initial surcharges, in the manner described in this subsection, in an aggregate amount equal to \$110,000,000, calculated on a net present value basis using January 1, 1995 as the valuation date, a discount rate of 5% and the midpoint of each calendar quarter as the date of actual receipt of surcharge proceeds remitted to the pool for each calendar quarter. Proceeds included in determining when the \$110,000,000 initial surcharge is fully paid consist of:

(1) All proceeds from surcharges under this chapter on policies with effective dates on or after July 1, 1995 and surcharges under this chapter on self-insured employers with plan years commencing on or after July 1, 1995; and

(2) All proceeds from surcharges actually received in immediately available funds by the pool after 5:00 p.m., September 30, 1995, whether the proceeds result from a surcharge under this chapter or under laws existing prior to enactment of this chapter.

B. Proceeds from surcharges under existing laws actually received in immediately available funds by the pool on or before 5:00 p.m., September 30, 1995 may not be credited against the initial surcharge requirement.

C. The pool shall maintain records reflecting actual dates of receipt of proceeds from surcharges sufficient to enable the net present value calculation.

D. The initial surcharges must be paid in accordance with the following provisions.

(1) Beginning July 1, 1995 every insurer writing workers' compensation insurance in the State shall collect from workers' compensation insurance policyholders and pay to the pool a surcharge on all surchargeable premiums received by the insurer for those policies. During the initial surcharge period, the surcharge is at a fixed rate of 6.32% of the surchargeable premium. The surcharge may be applied only to policies with an effective date on or after 12:01 a.m., July 1, 1995. All surcharges received by each insurer during the preceding calendar quarter must be remitted to the pool within 15 days following the end of each calendar quarter, except that servicing carriers shall remit on February 15th, May 15th, August 15th and November 15th of each year. Any surcharge proceeds not remitted on a timely basis accrue interest at the rate of 10% per annum from the due date until paid in full. The pool is entitled to reimbursement from any insurer failing to remit surcharge proceeds on a timely basis for the pool's costs of collection of those amounts, including all collection costs and fees, reasonable attorney's and paralegal's fees and any other professional fees and expenses associated with the pool's collection efforts. The surcharges described in this subparagraph do not apply to reinsurance recognized by the superintendent pursuant to chapter 250, section 2, paragraph G or section 3, paragraph G, procured by an individual self-insured employer or a self-insured employer group.

(2) Self-insured employers that secured their obligation to provide workers' compensation benefits under the Workers' Compensation Act through issuance or renewal at any point during the fresh start period of an insurance policy for any portion of any of the policy years 1988 to 1992 are subject to a surcharge as provided in the following.

(a) During the initial surcharge period the rate of surcharge is 6.32% of the surchargeable premium as adjusted pursuant to this paragraph for the self-insured employer's current plan year utilizing estimated payroll as submitted with the self-insured employer's renewal application for authority to self-insure, in accordance with Chapter 250, section 2, paragraph C, sub-

paragraph 1, division c or Chapter 250, section 3, paragraph C, subparagraph 1, division g as applicable, subject to audit pursuant to division (d), subdivision (iii). If the plan year in which a surcharge is collected or a credit is distributed is shorter than 12 months, due to a change in accounting period or termination of self-insurance authorization, the surcharge or credit for that plan year must be based upon the final audited payroll for the short plan year.

(b) All surcharges must be collected or distributed on a plan year basis. In each plan year, the percentage of the surchargeable premium to be surcharged is the same percentage as is applied to an insured employer whose policy period coincided with the plan year.

(c) Each self-insured employer shall pay surcharges relating to only that portion of the policy years 1988 to 1992 in which the self-insured employer insured its workers' compensation obligations. The surcharge factor, as determined by the board under this chapter, must be adjusted to take into consideration the policy years or portions of policy years 1988 to 1992 in which a self-insured employer was self-insured.

The adjustment is determined as follows. The surcharge factor must be multiplied by the factor attributed to each of the years 1988 to 1992, as set forth in the table below. If a self-insured employer was insured only during a portion of a policy year, then the factor for that year is prorated based on the ratio of the number of days in the policy year during which the self-insured employer was insured to 365 days.

<u>Policy Year</u>	<u>Factor</u>
<u>1988</u>	<u>28.48%</u>
<u>1989</u>	<u>30.70%</u>
<u>1990</u>	<u>23.26%</u>
<u>1991</u>	<u>11.55%</u>
<u>1992</u>	<u>6.01%</u>

(d) The board shall administer the surcharges on self-insured employers as follows.

(i) The board shall issue surcharge billings to self-insured employers, pursue collection of all invoiced surcharges, initiate legal proceedings as necessary to collect surcharges and maintain records adequate to administer the surcharge process. The records of the board and of the bureau form the basis for identifying self-insured employers who are subject to this paragraph.

(ii) Annual surcharges may be paid in a single lump sum within 30 days of the receipt of the pool's invoice or in quarterly installments at the self-insured employer's option. The board shall issue a yearly invoice as soon as practicable after the self-insured employer's plan approval or renewal date and receipt of all necessary supporting information from the superintendent. Each invoice must contain a schedule of dates when quarterly installments are due and clearly state the policy year or years for which the surcharge is imposed, the surcharge percentage multiplied by the factor applicable to each policy year and the amount of the surchargeable premium.

(iii) Each individual self-insured employer shall report final audited payrolls to the pool not later than 60 days after the end of each plan year and each self-insured employer that is a member of a self-insured group or the group's administrator, as the group may select, shall report final audited payrolls to the pool not later than 120 days after the end of each plan year and shall remit with the audit information any additional surcharges resulting from the audit.

(e) Self-insured employers have the following obligations with respect to the surcharge process.

(i) As a condition of continuing authorization to self-insure, each self-insured employer and each group self-insurance administra-

tor shall assist the board and the superintendent in the calculation, billing and collection of any applicable surcharge. The required assistance includes maintaining and providing, upon request of the board or the superintendent, actual premium history and all payroll and experience information necessary to calculate self-insured employer premiums, as specified in this subparagraph. Information provided by the self-insured employer is subject to audit by the pool and the superintendent at any time and self-insured employers shall provide to the pool, or its designee, and to the superintendent full and complete access to all books and records relating in any way to the audit. Group self-insurance administrators shall give prompt notice to the superintendent of any changes in group membership.

(ii) Information provided by self-insured employers to the board pursuant to this paragraph is confidential. The board shall protect the confidentiality of all self-insured employer information in its possession, whether the information is obtained directly from the self-insured employer or from the superintendent or a group administrator.

(iii) A self-insurance group may act as the collection agent for its members. Any group so electing shall notify the board. The board shall bill the group on a consolidated basis. The group shall remit its entire quarterly payment to the board within 30 days after receiving the invoice, whether or not any members remain in default and notify the board and the superintendent of any delinquency.

(iv) Each self-insured employer shall make provisions for possible surcharges in the normal course of operations and pay the full amount of any surcharge in-

stallment within 30 days after receiving an invoice from the board or the self-insured employer's self-insurance group. Late payments are subject to interest at the rate of 10% per annum.

(v) The failure of any self-insured employer or self-insurance group to comply with its duties under this paragraph constitutes grounds for suspension, revocation, termination of the option to self-insure, expulsion from a self-insurance group or other appropriate sanctions authorized under section 12-A, in addition to all procedures for the collection of past-due accounts otherwise available by law to the board or the governing body of the self-insurance group.

(f) The superintendent has the following responsibilities with respect to the surcharge process.

(i) The superintendent shall furnish to the board, on a monthly basis, a list of all self-insurance plan approvals, renewals and anniversaries that have occurred since the last report or for any other reason were not included in any previous report, including all approvals, terminations and membership changes for group self-insurers. For each employer listed, the superintendent shall provide all available information necessary for the board's imputed calculations under this paragraph, including: the date the new plan year began; the self-insurance group, if any, to which the self-insured employer belongs; the dates of coverage under each policy issued or renewed in policy years 1988 to 1992; the rating information for the current plan year, including estimated payroll by classification, premium rate for each classification, experience modification and other applicable rating adjustments; information relating to changes of ownership or control, changes of operations, changes

of name or organizational structure; and other information necessary to determine successorship.

(ii) The superintendent shall supplement promptly the initial report as necessary, including any revision to the self-insured employer's rating information on audit, any other additions or corrections to incomplete or inaccurate information provided in the initial report and the length of the plan year, if shorter than 12 months.

(g) Self-insured employers include any successor entity to a self-insured employer subject to the surcharge imposed by this subparagraph. A successor entity includes entities purchasing all or a portion of the assets of a self-insured employer subject to the surcharge or the surviving entity in any other merger, consolidation, reorganization or restructuring involving a self-insured employer subject to the surcharge imposed by this subparagraph. If business operations that were insured under a single workers' compensation insurance policy during any portion of the fresh start period are subsequently separately owned by virtue of any sale of assets, merger, consolidation, reorganization, dissolution, reincorporation, restructuring or other transaction or series of transactions, for purposes of this subparagraph each business is treated as a distinct employer, subject to surcharge as either an insured employer or a self-insured employer.

(h) A self-insured employer that secured its obligation to provide workers' compensation benefits under the Workers' Compensation Act through a self-insurance program approved by the superintendent for the entirety of that self-insured employer's policy years 1988 to 1992, in which the self-insured employer actually had an obligation to secure benefits under the Workers' Compensation Act is not subject to the surcharge.

(i) Self-insured employers that commence operations in the State on or after July 1, 1995 are

subject to surcharge under this subparagraph on the same basis as self-insured employers that secured compensation under the Workers' Compensation Act by the purchase of an insurance policy throughout the entire fresh start period.

(3) An employer may, as specified in this subparagraph, prepay all of its surcharges for a period of 10 consecutive policy years or plan years. The 10-year period starts with the employer's first renewal date or plan year following July 1, 1995. Within 30 days after the inception of the first plan year or first policy renewal date following July 1, 1995, if the employer intends to exercise this option, the employer must file with the pool written notice electing to make a lump-sum payment of surcharges and shall include with the notice the employer's full lump-sum payment. If the election is not made within 30 days after the first day of the first plan year or policy year following July 1, 1995, the option expires and is no longer available. The pool shall implement such procedures for administering this option as the board determines necessary. An employer that elects this option shall reimburse the pool for its expenses of administering this option for that employer, including the cost of individually allocating those costs to individual employers, in accordance with billing procedures developed and implemented by the board. This subparagraph does not eliminate or limit the employer's liability to pay adjusted surcharges or supplemental surcharges pursuant to paragraph E or section 2394.

For purposes of this subparagraph, "lump-sum payment" is the surcharge for the first year multiplied by 10 and discounted to net present value using:

- (a) A 5% discount rate;
- (b) The first day of the first plan year or policy year starting on or after July 1, 1995; and
- (c) An assumption that the surcharge for each of the 10 plan years or policy years would have been paid on the first day of each subsequent plan year or policy year.

E. The initial surcharge percentage may be adjusted by the pool in accordance with the following provisions.

(1) Each July 1st beginning in 2003, the board shall establish a surcharge percentage to be imposed on all workers' compensation insurance policies issued or renewed on or after that date until the effective date of any subsequent adjustment in the surcharge percentage established by the board; except that, if supplemental surcharges and assessments have commenced under section 2394, no further adjustments may be made under this subparagraph. The surcharge must be at a level determined by the board to be sufficient to produce cash receipts over the ensuing 24 months that, together with all other funds reasonably anticipated by the board to be available on a cash basis over that period, produce an amount not less than the pool's projected cash requirements to meet its obligations over that period. In making that determination, the board shall employ and rely upon the advice of professional and consulting services, including services available through the pool's internal staff, as the board determines necessary.

(2) If the surcharge percentage established under this subparagraph exceeds 6.32%, then a prepaid employer shall pay surcharges for that future assessment period at the same rate as those employers who paid annually, based upon the employer's surchargeable premium for the policy year or plan year to which the increased surcharge percentage applies. A prepaid employer may take a credit for the surcharges prepaid for that assessment period pursuant to section 2393, subsection 2, paragraph D, subparagraph (3) in an amount equal to the net present value calculated on a basis consistent with paragraph D, subparagraph (2), division (d), subdivision (ii). If the surcharge percentage is less than 6.32% for that future assessment period, then the pool shall refund to a prepaid employer an amount equal to the difference between the value of the lump-sum surcharge paid for the future assessment period calculated on a basis consistent with paragraph D, subparagraph (2), division (d), subdivision (ii) and the amount of surcharge due based upon the adjusted surcharge percentage and applicable surchargeable premium. For purposes of this subparagraph, "prepaid employer" means an employer who has elected to pay surcharges on a lump-sum basis pursuant to paragraph D, subparagraph (3).

(3) The board has authority to make interim adjustments in the surcharge percent-

age on or after July 1, 2003, to be effective on dates other than July 1st as specified by the board, to the extent considered necessary by the board to produce sufficient cash receipts from surcharges over the ensuing 24 months that, together with all other funds reasonably anticipated by the board to be available on a cash basis to the pool over the ensuing 24 months, will be sufficient to meet the pool's anticipated cash requirements over that period.

(4) In projecting the pool's anticipated cash requirements, the board shall maintain a reserve equal to 25% of the cash expenditures of the pool over the immediately preceding 12-month period.

F. The surcharges required by this subsection are considered premium for cancellation and nonrenewal purposes only and are not subject to premium tax, Maine Insurance Guaranty Association assessments, agents' commissions or other payments required on insurance policy premiums.

G. Employer surcharges required by this chapter are suspended if:

(1) The board determines that the pool's assets are adequate to satisfy all remaining obligations, including any necessary repayment to insurers that satisfy the requirements of subparagraph (2); and

(2) The insurers and employers have been repaid by the pool in amounts necessary to produce a ratio of actual surcharges under this subsection paid by employers calculated on a net present value basis using January 1, 1995 as a valuation date and a discount rate of 5% to actual payments by insurers to the pool under subsection 1, valued as of January 1, 1996, not including employer surcharges remitted to the pool by insurers, that is the same as 11 to 6.5, for employers and insurers respectively.

H. If the board suspends initial surcharges and the pool subsequently requires additional assets to satisfy remaining obligations, the board shall order additional initial surcharges consistent with this subsection. The board shall review the relationship between the pool's assets and liabilities as often as determined necessary by the board, but at least annually. Projections of assets and liabilities contained in any quarterly or annual statements of operation prepared by or at the direction of the board do not constitute a determination under this subsection.

3. Payments by Maine Insurance Guaranty Association. The association shall pay to the pool \$1,538,039 on or before February 15th, May 15th, August 15th, and November 15th of each year for 40 consecutive calendar quarters beginning August 15, 1996.

A. Each payment made by the association to the pool under this subsection is treated as a covered claim pursuant to section 4435, subsection 4, except that any provision or authority for the association to seek reimbursement or recoupment from any source other than by assessments to association member insurers does not apply. This section does not limit or impair a member insurer's right to recoupment under section 4447.

B. The quarterly payments by the association to the pool as required by this subsection must be made regardless of the financial condition or actual or projected cash requirements of the pool.

§2394. Funding subsequent cash deficiencies

If the insurers have made payments to the pool totalling \$65,000,000 valued as of January 1, 1996 pursuant to section 2393, subsection 1 and the employers have paid surcharges totalling \$110,000,000 calculated on a net present value basis using January 1, 1995 as a valuation date and a discount rate of 5%, pursuant to section 2393, subsection 2, on each July 1st following the full payment date, or more often if the board considers it necessary:

1. Determine cash requirements. The board shall determine the amount of cash receipts that will be required over the ensuing 24 months, in addition to all other funds reasonably anticipated by the board to be available on a cash basis over that period, to produce an amount not less than the pool's projected cash requirements to meet its obligations over that period. In making this determination, the board shall employ and may rely upon professional and consulting services, including such services as may be available through its internal staff, as the board considers necessary. If cash requirements determinations under this subsection commence, any cash requirements determinations and initial surcharge percentage adjustments under section 2393, subsection 2, paragraph E cease. In projecting the pool's anticipated cash requirements, the board shall maintain a reserve equal to 25% of the cash expenditures of the pool over the immediately preceding 12 months; and

2. Establish supplemental surcharges and assessments. The pool shall establish, bill and collect supplemental surcharges from employers and assessments from insurers in an aggregate amount determined by the board to be sufficient to satisfy the

pool's cash requirements, determined under subsection 1, in accordance with the following provisions.

A. Liability for funding cash requirements determined under subsection 1 is allocated 70% to employers and 30% to insurers.

B. The pool shall establish a surcharge on employers, reflected as a percentage of surchargeable premium, that the board reasonably expects will be sufficient to generate cash receipts over the ensuing 24-month period equal to 70% of the pool's cash requirements for such period as determined pursuant to subsection 1. The resulting employer surcharges are billed and collected in the same manner as provided in section 2393, subsection 2, paragraph D.

C. The pool shall establish, bill and collect from insurers assessments equal to the remaining 30% of the pool's cash requirements. Major insurers are responsible for 90% and minor insurers are responsible for 10% of these assessments.

(1) Assessments under this paragraph must be determined and billed quarterly by the pool in an amount equal to 42.9% of the cash receipts actually received by the pool from employer supplemental surcharges during the immediately preceding calendar quarter and must be allocated among existing insurers in the same category in direct proportion to amounts paid by or otherwise collected from those insurers by or on behalf of the pool under section 2393, subsection 1. Assessments billed by the pool must be paid within 30 days of the billing date.

(2) The enforcement provisions established by section 2393, subsection 1, paragraph C apply to assessments on insurers under this paragraph.

D. For purposes of establishing the surcharge upon employers, the pool's cash requirements may not include any amounts necessary to compensate the pool for any failure by insurers to pay the full amount of the assessments charged to insurers under this subsection.

For the purposes of this section, "full payment date" means the date on which insurers have paid the entire amount required pursuant to section 2393, subsection 1 and on which employers have paid the entire amount required pursuant to section 2393, subsection 2.

§2395. Revisions to residual market mechanism plan of operation

1. Plan manager. The board shall appoint a plan manager who reports to and serves at the pleasure, direction and control of the board. The board has the exclusive right to retain any individual or organization as plan manager and to terminate the plan manager. The board is exclusively responsible for establishing the terms and conditions, including compensation, under which the plan manager serves.

2. Appointment of employer representatives. The 5 members of the board of governors serving as representatives of the business community of the State are appointed by the Governor for staggered 3-year terms, with at least one member appointed each year. All members whose terms have not expired on or before July 3, 1995 continue on the board until their terms expire.

3. Staff and consultants. The board may employ, or otherwise retain, staff and consultants as the board considers necessary or appropriate to effect the purposes of this chapter and chapter 440 and to otherwise administer pool operations. The board or its designee is exclusively responsible for establishing the responsibilities and compensation of all staff employed by the pool and are exclusively responsible for establishing the terms and conditions, including compensation, of all consultants retained by the pool.

4. Transfer of policies. An insurer may transfer any rights, obligations and liabilities of a workers' compensation insurance policy issued pursuant to the residual market mechanism.

5. Authority to borrow money. The pool may, when directed by the board, borrow money and enter into financing transactions in the name of and on behalf of the pool and issue evidences of indebtedness in connection with those transactions. To secure the payment of any indebtedness incurred pursuant to this subsection, the pool may pledge and create a lien upon any or all of its receivables or revenues or grant such other security interests in its property as the board determines reasonable and proper for the security of the holders of indebtedness. The terms and conditions of any borrowing, including, but not limited to, dates, maturities, interest and rates, must be established by the board.

§2396. Coordination of law

1. Causes of action extinguished; exception. Notwithstanding Title 1, section 302, a cause of action or administrative proceeding that could have been asserted or instituted, whether or not pending, prior to or on the effective date of this Act arising out of or relating to sections 2386 and 2386-A and their predecessor statutes, sections 2366 and 2367 or due to

an insurer's performance as a servicing carrier or other participation in the residual market mechanism may not exist or be brought against the pool, the board or an insurer that has timely paid to the pool in full at least the allocated share pursuant to section 2393, subsection 1. This subsection does not apply to: claims by servicing carriers for quarterly reimbursement from the pool; claims arising from a written agreement among any of the major insurers and the pool relating to payment of the allocated share of a delinquent insurer pursuant to section 2393, subsection 1; claims by an individual policyholder against its insurer; or claims by employees for benefits under residual market policies.

2. Repeal of chapter 720. The Bureau of Insurance Rules, chapter 720, is repealed effective July 1, 1995. The collection procedures set forth in section 2393, subsection 2, paragraph D, subparagraph (2) apply to surcharges assessed under chapter 720 prior to the effective date of this chapter.

3. Vacation of orders. All orders of the superintendent relating to surcharges and assessments arising out of section 2386-A are vacated except to the extent that they establish the amount and method of calculation of surcharges paid or to be paid by employers on policies issued or renewed with effective dates on or before June 30, 1995, and self-insurance plan years beginning on or before June 30, 1995. All other decisions, orders and rules issued and adopted by the superintendent relating to workers' compensation insurance are invalid to the extent that they are inconsistent with this chapter.

Sec. 12. 24-A MRSA §4435, sub-§4, as amended by PL 1989, c. 751, §3, is further amended to read:

4. Covered claim. "Covered claim" means an unpaid claim, including one for unearned premiums but excluding one for punitive damages, arising under and within the coverage and applicable limits of a policy of a kind of insurance referred to in section 4433 to which this subchapter applies issued by an insurer ~~which~~ that becomes an insolvent insurer after May 9, 1970, and where:

A. The claimant or insured is a resident of this State at the time of the insured event; or

B. The property from which the claim arises is permanently located in this State.

"Covered claim" ~~shall~~ does not include any amount due any insurer, reinsurer, affiliate, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that any payment made to the workers' compensation residual market pool pursuant to section 4438, subsection 1, paragraph A-1 must be included as a covered claim.

Sec. 13. 24-A MRSA §4435, sub-§5, as enacted by PL 1969, c. 561, is amended to read:

5. Insolvent insurer. "Insolvent insurer" means an insurer:

A. Authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred; and

B. Determined to be insolvent by a court of competent jurisdiction.

Effective July 1, 1995, the workers' compensation residual market pool, as created by the Bureau of Insurance Rules, Chapter 440, is deemed an insolvent insurer.

Sec. 14. 24-A MRSA §4438, sub-§1, ¶A-1 is enacted to read:

A-1. Pay to the workers' compensation residual market pool the sum of \$1,538,039 on or before February 15th, May 15th, August 15th and November 15th of each year beginning August 15, 1996 and continuing for 40 consecutive calendar quarters. Each payment made under this paragraph must be treated as the payment of a covered claim except that the association may not seek reimbursement or recoupment from any source other than by assessments to member insurers. Member insurers are allowed to recognize assessments made pursuant to this paragraph in rates and premiums as provided in section 4447;

Sec. 15. 24-A MRSA §4438, sub-§1, ¶C, as amended by PL 1989, c. 67, §5, is further amended to read:

C. Allocate claims paid and expenses incurred among the 3 accounts separately; and assess member insurers separately for each account in amounts necessary to pay:

(1) The obligations of the association under paragraph A, subsequent to an insolvency, the obligations of the accounts for shortfalls under section 4440-A, and for preinsolvency assessments, if required by section 4440, subsection 3, paragraph B, and the obligations of the association under paragraph A-1;

(2) The expenses of handling covered claims subsequent to an insolvency;

(3) The cost of examinations under section 4445; and

(4) Other expenses authorized by this subchapter;

Sec. 16. 24-A MRSA §4440, sub-§1, as amended by PL 1989, c. 67, §6, is further amended to read:

1. Proportion. The assessments of each member insurer provided for under section 4438 ~~shall~~ must be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the same calendar year on the kinds of insurance in the account, except that assessments to cover a shortfall in any account ~~shall be~~ are determined in accordance with section 4440-A. In the case of a withdrawn insurer, the average of its net direct written premium for the 5 calendar years prior to withdrawal ~~shall~~ excluding premium on business written as a workers' compensation residual market servicing carrier for assessments made on or after January 1, 1996, must be used as its assessment base for any year following withdrawal in which the insurer has no net direct written premium.

Sec. 17. 24-A MRSA §4440-A, sub-§2, as repealed and replaced by PL 1989, c. 641, §1 and affected by §2, is amended to read:

2. Limit on assessment. Subject to the 2% limitation, an assessment made under this section may not exceed 5% of the average of a member insurer's net income of the 3 years prior to the year in which the assessment is made for any member insurer:

A. That has surplus of less than ~~\$12,000,000~~ \$15,000,000 and either a ratio of total net direct written premium to total surplus greater than 2 or net income of less than \$250,000 for the year preceding the assessment. For purposes of this subsection, "net income" means the sum of underwriting income and investment income, net of dividends to policyholders and federal and foreign income taxes incurred, as reported on the insurer's annual statement filed with the superintendent. "Total surplus" means surplus as regards policyholders, as reported on the insurer's annual statement filed with the superintendent; or

B. That has a surplus of less than ~~\$12,000,000~~ \$15,000,000 and has fewer than 3,000 policyholders.

Sec. 18. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1995-96	1996-97
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PROFESSIONAL AND
FINANCIAL
REGULATION,
DEPARTMENT OF

Bureau of Insurance

All Other	(\$50,000)	(\$50,000)
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Deallocates funds to reflect savings from the elimination of consultant and public hearing costs that are no longer necessary after repeal of the 1987 workers' compensation residual market mechanism.

Sec. 19. Nonseverability. The following provisions apply.

1. If any portion of the Maine Revised Statutes, Title 24-A, chapter 26 ultimately is declared invalid or determined to be unenforceable in whole or in part by final unappealable judgment of a court of competent jurisdiction and that judgment has the effect of prohibiting either payment to or collection by the workers' compensation residual market pool of the payments required by Title 24-A, section 2393, subsections 1 to 3 or Title 24-A, section 2394, then this Act is invalid and unenforceable and has no force or effect whatever. Following such judgment, all amounts paid to the pool under Title 24-A, chapter 26 must be refunded as soon as possible, together with any investment earnings on those amounts, to the insurers, Maine Insurance Guaranty Association and employers in direct proportion to payments to the pool pursuant to Title 24-A, sections 2393 and 2394, and all statutory provisions repealed by this Act and all decisions, orders and rules vacated under section 2396, subsection 3 are revived and have full force and effect.

2. Notwithstanding subsection 1, chapter 440 of the Bureau of Insurance Rules remains in full force and effect, except that the Superintendent of Insurance shall institute rulemaking under Title 5, chapter 375, subchapter II to repeal the following sections or portions of chapter 440:

A. In subchapter I, section 2, the reference to "2367";

B. In subchapter I, section 5, paragraph C, the words "with the approval of the superintendent";

C. In subchapter II, section 7, paragraph A, subparagraph (2), the words "subject to the approval of the superintendent";

D. In subchapter II, section 7, paragraph B, last paragraph, the words "by the superintendent";

E. In subchapter II, section 7, paragraph C, last paragraph, the words "by the superintendent";

F. In subchapter II, section 9, first sentence, the words "subject to the approval of the superintendent";

G. In subchapter II, section 9, paragraph B in its entirety;

H. In subchapter II, section 10, paragraph C, subparagraph (2), the words "by Title 24-A, section 2367 or";

I. In subchapter II, section 10, paragraph H, the words "pursuant to Title 24-A, section 2367";

J. In subchapter II, section 13, paragraphs A, C, D and E;

K. In subchapter II, section 14 in its entirety; and

L. In subchapter II, section 15 in its entirety.

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

Effective June 23, 1995.

CHAPTER 290

H.P. 364 - L.D. 484

An Act Concerning Grandparents' Rights of Visitation and Custody

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

Sec. 1. 19 MRSA §1002, sub-§1, as amended by PL 1993, c. 686, §4 and affected by §13, is further amended to read:

1. Grandparent. "Grandparent" is the biological or adoptive parent of the child's biological or adoptive parent. "Grandparent" ~~does not include~~ includes the biological or adoptive parent of a child's biological or adoptive parent ~~who consented to adoption under section 1122 or~~ whose parental rights have been terminated pursuant to section 1114 or Title 22, chapter 1071, subchapter VI, but only until the child's adoption.

Sec. 2. 19 MRSA §1129, sub-§5 is enacted to read:

5. Notice to grandparents granted visitation or access. The department shall notify the grandparents of a child when the child is placed for adoption if the department has received notice that the grandparents were granted reasonable rights of visitation or access under chapter 20 or Title 22, section 4005-B.

Sec. 3. 22 MRSA §4005-B, sub-§1, as enacted by PL 1993, c. 697, §1, is amended to read:

1. Definition. For the purposes of this section, "grandparent" means the biological or adoptive parent of the child's biological or adoptive parent. "Grandparent" ~~does not include~~ includes the parent of a child's parent ~~who consented to adoption or~~ whose parental rights have been terminated, but only until the child is placed for adoption.

Sec. 4. 22 MRSA §4005-B, sub-§6 is enacted to read:

6. Reasonable rights of visitation or access. In any proceeding in which standing and intervenor status have been granted, the grandparent may request the court to grant the grandparent reasonable rights of visitation or access. When a child is placed in the prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's right to contact or have access to the child that was granted pursuant to this chapter is suspended. If the adoption is not final within 18 months of adoptive placement, then the grandparent whose rights of contact or access were suspended may resume, as a matter of right and without further court order, contact with the child in accordance with the order granting that contact or access, unless the court determines, after a hearing, that the contact is not in the child's best interest. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 19, section 1129. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when rights of contact have been previously ordered by a court.

See title page for effective date.

CHAPTER 291

H.P. 911 - L.D. 1287

An Act to Amend the Probate Code Regarding Conservators

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

Sec. 1. 18-A MRSA §5-410, sub-§(d) is enacted to read:

(d) When appointed by the court, the conservator shall inform the court as to the conservator's residence. If the residence changes, the conservator shall inform the court of that change. If the conservator is a corporation, the corporate offices are consid-

ered the conservator's residence for the purposes of this section.

Sec. 2. 18-A MRSA §5-411, as enacted by PL 1979, c. 540, §1, is amended to read:

§5-411. Bond

The court may require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law, with sureties as it ~~shall specify~~ specifies. A conservator who moves out of this State while serving as conservator shall notify the court regarding the change of residence. The court may require a conservator who moves or locates out of this State while serving as conservator to furnish a bond at that time. Unless otherwise directed, the bond ~~shall must~~ be in the amount of the aggregate capital value of the property of the estate in ~~his the conserva-~~ tor's control plus one year's estimated income minus the value of securities deposited under arrangements requiring an order of the court for their removal and the value of any land ~~which that~~ the fiduciary, by express limitation of power, lacks power to sell or convey without court authorization. The court in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

Sec. 3. 18-A MRSA §5-424, sub-§(b-1) is enacted to read:

(b-1) A conservator may remove items of tangible property that are assets of the estate to a location out of this State only with court authorization.

See title page for effective date.

CHAPTER 292

H.P. 845 - L.D. 1176

An Act to Amend the Maine Cancer Registry Law to Require the Reporting of All Cancer Cases to the Department of Human Services

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

Sec. 1. 22 MRSA §1402, as amended by PL 1985, c. 407, §1, is further amended to read:

§1402. Duty of physicians and hospitals

All hospitals and other health care facilities providing screening, diagnostic or therapeutic services with respect to cancer shall report to the Department of Human Services all persons diagnosed as having a malignant tumor no later than 30 days from the date of

diagnosis or ~~from~~ discharge from a hospital. The report ~~shall must~~ include information on the person's usual occupation and industry of employment.

A physician, surgeon or other health care practitioner who diagnoses or provides treatment for cancer patients, upon notification by the Department of Human Services, shall report to the department any further information requested by the department concerning any person now or formerly under ~~his the~~ health care practitioner's care, diagnosed as having or having had a malignant tumor. A physician, surgeon or other health care practitioner who diagnoses or provides treatment for cancer patients is required to report any newly diagnosed cancer case to the department when that patient will not be referred to a reporting facility for diagnosis or treatment.

~~No physician or hospital~~ A facility or individual complying with the reporting requirements of this section ~~shall be~~ is not liable for any civil damages as a result of such acts.

The requirements of this section do not apply to health care practitioners who provide treatment by spiritual means alone.

See title page for effective date.

CHAPTER 293

H.P. 697 - L.D. 955

An Act to Amend the Workers' Compensation Act As It Relates to Incarcerated Individuals

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

Sec. 1. 39-A MRSA §203, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Compensation while incarcerated. Compensation for incapacity under section 212 or 213 or under any prior workers' compensation laws may not be paid to any person during any period ~~in which that person is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for after conviction of a criminal offense, except in relation to compensable injuries suffered during incarceration and while the prisoner is:~~

- A. Employed by a private employer;
- B. Participating in a work release program;
- C. Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261; or

D. Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761.

Sec. 2. Application. Notwithstanding Public Law 1991, c. 885, Part A, section 10, the Maine Revised Statutes, Title 39-A, section 203 applies to eligibility for compensation for incapacity on or after the effective date of this Act regardless of the date of injury.

See title page for effective date.

CHAPTER 294

H.P. 973 - L.D. 1382

An Act to Strengthen the Laws Concerning Labeling and Advertising of Native Produce

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

Sec. 1. 7 MRSA §443-A, as amended by PL 1979, c. 731, §19, is repealed and the following enacted in its place:

§443-A. Native produce

1. Prohibition. Farm produce sold or offered for sale within the State may not be labeled or advertised as "native," "native-grown," "locally grown" or by a similar designation, unless that product was actually grown in the State.

2. Penalty. Violation of subsection 1 is a civil violation punishable by a fine of not less than \$200 nor more than \$300.

3. Burden of proof. The burden of proof concerning the origin of farm produce is on the seller. The burden may be met by written documentation showing the origin of farm produce.

4. Enforcement. This section is enforced by the Department of Agriculture, Food and Rural Resources.

See title page for effective date.

CHAPTER 295

S.P. 80 - L.D. 168

An Act to Clarify Insurance Coverage Regarding Breast

Reconstruction after Mastectomy Surgery

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

Sec. 1. 24 MRSA §2320-C is enacted to read:

§2320-C. Coverage for mastectomy surgery

All individual and group nonprofit and medical services plan contracts and all nonprofit health care plan contracts providing coverage for mastectomy surgery must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 2. 24-A MRSA §2731-A, as enacted by PL 1991, c. 333, §1, is repealed.

Sec. 3. 24-A MRSA §2745-C is enacted to read:

§2745-C. Coverage for mastectomy surgery

All individual health policies providing coverage for mastectomy surgery, except those designed to cover only specific diseases, hospital indemnity or accidental injury, must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 4. 24-A MRSA §2837-C is enacted to read:

§2837-C. Coverage for mastectomy surgery

All group health policies providing coverage for mastectomy surgery, except those designed to cover only specific diseases, hospital indemnity or accidental injury, must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

Sec. 5. 24-A MRSA §4237 is enacted to read:

§4237. Coverage for mastectomy surgery

All individual or group coverage subject to this chapter that provides for mastectomy surgery must provide coverage for reconstruction of the breast on which surgery has been performed and surgery and reconstruction of the other breast to produce a

symmetrical appearance if the patient elects reconstruction and in the manner chosen by the patient and the physician.

See title page for effective date.

CHAPTER 296

H.P. 788 - L.D. 1105

An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information

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

Sec. 1. 24-A MRSA §3102-A is enacted to read:

§3102-A. Indemnification; surety on bonds

1. Annual notice to indemnitors. An insurer authorized to transact surety insurance in this State that acts as surety upon a payment or performance bond executed in this State in reliance on an indemnity agreement shall annually notify the following persons of the existence of the indemnity agreement:

A. All indemnitors who are residents of the State;

B. All indemnitors of a bond executed by a corporation incorporated in the State; and

C. The surety insurer's agent or broker, if an agent or broker is involved.

Notice to the indemnitors must be sent by certified mail to their last known address. The annual notice must be sent on or before the anniversary of the date of the execution of the indemnity agreement.

2. Termination of indemnity agreement. Failure to send an annual notice in accordance with the requirements of this section terminates an indemnity agreement executed after the effective date of this section as to any indemnitor to whom the annual notice was not sent. In no event does failure to send an annual notice or termination of the indemnity agreement relieve an indemnitor or the indemnitors' heirs, successors or assigns from past, present or future liability arising under any such bond executed in reliance upon the indemnity agreement if that indemnity agreement was in effect at the time the bond was executed.

See title page for effective date.

CHAPTER 297

H.P. 85 - L.D. 121

An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees

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

Sec. 1. 39-A MRSA §104, first ¶, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

An employer who has secured the payment of compensation in conformity with sections 401 to 407 is exempt from civil actions, either at common law or under sections 901 to 908; Title 14, sections 8101 to 8118; and Title 18-A, section 2-804, involving personal injuries sustained by an employee arising out of and in the course of employment, or for death resulting from those injuries. An employer that uses a private employment agency for temporary help services is entitled to the same immunity from civil actions by employees of the temporary help service as is granted with respect to the employer's own employees as long as the temporary help service has secured the payment of compensation in conformity with sections 401 to 407. "Temporary help services" means a service where an agency assigns its own employees to a 3rd party to work under the direction and control of the 3rd party to support or supplement the 3rd party's work force in work situations such as employee absences, temporary skill shortages, seasonal work load conditions and special assignments and projects. These exemptions from liability apply to all employees, supervisors, officers and directors of the employer for any personal injuries arising out of and in the course of employment, or for death resulting from those injuries. These exemptions also apply to occupational diseases sustained by an employee or for death resulting from those diseases. These exemptions do not apply to an illegally employed minor as described in section 408, subsection 2.

See title page for effective date.

CHAPTER 298

H.P. 1060 - L.D. 1489

An Act to Implement the Recommendations of the Commission to Study Potato Quality Issues

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

Sec. 1. 7 MRSA §441, as repealed and replaced by PL 1979, c. 672, Pt. A, §16, is amended to read:

§441. Rules

The commissioner may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules ~~and regulations~~ for carrying out this subchapter, including the fixing of fees to be charged any individual, firm or organization requesting an inspection pursuant to section 446 or receiving an inspection pursuant to section 951. These fees ~~shall~~ must, as nearly as possible, cover the costs of the inspection services for the commodity inspected. All fees collected ~~shall~~ must be paid by the commissioner to the Treasurer of State and are appropriated for the purposes of this subchapter. Any unexpended balance from the funds thus appropriated ~~shall~~ may not lapse, but ~~shall~~ must be carried forward to the same fund for the next fiscal year.

Sec. 2. 7 MRSA §951, as amended by PL 1979, c. 731, §19, is further amended by adding at the end 2 new paragraphs to read:

Notwithstanding the provisions of article 4, the commissioner after consultation with the Maine Potato Board may require, by rules adopted pursuant to the Maine Administrative Procedure Act, the inspection of all or a portion of consumer packs of potatoes for conformity with the U.S. #1 grade or other grades. Inspection under any rule adopted pursuant to this section must be performed by a licensed federal-state potato inspector, state potato inspector or seed potato inspector. At the request of and in consultation with the Maine Potato Board, the commissioner shall initiate rulemaking to require inspection of consumer packs of potatoes.

A person who violates rules adopted under this section commits a civil violation for which a forfeiture not to exceed \$1,000 for the first offense and \$2,000 for any subsequent offense may be adjudged.

See title page for effective date.

CHAPTER 299

H.P. 334 - L.D. 454

**An Act Revising the Liability for the
Storage and Distribution of
Natural Gas**

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

Sec. 1. 14 MRSA §165, as enacted by PL 1975, c. 186, is repealed and the following enacted in its place:

§165. Liability of those who store or distribute natural gas

1. Liability without proof of negligence. A natural gas company or natural gas pipeline company that stores or distributes natural gas is liable for all acts and omissions of its servants and agents that cause death or injury to persons or damage to property resulting from explosions or fire caused by natural gas escaping from the natural gas storage or distribution system under its control or from explosions or fire caused by defects in the natural gas storage and distribution systems under its control.

2. Rebuttable presumption. When there is death or injury to persons or damage to property resulting from explosions or fire caused by escaping natural gas, there is a rebuttable presumption that the gas escaped because of a defect in a portion of the storage or distribution system under the company's control.

3. Exceptions. The company is not liable for death or injury to persons or damage to property caused by:

A. An act of God or war;

B. Fault of the plaintiff to the extent that the plaintiff's fault bars or reduces the plaintiff's recovery under section 156; or

C. Intervening fault of a 3rd party for whose actions the company is not legally liable. If death or injury to persons or damage to property is caused by the combined fault of the company and other parties, the liability of the company is joint and several with those other parties.

4. Indemnity. In the event that the company is exposed to liability under this section because of the negligence of a 3rd party, the 3rd party shall indemnify the company for the company's losses, including any damages awarded or negotiated through settlement to any party, and costs and attorney's fees.

See title page for effective date.

CHAPTER 300

H.P. 1081 - L.D. 1523

**An Act Requiring that Certain
Nonprofit Corporations Provide for
the Disposal of Assets**

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

Sec. 1. 13 MRSA §931-A is enacted to read:

§931-A. Bylaws; disposal of assets

The bylaws of a corporation organized under this chapter after the effective date of this section must provide for the disposal of the corporation's assets.

Sec. 2. 13 MRSA §2861-A is enacted to read:

§2861-A. Bylaws; disposal of assets

The bylaws of a corporation organized under this chapter after the effective date of this section must provide for the disposal of the corporation's assets.

Sec. 3. 13-B MRSA §1104-A is enacted to read:

§1104-A. Bylaws; disposal of assets

After the effective date of this section, a domestic corporation organized under this Title or a domestic corporation filing an annual report under section 1301 shall provide for the disposal of the corporation's assets in its bylaws.

See title page for effective date.

CHAPTER 301

H.P. 1073 - L.D. 1508

An Act Concerning Residential Treatment Facilities

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

Sec. 1. 22 MRSA §8101, sub-§4-B is enacted to read:

4-B. Residential treatment facility with secure capacity. "Residential treatment facility with secure capacity" means a children's home that provides a mental health intensive treatment program to a child whose diagnostic assessment indicates that the persistent pattern of the child's mental health presents a likely threat of harm to self or others and requires treatment in a setting that prevents the child from leaving the program.

See title page for effective date.

CHAPTER 302

H.P. 935 - L.D. 1324

An Act to Require the Commissioner of Defense and Veterans' Services to Be Confirmed by the Legislature

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

Sec. 1. 37-B MRSA §3, sub-§1, ¶A, as enacted by PL 1983, c. 460, §3, is amended to read:

A. Be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over veterans' affairs and confirmation by the Legislature and serve at the pleasure of the Governor;

See title page for effective date.

CHAPTER 303

H.P. 722 - L.D. 996

An Act to Prevent the Loss of Federal Impact Aid Funds to Schools Required to Reimburse under Federal Law

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

Sec. 1. 20-A MRSA §15612, sub-§5, ¶D, as enacted by PL 1993, c. 410, Pt. DDDD, §1, is amended to read:

D. For fiscal year 1992-93, if the State does not meet the wealth neutrality test requirement of Public Law 81-874, subsection 5(d)(2) and if a state school subsidy of a school administrative unit is reduced in fiscal year 1992-93 as a result of Public Law 81-874 receipts, the Legislature unconditionally commits to restoring in fiscal year 1995-96 to that school administrative unit all of the state subsidy withheld due to receipt of Public Law 81-874, Section 3(c)(1) funds if those funds must be subsequently returned to the Federal Government. The required amount of \$1,877,937.42 must be provided from the ending balance of fiscal year 1994-95 general purpose subsidy for public schools.

See title page for effective date.

CHAPTER 304

H.P. 1059 - L.D. 1488

An Act to Amend the Real Estate Laws Concerning Validation of Defects

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

Sec. 1. 33 MRSA §352, as amended by PL 1981, c. 181, §1, is repealed and the following enacted in its place:

§352. Defective acknowledgments

A record of a deed or other instrument, including a power of attorney, made prior to January 1, 1990 for the conveyance of real property, or of any interest in the property, and recorded in the registry of deeds of the county in which the real property is located is valid and enforceable even if:

1. Acknowledgment. The acknowledgment:

A. Was not completed;

B. Was erroneously taken;

C. Was taken by a person not having authority to take the acknowledgment or the authority of the person taking the acknowledgment was not completely stated or was erroneously stated;

D. Does not reveal whether the authority taking the acknowledgment acted as a notary public, a justice of the peace or other duly authorized authority for the taking of the acknowledgment;

E. Was not taken;

F. Had not been signed by the authority taking the acknowledgment but the authority had attached, affixed or stamped the deed or instrument with a seal of authority;

G. Was taken by the grantor or grantee or by the husband or wife of the grantor or grantee;

H. Was taken by a magistrate who was a minor or an interested party or whose term of office had expired at the time of the acknowledgment;

I. Was taken by an officer authorized to take an acknowledgment but outside the territory in which the officer was authorized to act;

J. Was taken by a person who, at the time of the acknowledgment, had received an appointment, election or permission authorizing that person to take the acknowledgment, but had not qualified

and who has since qualified to take an acknowledgment;

K. Was authorized by the grantor who was acting as a duly authorized agent or officer of a corporation or in a fiduciary or representative capacity for a corporation;

L. Was taken in another state or country before a person authorized to take acknowledgments and was made on the form of acknowledgment prescribed by the laws of the state or country in which the deed or instrument was executed or the person taking the acknowledgment failed to affix a proper certificate to the deed or instrument, showing that person's authority to act as a magistrate;

M. Was not signed by a magistrate of this State or any other state or territory of the United States, or any foreign country, authorized to take an acknowledgment but was complete in every other respect and was signed by an ambassador, minister, charge d'affaires, consul, vice-consul, deputy consul, consul general, vice-consul general, consular agent, vice-consular agent, commercial agent or vice-commercial agent of the United States who was not qualified to take an acknowledgment, but has since become qualified by law to do so;

N. Was signed by a magistrate authorized to take an acknowledgment but the magistrate's official seal, the names of the grantors, the date and place of acknowledgment, the words "personally appeared before me" or a statement that it was acknowledged as the grantor's "free act and deed" had been omitted; or

O. Is in the form of an oath or states merely that the deed or instrument was subscribed in the magistrate's presence, or is otherwise informal or incomplete, but was signed by a magistrate authorized to take an acknowledgment; or

2. Records relating to title to real property.

The records in relating to the title to real property fail to disclose the date when received for record or the records have not been signed by the register of deeds or other duly authorized recording officer for the county.

Sec. 2. 33 MRSA §353-A, as amended by PL 1987, c. 15, §2, is repealed and the following enacted in its place:

§353-A. Miscellaneous defects

1. Omission of consideration; failure to seal.

A deed or other instrument, including a power of attorney, made prior to January 1, 1990 for the

conveyance of real property, or any interest in real property, in this State and otherwise valid, except that the deed or instrument does not state any consideration for the real property or was not sealed by the grantors, is valid.

2. Discharge or assignment of mortgage. A duly recorded satisfaction piece or instrument made prior to January 1, 1990 with the intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage intended to be canceled and discharged or assigned, but not drawn in accordance with statutory requirements is considered valid.

3. Corporations organized or attempted to be organized; validation of deeds and other instruments. A corporation organized or attempted to be organized under the laws of this State more than 20 years prior to January 1, 1990 and not declared to be invalid prior to January 1, 1990 is for all intents and purposes a lawful corporation. The deeds or other instruments of the corporation, given in its corporate name, that affect or convey real estate or any interest in the real estate and that prior to January 1, 1990 were recorded in the registry of deeds in the county where the real estate is located may not be held invalid by reason of:

- A. The lack of authority for or informality in their execution or delivery if executed or delivered in good faith by the acting officers of the corporation;
- B. The failure to disclose the corporation's authority for the conveyance of real estate;
- C. The failure to bear the corporate seal;
- D. A person executing or acknowledging a deed or instrument in that person's individual capacity;
- E. The failure to disclose the official capacity of the person executing the deed or instrument; or
- F. The failure of the duly authorized corporate officer to sign the deed or instrument.

4. Omission of authorization for conveyance of real estate. A deed or other instrument for the conveyance of real property, or any interest in the real property executed by a person or persons purporting to act as the agent or attorney of the grantors or their spouses, that has been recorded in the registry of deeds for the county in which the real property is located more than 40 years prior to January 1, 1990 is valid even if no power of attorney authorizing and empowering an agent or attorney to make the conveyance or execute and deliver the deed or instrument appears of record, but the real property has in the meantime been occupied, claimed or treated by the grantees or their heirs as their own property.

5. Discharge of mortgage. An instrument written or recorded in the registry of deeds more than 40 years prior to January 1, 1990 that is signed or executed by a person or persons purporting to act as the agent or attorney of a mortgagee of real estate and purporting to discharge the mortgage is valid even if no power of attorney authorizing an agent or attorney appears of record.

6. Failure to secure bond or comply with licensing. In all cases in which an executor, administrator, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to sell or exchange real estate and has sold or exchanged the real estate, or any interest in the real estate, in accordance with the authority, without first having filed a bond covering the faithful administration and distribution of the sale when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the sale or exchange and has given a deed to the purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, guardian, conservator, trustee, master, receiver or other officer appointed has acted in that capacity under a decree of any court appointing that person to the office, but the decree of appointment erroneously or inadvertently excused the person from giving bond in that capacity when a bond was required by law and was not in fact given, the deeds and acts previously done are valid.

7. Foreclosure by publication. In all cases of foreclosure of real estate mortgages by publication, a certificate of the publication of foreclosure made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, recorded on or before January 1, 1990 is prima facie evidence of the publication of foreclosure to the same extent as if the certificate had in fact been made by the register of deeds and recorded; certificates made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, and recorded on or before January 1, 1990 have the same force and effect as if made by the register of deeds and are valid.

8. Foreclosure by civil action. All foreclosures commenced on or after October 1, 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of redemption allowed was not less than one year and that would be valid but for the date of execution of the mortgage are valid and effective according to their terms.

9. Abstracts of divorce decrees. An abstract of a divorce decree recorded in any registry of deeds prior to March 24, 1987 and otherwise valid that failed to state the residence of any party to the divorce action

is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract.

See title page for effective date.

CHAPTER 305

H.P. 108 - L.D. 143

An Act to Increase the Minimum Wage in Maine

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

Sec. 1. 26 MRSA §664, as amended by PL 1993, c. 434, §1 and affected by §8, is repealed and the following enacted in its place:

§664. Minimum wage; overtime rate

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.

1. Minimum wage. The minimum hourly wage is \$4.25 per hour. If the highest federal minimum wage is increased in excess of \$4.25 per hour, the minimum wage must be increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed \$5.15 per hour.

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

3. Overtime rate. An employer may not require an employee to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is paid or due based on actual work performance.

The overtime provision of this section does not apply to:

A. Automobile mechanics, automobile parts clerks and automobile salesmen as defined in section 663;

B. Hotels and motels;

C. Mariners;

D. Public employees;

E. Restaurants and other eating establishments; and

F. The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of:

(1) Agricultural produce;

(2) Meat and fish products; and

(3) Perishable foods.

See title page for effective date.

CHAPTER 306

H.P. 199 - L.D. 258

An Act to Change the State's Air Quality Standard for Ozone to the Federal Standard

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

Sec. 1. 38 MRSA §584-A, sub-§4, as enacted by PL 1971, c. 570, is repealed.

Sec. 2. 38 MRSA §584-A, sub-§4-A is enacted to read:

4-A. Ozone. For purposes of statutory interpretation, rules, regulations, licensing determinations, policy guidance and all other actions by the department or the board relating to the control of ozone precursors for the purpose of controlling ozone or photochemical oxidant, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard for ozone established pursuant to Section 109 of the federal Clean Air Act as amended, 42 United States Code, Section 7409.

Sec. 3. 38 MRSA §584-F is enacted to read:

§584-F. Ozone health warnings

1. Dissemination of warnings to media. Whenever monitored data demonstrates or the department predicts that ground-level ozone concentrations have exceeded or will exceed 81 parts

per billion, the department shall disseminate a health warning to the mass media, including television, radio and print media, and shall urge the media to issue the warning to the general public. The department shall use best efforts to educate the media as to the need to broadly disseminate health warnings to the public.

2. Telephone hot line. The department shall provide information to the public on daily ground-level ozone concentrations by a toll-free ozone information telephone hot line.

Sec. 4. Efforts regarding transported ozone. The Department of Environmental Protection shall use all best efforts to ensure that the state implementation plans to be developed by other states pursuant to the federal Clean Air Act contain ozone precursor control programs designed to allow Maine to improve its air quality.

Sec. 5. Review of federal standard. The Governor shall urge the United States Environmental Protection Agency to complete its review of the current national ambient air quality standard for ozone expeditiously in compliance with the federal Clean Air Act.

See title page for effective date.

CHAPTER 307

S.P. 426 - L.D. 1149

An Act to Enhance Export Markets for Maine Sardines and Other Canned Herring Products by Clarifying the Maine Sardine Law

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

Whereas, the packing of sardines and other canned herring products is one of the most important industries of the State; and

Whereas, the Maine Sardine Council and the Maine Sardine Industry is seeking the statutory authority to revise the council's regulations in support of its mandatory product quality control program in order to enhance export opportunities; 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. 10 MRSA §1704, as amended by PL 1977, c. 694, §169, is further amended to read:

§1704. Rules and regulations

The Maine Sardine Council may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out the purposes of this chapter, and may issue licenses to processors who request authority to use the trademark and ~~who shall abide by such those~~ rules and regulations. The council may charge a fee on a case basis for the use of trademarks established by the council or for the use of the State of Maine trademark used on canned sardines. The Administrative Court, upon application of the ~~commissioner, the~~ Maine Sardine Council or the Attorney General, ~~shall have~~ has the right to cancel any license for failure to abide by the rules and regulations prescribed by the council; and the council ~~shall have~~ has the right, after notice and opportunity for a hearing and in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, to cancel all outstanding licenses at any time that the council deems such action necessary to the best interest of the sardine industry as a whole.

Sec. 2. 32 MRSA §4153, as amended by PL 1993, c. 14, §1, is further amended to read:

§4153. License required

~~No~~ A person, firm, corporation, association or society ~~shall may not~~ pack sardines, kippers ~~or~~ steaks or other canned herring products within the State for sale without having first filed with the Commissioner of Agriculture, Food and Rural Resources an application for license, accompanied with a fee of \$50, upon receipt of which application the commissioner shall issue to the person, firm, corporation, association or society making such application a license to pack sardines, kippers, steaks or other canned herring products. Each such license covers one group of buildings constituting a packing plant in one location. The license runs from January 1st and expires in a manner consistent with the provisions of the Maine Administrative Procedure Act as to license expiration or on December 31st of each year, whichever is later, unless sooner revoked and must be renewed annually ~~thereafter~~. Before issuing such license or renewing it, the commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines, kippers ~~or~~ steaks or other canned herring products and the operation of packing plants for sardines, kippers ~~or~~ steaks or other canned herring products are being observed.

Sec. 3. 32 MRSA §4154, as amended by PL 1977, c. 694, §627, is further amended to read:

§4154. Repeal, revocation or refusal; appeals

The Commissioner of Agriculture ~~shall, Food and Rural Resources~~, in a manner consistent with the Maine Administrative Procedure Act, ~~have~~ has the power to refuse to issue and to refuse to renew, and the Administrative Court, in a manner consistent with the Maine Administrative Procedure Act, ~~shall have~~ has the power to revoke or to suspend any license issued under this chapter whenever any of the provisions of ~~said the~~ chapter or rules or regulations promulgated or established ~~thereunder~~ under the chapter have been violated. ~~Any A~~ A person, firm, corporation, association or society whose license has been so revoked or suspended shall discontinue the packing of sardines, kippers, steaks or other canned herring products until this chapter has been complied with and a new license issued or the suspension removed. The Administrative Court may revoke or suspend ~~such the~~ license temporarily until there is a compliance with this chapter or permanently for the unexpired period of ~~such the~~ license.

Sec. 4. 32 MRSA §4160 is amended to read:

§4160. Penalties

~~Any A~~ A person, firm, corporation, association or society who ~~shall pack packs~~ sardines, kippers, steaks or other canned herring products in the State for sale without the license provided for in section 4153, or who ~~shall violate violates~~ any of the provisions of this chapter, or ~~neglect neglects~~ or ~~refuse refuses~~ to comply with any of the provisions required in this chapter or in any way ~~violate violates~~ any of its provisions may be punished by a fine not exceeding \$500 or by imprisonment for not more than 6 months, or by both for each and every offense.

Sec. 5. 32 MRSA §4165, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

§4165. Purpose

The packing of sardines, kippers, steaks and other canned herring products is one of the most important industries of the State, and this subchapter will protect the public health and welfare, stabilize the industry and conserve and promote the prosperity and welfare of the State by fostering and promoting better methods of production, packing, merchandising and advertising in the sardine industry of this State.

Sec. 6. 32 MRSA §4166, sub-§2, ¶A, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

A. One hundred cans when the stated net weight of the contents ~~is~~ is under 7 ounces; or

Sec. 7. 32 MRSA §4166, sub-§4-B is enacted to read:

4-B. Other canned herring product. "Other canned herring product" means any canned herring product that is not kippers, sardines or steaks, but is predominantly herring.

Sec. 8. 32 MRSA §4166, sub-§5, as amended by PL 1993, c. 14, §3, is further amended to read:

5. Packer. "Packer" means any person, association, firm, corporation or society licensed under section 4153 to pack sardines, kippers ~~or~~ steaks or other canned herring products.

Sec. 9. 32 MRSA §4166, sub-§7, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

7. Steaks. "Steaks" means all laterally cut or cross-sectioned portions packed in hermetically sealed containers that are not classified as sardines but are predominantly herring.

Sec. 10. 32 MRSA §4167, sub-§1, as amended by PL 1993, c. 585, §5, is further amended to read:

1. Council established as an incorporated public instrumentality of the State. Effective July 1, 1994, the Maine Sardine Council, referred to in this subchapter as the "council," is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this ~~Part chapter~~ is held to be the performance of essential government functions. For the purposes of the budget, accounts and control, purchasing or other provisions of Title 5, Part 4 the council may not be construed to be a state agency. The council consists of not more than 9 nor fewer than 3 members to be appointed by the Commissioner of Marine Resources. Fifty-one percent of the members of the council constitutes a quorum and the affirmative vote of at least 51% of the members is necessary for the transaction of all business and the carrying out of the duties of the council. A quorum of council members may be determined through the use of proxy voting and telephone polls. The members must be sardine packers operating within the State who have been actively engaged in packing sardines, kippers ~~or~~ steaks or other canned herring products for not less than 2 years and must remain so while in office. A person is considered to be actively engaged in packing sardines, kippers ~~or~~ steaks or other canned herring products if that person has derived, during the period, a substantial portion of income from packing sardines, kippers ~~or~~ steaks or other canned herring products or

has been the director or manager of an entity that derives a substantial portion of its income from packing sardines, kippers ~~or~~ steaks or other canned herring products.

Sec. 11. 32 MRSA §4167-A, as enacted by PL 1993, c. 14, §4, is amended to read:

§4167-A. Council authority; code plans, embargo and petitions

The council shall certify the quality and grade of sardines, kippers ~~and~~ steaks and other canned herring products packed in this State. The quality or grade certified by the council is prima facie evidence of the quality or grade of the lot.

1. Code plan required. Prior to packing sardines, kippers ~~or~~ steaks or other canned herring products in any container for which the council has established grades, a packer must have a code plan on file with the council. A code plan filed with the council must indicate the location of the plant, the lot number, and the calendar year of packing and may include other information provided by the packer.

A code plan filed with the council remains in effect until amendments to that code plan are submitted to the council by the packer. A packer may not pack, process, manufacture, sell, ship, deliver, consign or possess sardines, kippers ~~or~~ steaks or other canned herring products for which a code plan is required unless that packer's code appears legibly and permanently upon the container and the shipping case containing the sardines, kippers ~~or~~ steaks or other canned herring products.

2. Embargo authority. The council shall embargo any lot of sardines, kippers ~~or~~ steaks or other canned herring products that is not labeled in conformance with section 4168, subsection 5 or section 4169, subsection 1. The council shall immediately notify a packer of an embargo action and shall place a tag on each lot subject to embargo. Except as permitted by the council or as ordered by the court under subsection 3, a packer may not destroy, ~~move~~ distribute, sell, or offer to sell any product under embargo by the council. An embargo by the council constitutes a final agency action for the purposes of judicial review under Title 5, chapter 375, subchapter VII.

A. The council shall lift an embargo imposed on substandard grade products that do not conform to the labeling provisions of section 4168, subsection 5 only if the council determines that the embargoed products:

(1) Will be destroyed by the packer. Prior to destroying any lot, the packer must no-

tify the council in writing of the packer's intent to destroy the lot;

(2) Will be offered for sale in the domestic market as substandard grade products and are labeled in conformance with section 4168, subsection 5; or

(3) Will be offered for sale in the export market and are in compliance with all provisions of paragraph B.

B. The council shall lift an embargo imposed on export products that do not conform to the export provisions of section 4169 only if the embargoed products will be destroyed by the packer with the knowledge of the council or the council determines that:

(1) The embargoed products will be exported, will not be reimported into the domestic market and are in compliance with the requirements of section 4169;

(2) The packer is bonded in compliance with section 4169, subsection 4; and

(3) The packer has, in writing, notified the council of the value of the embargoed products and the export destination.

Not later than 45 days after the export of any products embargoed under this subsection, the packer shall provide the council with a copy of the shipping manifest bearing the name of the export destination.

3. Petition to courts; retrieval or condemnation. The council may petition the District Court for an order to retrieve or condemn any lot of sardines, kippers ~~or~~ steaks or other canned herring products embargoed by the council. If the court determines a lot of sardines, kippers ~~or~~ steaks or other canned herring products to be in violation of section 4168, subsection 5 or section 4169, the court may, at the packer's expense:

A. Order the packer to destroy the embargoed sardines, kippers ~~or~~ steaks or other canned herring products;

B. Order the packer to retrieve and properly label the embargoed sardines, kippers ~~or~~ steaks or other canned herring products as substandard grade products for sale in the domestic market if:

(1) The packer is able to retrieve and properly label the embargoed sardines, kippers ~~or~~ steaks or other canned herring products as substandard grade products for sale in the domestic market; and

(2) The packer has posted a bond payable to the council in the event of noncompliance with an order of the court issued under this paragraph. The bond amount may not be less than twice the value of the sardines, kippers ~~or~~ steaks or other canned herring products to be retrieved and properly labeled; or

C. Permit the packer to export the sardines, kippers ~~or~~ steaks or other canned herring products if:

(1) The packer certifies that the sardines, kippers ~~or~~ steaks or other canned herring products do not violate laws of the foreign country to which they will be exported;

(2) The council determines that the packer has properly labeled the sardines, kippers ~~or~~ steaks or other canned herring products for export; and

(3) The packer is bonded in compliance with section 4169, subsection 4.

Any action taken by a packer to comply with an order of the court issued under this subsection must be taken under the supervision of the council. If the court determines a packer to be in violation of section 4168, subsection 5 or section 4169, the court shall order the packer to pay all court costs, fees and expenses associated with the petition filed by the council.

Sec. 12. 32 MRSA §4168, sub-§2, as enacted by PL 1991, c. 446, Pt. C, §3, is amended to read:

2. Packing mediums. ~~In~~ The packing medium for packing sardines, kippers and steaks, the packing medium and other canned herring products must meet the following minimum standards if applicable to the type of packing medium used.

A. The vegetable salad oil must be a pure, edible vegetable oil that is clear and thoroughly refined. It must be a deodorized oil free from rancidity and objectionable flavor and must satisfactorily stand the 5-hour cold test, so-called. Its color may not be darker than 7 lovibond units. The oil must have a free fatty acid content of not more than .07% and must retain a satisfactory flavor after heating to 400 degrees Fahrenheit.

B. The olive oil must possess a typical greenish to light yellow color and must possess a free fatty acid content, calculated as oleic, of not more than 1.4%. The olive oil must be free of defects and possess a good typical odor and a good typical flavor.

C. The tomato sauce used must possess a fairly good red tomato color and must be free of defects and must possess a fairly good tomato puree, tomato pulp flavor. It must have not less than 8.37% salt-free tomato solids and a specific gravity of not less than 1.035.

Sec. 13. 32 MRSA §4168, sub-§3, as amended by PL 1993, c. 585, §7, is further amended to read:

3. Grades. The council may adopt rules establishing official grades for sardines, kippers ~~and~~ steaks and other canned herring products packed in the State, whether packed for consumption in the United States or packed for export, and for the marking, branding or labeling of sardines, kippers ~~and~~ steaks and other canned herring products and the use of the grades. Prior to adopting rules under this section, the council shall hold public hearings in places reasonably convenient for the packers. Notice of the hearings and of the final action must be sent, by certified mail, to all license holders under section 4153. The council may use the seal of the State of Maine in support of all quality control and promotion activities.

A. The grades may specify the number of fish per container; the amount, quality and nature of the packing medium or fill; the quality, appearance, odor, character, taste and texture of the fish packed; the style of pack, the quality of the packing and arrangement in the container; the quality of the substances contained in the container; the size and type of the container; and tolerances allowing for reasonable variation from grades.

B. When adopting rules under this section, the council may consider packing practices in the State and in other jurisdictions, consumer expectancy, habits and desires, the types of fish available, conditions of sanitation, tastes and preferences of varying parts of the consumer public, marketing practices and market experience.

Sec. 14. 32 MRSA §4168, sub-§5, as amended by PL 1991, c. 784, §14, is further amended to read:

5. Substandard grade. Except as provided in section 4169, sardines, kippers ~~and~~ steaks and other canned herring products that are officially designated as substandard grade, for which a certificate is issued, may not be sold for consumption in the United States unless each can in the lot has the words "Substandard Grade, Good Food - Not High Quality" so placed as to be easily seen when the name of the product or pictorial representation ~~thereof~~ of the product is viewed and appear conspicuously enough to be seen under ordinary conditions of purchase. The words

"Substandard Grade, Good Food - Not High Quality" must be printed in 2 lines across the cover of all cans in letters not less than 1/8 inch in height and be enclosed in lines that are not less than 1/32 inch in width. This wording must be printed on all wrappers, labels, cartons or other outer coverings of the cans with a permanent type of indelible ink or by means of other approved procedure. The words "Substandard Grade" must appear in letters not less than one inch high on both ends of the shipping container.

Sec. 15. 32 MRSA §4169, as amended by PL 1993, c. 14, §§6 to 8, is further amended to read:

§4169. Sardines for export; exempt from quantity provisions of Maine Sardine Law

Sardines, kippers ~~or~~ steaks or other canned herring products that satisfy the requirements of the Maine Food Law, but not the requirements of the Maine Sardine Law, may be exported by complying with the shipping carton marking and bonding provisions of this section. Sardines packed in cans containing fewer than 4 fish must be graded as "Good Food" if not officially designated as substandard grade. Sardines officially designated as "Good Food" must be embargoed by the council, pursuant to section 4167-A, until exported. Not later than 45 days after the export of sardines officially designated as "Good Food," the packer shall provide the council with a copy of the shipping manifest bearing the name of the export destination. For the purposes of this section, the term "exported" includes shipments of sardines, kippers ~~or~~ steaks or other canned herring products to the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the trust territory of Palau. A packer may not import into the United States any sardines, kippers ~~or~~ steaks or other canned herring products exported under this subchapter.

1. Labels. The cover of each can of sardines, kippers, ~~steaks or other canned herring products~~ that satisfy the requirements of the Maine Food Law but not the requirements of the Maine Sardine Law must be labeled with the name of the packer or distributor. Each shipping carton must be marked plainly and conspicuously with the words "FOR EXPORT" in letters not less than 1/2 inch high.

3. Military procurement. Shipments to United States military procurement agencies of sardines, kippers, ~~steaks or other canned herring products~~ that do not meet market requirements within the United States, its territories and possessions as specified by the Maine Sardine Law are not ~~deemed to be~~ considered exported to a foreign country.

4. Bonding requirements prior to engaging in export trade. A packer must be bonded prior to engaging in the export of sardines, kippers ~~or~~ steaks

or other canned herring products. Such bond or bonds must be payable to the council upon the court finding the packer in violation of the export provisions of this subchapter. Prior to exporting any sardines, kippers ~~or~~ steaks or other canned herring products, a packer must submit a copy of the bond to the council. The bond amount may not be less than twice the value of the sardines, kippers ~~or~~ steaks or other canned herring products to be exported, except that a packer regularly engaged in export activities may post a bond for \$10,000 to cover all exports in one calendar year. For the purposes of this subsection, the term "a packer regularly engaged in export activities" means a packer who exports 2 or more shipments of sardines, kippers ~~or~~ steaks or other canned herring products in a calendar year.

Sec. 16. 32 MRSA §4170, as amended by PL 1993, c. 14, §9, is further amended to read:

§4170. Cans to be sealed; lined

On all cans used for packing sardines, kippers ~~or~~ steaks or other canned herring products there must be a compound-lined gasket or other adequate gasket that will hermetically seal the container. All cans used for packing sardines, kippers ~~or~~ steaks or other canned herring products must be enamel-lined.

Sec. 17. 36 MRSA §4692-A, sub-§1, as enacted by PL 1991, c. 446, Pt. B, §3, is amended to read:

1. Case. "Case" means either of the following number of cans of sardines, kippers, ~~steaks or other canned herring products~~, regardless of the packing medium:

- A. One hundred cans when the stated net weight of the contents is under 7 ounces; or
- B. Forty-eight cans when the stated net weight of the contents is 7 ounces or over.

Sec. 18. 36 MRSA §4692-A, sub-§4, as amended by PL 1993, c. 14, §11, is further amended to read:

4. Packer. "Packer" means any person, partnership, association, firm, corporation or society licensed under Title 32, section 4153 to pack sardines, kippers ~~or~~ steaks or other canned herring products.

Sec. 19. 36 MRSA §4692-A, sub-§6, as enacted by PL 1991, c. 446, Pt. B, §3, is amended to read:

6. Steaks. "Steaks" means all laterally cut or cross-sectioned portions packed in hermetically sealed containers that are not classified as sardines but are predominantly herring.

Sec. 20. 36 MRSA §4695, as amended by PL 1991, c. 446, Pt. B, §§5 and 6, is further amended to read:

§4695. Rate of tax

The packing of sardines, ~~kippers, steaks or other canned herring products~~ is declared to constitute the introduction of sardines, ~~kippers, steaks or other canned herring products~~ into the channels of trade.

An excise tax of ~~35¢~~ 30¢ per case is levied and imposed upon the privilege of packing sardines and an excise tax of ~~45¢~~ 10¢ per case is levied and imposed upon the privilege of packing kippers ~~and~~, steaks ~~or~~ other ~~canned herring products~~.

~~Sardines that are packed specifically for export under Title 32, chapter 61, subchapter II are exempt from this section.~~

Sec. 21. 36 MRSA §4696, as amended by PL 1977, c. 694, §720, is further amended to read:

§4696. Packers' applications

Every packer shall file an application with the State Tax Assessor on forms prescribed and furnished by the State Tax Assessor, which ~~shall~~ must contain the name under which ~~such~~ the packer is transacting business within the State, the place or places of business where packing is taking place, the names and addresses of the several persons constituting a firm or partnership, and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the State. The State Tax Assessor ~~will~~ shall then issue a certificate to the packer and no packer ~~shall~~ may pack any sardines, kippers, steaks or other ~~canned herring products~~ until ~~such~~ the certificate is furnished as required by this section. The certificate ~~shall~~ is not ~~be deemed to be~~ considered a license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 22. 36 MRSA §4697, as repealed and replaced by PL 1991, c. 824, Pt. D, §5, is amended to read:

§4697. Reports of production and payment of tax

Every packer shall, on or before the last day of each month, report to the State Tax Assessor the quantity of sardines, kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ packed by the packer during the preceding calendar month, on forms furnished by the State Tax Assessor, and pay to the State Tax Assessor the tax of ~~35¢~~ 30¢ per case on all sardines reported as packed and ~~45¢~~ 10¢ per case on all kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ reported as packed. If the State Tax Assessor determines that overpayment of tax has been made, the State Tax Assessor shall

make a refund. In making additional assessment or refund determinations, the State Tax Assessor shall rely on the records of the Maine Sardine Council concerning the quantity of sardines, kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ packed in each sardine plant that is for sale and suitable for human consumption. Any packer may pay to the State Tax Assessor in advance a sum of money based on an estimate of the packer's tax for a given number of months and this sum is a credit against future monthly reports of that packer.

Sec. 23. 36 MRSA §4698, as amended by PL 1991, c. 446, Pt. B, §8, is further amended to read:

§4698. Inspections

The State Tax Assessor or a duly authorized agent has authority to enter any place of business of a packer, or any car, boat, truck or other conveyance in which sardines, kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ are to be transported, and duly inspect any books or records of any packer for the purpose of determining what sardines, kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ are taxable, or for the purpose of determining the truth or falsity of any statement or return made by any packer, and the assessor has authority to delegate those powers to the Maine Sardine Council, its deputies, agents, servants or employees, and to the Commissioner of Marine Resources, or any of the commissioner's deputies, agents, servants or employees.

Sec. 24. 36 MRSA §4699, sub-§2, ¶¶A and C, as amended by PL 1991, c. 446, Pt. B, §8, are further amended to read:

A. For the purpose of merchandising and advertising Maine sardines, kippers ~~or~~, steaks ~~or~~ other ~~canned herring products~~ for food under the direction of the Maine Sardine Council;

C. For gathering, studying, classifying and distributing information and data concerning quality, grades, standards, methods of packing and character of the manufactured sardine, kipper ~~and~~, steak ~~and~~ other ~~canned herring products~~, in order to determine and improve their quality and aid in merchandising and advertising them under the direction of the Maine Sardine Council.

Sec. 25. 36 MRSA §4699-A, as amended by PL 1991, c. 446, Pt. B, §9, is repealed.

Sec. 26. 36 MRSA §4700, as repealed and replaced by PL 1981, c. 364, §64, is amended to read:

§4700. Suspension of licenses or certificate

If a packer is liable for penalties under chapter 7, ~~his~~ the packer's wholesale seafood license and state

license to pack sardines, kippers, steaks or other canned herring products are subject to suspension by the Administrative Court in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, and ~~his~~ the packer's certificate ~~shall be~~ is suspended by the State Tax Assessor until the penalties and related tax are paid in full.

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

Effective June 26, 1995.

CHAPTER 308

S.P. 533 - L.D. 1471

An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse

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. 17-A MRSA §254-A is enacted to read:

§254-A. Written notification not to pursue charges for sexual abuse of a minor

A prosecutor who elects not to commence a juvenile or criminal proceeding for an alleged violation of section 254 shall, at the request of a parent, surrogate parent or guardian of the alleged victim, inform that person in writing of the reason for not commencing the proceeding.

See title page for effective date.

CHAPTER 309

S.P. 294 - L.D. 792

An Act to Reduce Government and Consolidate the Regulation of Banks and Credit Unions

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

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1993, c. 349, §1, is amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

~~Bureau of Consumer Credit Protection Superin-~~
~~tendent;~~

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management;

Executive Director, Maine Waste Management Agency; and

Deputy Commissioner, Department of Administrative and Financial Services.

Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director ~~of the~~ Bureau of Parks and Recreation;

Director, Bureau of Public Lands;

Director, Bureau of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Administration;

Director, Office of Planning;

Director, Office of Waste Reduction and Recycling;

Director, Office of Siting and Disposal Operations; ~~and~~

Executive Director, Board of Environmental Protection; and

Director, Office of Consumer Credit Regulation.

Sec. 3. 5 MRSA §934, sub-§1, ¶B, as enacted by PL 1983, c. 729, §4, is repealed and the following enacted in its place:

B. Director, Office of Consumer Credit Regulation;

Sec. 4. 5 MRSA §12004-I, sub-§28, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 5. 9-A MRSA §1-301, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. "Administrator" means, except in cases in which a supervised financial organization is the creditor, the administrator designated in the Article, Article 6, on Administration VI, section 6-103. In cases in which a supervised financial organization is the creditor, "administrator" means the Superintendent of Banking.

Sec. 6. 9-A MRSA §6-103, as amended by PL 1989, c. 702, Pt. E, §5, is further amended to read:

§6-103. Administration

There is created and established the ~~Bureau~~ Office of Consumer Credit Protection Regulation, which is a division within the Department of Professional and Financial Regulation. The ~~Superintendent~~ Director of the Office of Consumer Credit Protection Regulation is the head of the Office of Consumer Credit Protection Regulation. As used in this Act, and except as provided in section 1-301, subsection 2, "administrator" means the ~~superintendent~~ Director of the Bureau Office of Consumer Credit Protection Regulation. The administrator is appointed by the ~~Governor~~ Commissioner of Professional and Financial Regulation and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature. The administrator is appointed for a term ~~of 5 years that is coterminous with the term of the Governor~~, or until a successor is appointed and qualified. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. The administrator may be removed from office for cause ~~by impeachment or by the Governor on the address of both branches of the Legislature by the commissioner~~ and Title 5, section 931, subsection 2, does not apply. During the term of office the administrator ~~shall~~ may engage in no other business or profession.

Sec. 7. 9-A MRSA §6-104, sub-§1, ¶G, as corrected by RR 1993, c. 1, §20, is amended to read:

G. With the approval of the Commissioner of Professional and Financial Regulation, appoint any necessary hearing examiners, clerks and other employees and agents and fix their compensation, subject to the Civil Service Law; ~~and~~

Sec. 8. 9-A MRSA §6-104, sub-§1, ¶H, as enacted by PL 1973, c. 762, §1, is amended to read:

H. Maintain a public file of all enforcement proceedings instituted and of their disposition, including all assurances of voluntary compliance accepted and their terms and the pleadings and briefs in all actions in which the administrator is a party; and

Sec. 9. 9-A MRSA §6-104, sub-§1, ¶I is enacted to read:

I. Convene meetings of individuals representing various segments of the public and the consumer credit industry to advise and consult with the administrator concerning the exercise of powers under this Act and to make recommendations to the administrator. The administrator may authorize reimbursement of reasonable expenses incurred in attending the meetings.

Sec. 10. 9-A MRSA §6-104, sub-§6 is enacted to read:

6. Any rule, license, opinion, bulletin or advisory ruling issued by the Superintendent of Consumer Credit Protection remains applicable to supervised financial organizations after December 31, 1995 unless subsequently modified by the Superintendent of Banking. In addition, any rule, license, opinion, bulletin or advisory ruling issued by the Superintendent of Consumer Credit Protection with respect to all regulated entities other than supervised financial organizations remains in effect after December 31, 1995 as if issued by the Director of Consumer Credit Regulation.

Sec. 11. 9-A MRSA §6-104-A, as enacted by PL 1981, c. 501, §27, is amended to read:

§6-104-A. Deputy superintendent

1. Deputy superintendent. The superintendent may appoint a deputy superintendent subject to the applicable ~~Personnel Laws~~ personnel laws.

2. Powers. The superintendent may designate the deputy superintendent to perform the duties of the superintendent whenever the latter is absent from the State, whenever the deputy superintendent is directed to do so by the superintendent, whenever there is a vacancy in the office of the superintendent or whenever the superintendent is incapacitated by illness. In the event of a vacancy in the office of the

superintendent, ~~his or the superintendent's~~ incapacitating illness or absence from the State at a time when there is no deputy superintendent, the Commissioner of Business Professional and Financial Regulation may designate a special deputy superintendent to perform the duties of the superintendent for a period not to exceed 6 months.

This section is repealed October 1, 1996.

Sec. 12. 9-A MRSA §6-105, as amended by PL 1987, c. 129, §66, is further amended to read:

§6-105. Administrative powers with respect to supervised financial organizations

1. With respect to supervised financial organizations, all powers of the administrator under this Act ~~may must be exercised by him. The powers of examination and investigation, section 6-106, and administrative enforcement, section 6-108, may also be exercised by the official or agency to whose supervision the organization is subject~~ the Superintendent of Banking.

2. ~~If the administrator receives a complaint or other information concerning noncompliance with this Act by a supervised financial organization, he shall inform the official or agency having supervisory authority over the organization concerned. The administrator may obtain information about supervised financial organizations from the officials or agencies supervising them.~~

3. ~~The~~ An administrator, as defined in section 1-301, subsection 2, and any official or agency of this State having supervisory authority over a supervised financial organization are authorized and directed to consult and assist one another in maintaining compliance with this Act. They may jointly pursue investigations, prosecute suits; and take other official action, as they ~~deem~~ determine appropriate, if either of them otherwise is empowered to take the action.

4. In carrying out the responsibilities assigned under section 1-301, subsection 2, the Superintendent of Banking shall designate an employee within the Bureau of Banking and shall assign to that employee the responsibility of promoting the purposes and policies of the Maine Consumer Credit Code with respect to supervised financial organizations.

Sec. 13. 9-A MRSA Art. VI, Part 3, as amended, is repealed.

Sec. 14. 9-B MRSA §111, as enacted by PL 1975, c. 500, §1, is amended by adding at the end a new paragraph to read:

In addition, with respect to the Bureau of Banking's authority pursuant to Title 9-A, section

1-301, subsection 2, all financial institutions must be supervised in such a way as to protect consumers against unfair practices by financial institutions that provide consumer credit, to provide consumer education and to encourage the development of economically sound credit practices.

Sec. 15. 9-B MRSA §121, as enacted by PL 1975, c. 500, §1, is amended to read:

§121. Bureau of Banking

There is created under this Title a Bureau of Banking, which ~~shall have~~ has the responsibility of administering the provisions of this Title. In addition, in cases in which a financial institution is the creditor, the Bureau of Banking has the responsibility of administering the provisions of the Maine Consumer Credit Code pursuant to Title 9-A, section 1-301, subsection 2.

Sec. 16. 9-B MRSA §211, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Powers and duties. The superintendent ~~shall have~~ has authority to organize the ~~Bureau~~ bureau in such a manner as ~~he deems~~ the superintendent considers necessary to carry out ~~his~~ the superintendent's responsibilities under this Title and, in cases in which a financial institution is the creditor, the superintendent's responsibilities under the Maine Consumer Credit Code pursuant to Title 9-A, section 1-301, subsection 2. Such organization ~~shall~~ must take into account ~~both~~ the need for examination and surveillance of individual institutions to ~~assure~~ ensure that each is financially sound and complies with state and applicable federal law and regulations; the need to protect consumers against unfair practices by financial institutions that provide consumer credit; the need for consumer education; the need to encourage the development of economically sound credit practices; and the need for promotion of reasonable and orderly competition among financial institutions and for promoting the provision of financial services consistent with the public interest.

Sec. 17. 10 MRSA §1126, sub-§1, as amended by PL 1985, c. 763, Pt. A, §73, is further amended to read:

1. Certification. A supervised lender or lessor, or any trade organization or association acting on behalf of supervised lenders or lessors, may submit any proposed form of agreement to the ~~Bureau Office~~ Office of Consumer Credit Protection Regulation or, in the case of forms of agreement from supervised financial organizations, the Bureau of Banking. Within 45 days, the ~~office or~~ bureau shall either certify the form as complying with the requirements of section 1124; or refuse to certify the form as complying, setting forth written reasons for its refusal. Failure by the

office or bureau to act under this section within 45 days ~~shall be~~ is considered a certification of the form's compliance. A certification of compliance under this section ~~shall be~~ is an absolute bar to any legal proceeding by the director or superintendent for failure to comply with the requirements of section 1124.

Sec. 18. 10 MRSA §1312, sub-§1-A, as amended by PL 1981, c. 501, §82, is further amended to read:

1-A. Administrator. "Administrator" means the Superintendent Director of the Bureau of Consumer Credit Protection Office of Consumer Credit Regulation.

Sec. 19. 10 MRSA §1312, sub-§10-A is enacted to read:

10-A. Supervised financial organization. "Supervised financial organization" means supervised financial organization as defined in Title 9-A, section 1-301, subsection 38.

Sec. 20. 10 MRSA §1328-A is enacted to read:

§1328-A. Enforcement; financial institutions

When a supervised financial organization is the user of a consumer report, the Superintendent of Banking has concurrent authority under section 1328 to examine and obtain compliance from the supervised financial organization. The administrator and the Superintendent of Banking shall cooperate in enforcing this chapter.

Sec. 21. 32 MRSA §891, as amended by PL 1989, c. 17, §§1 and 2, is further amended to read:

§891. Sale of negotiable checks and money orders

1. Certificate required. Financial institutions authorized to do business in this State, as defined in Title 9-B, section 131, subsection 2, may engage directly or indirectly in the business of selling, issuing or registering checks or money orders. No person other than ~~the foregoing shall~~ those financial institutions may engage in such business directly or indirectly without first obtaining a certificate from the ~~superintendent~~ Director of the Office of Consumer Credit Regulation, referred to in this section as the "director."

2. Application. Application for a certificate ~~shall must~~ be in writing, under oath and ~~shall be~~ in the form prescribed by the ~~superintendent~~ director. The application ~~shall must~~ state the name and address of the applicant; ~~and~~ the names and business addresses of ~~his the applicant's~~ agents authorized to receive money and transact such business on his the applicant's

behalf, other than a financial institution authorized to do business in this State. Upon notice from the ~~superintendent~~ director, the applicant shall file with ~~him the director~~ a surety bond with such sureties as the ~~superintendent shall approve~~ director approves or deposit deposits with the Treasurer of State, cash or securities in a sum of not less than \$25,000 nor more than \$100,000 as the ~~superintendent shall deem~~ director determines to be necessary for the protection of the public. Any such bond or deposit ~~shall must~~ be held as security for the payment of checks or money orders sold by such person or ~~his the person's~~ agents, and the ~~superintendent~~ director may make such rules and regulations as may be necessary for the enforcement of this section, including an investigation relative to reputation and integrity, the cost of which investigation ~~shall must~~ be chargeable to ~~such that~~ person.

3. Termination of business; display of certificate. Each person to whom a certificate to engage in such business has been issued shall promptly return for cancellation; the certificate issued to ~~him that person;~~ if he that person ceases to do business or the certificate of any agent of ~~his the person~~ whose authority has been revoked. If the certificate has become lost, destroyed or is otherwise unavailable, an affidavit to this effect ~~shall must~~ be submitted in lieu ~~thereof of the certificate~~. A certificate ~~shall must~~ be issued for each agent at the time of ~~his the agent's~~ appointment and he shall the agent may not conduct any business without having the certificate prominently on display at ~~his the agent's~~ place of business.

4. Temporary certificate. Any person filing the maximum bond may issue to a new agent a temporary certificate in a form approved by the ~~superintendent~~ director. The temporary certificate ~~shall must~~ authorize the new agent to act until the ~~superintendent~~ director grants a certificate or refuses the certificate. The principal dealer, on or before the 15th day of the first month of each calendar quarter, shall file with the ~~superintendent~~ director a statement listing the names and business addresses, together with such other information as the ~~superintendent~~ director may require, of new agents appointed during the previous calendar quarter and pay the appropriate fee.

5. Biennial fee. The ~~superintendent~~ director shall establish, and modify from time to time, a fee of at least \$200, but not to exceed \$500, for the biennial certificate payable to the ~~superintendent~~ director and at least \$20, but not to exceed \$50, for each agent listed on or added to the certificate. These fees ~~shall must~~ be credited and used as provided in ~~Title 9-B, section 214~~ Title 9-A, section 6-203.

6. Renewal of certificate. Each certificate ~~shall expire expires~~ on December 31st in even-numbered

years. Prior to December 15th in the renewal year there ~~shall~~ must be paid to the ~~superintendent~~ director the fee provided in this section, for each certificate to a principal dealer or agent for the succeeding 2 years. The applicant shall file with the ~~superintendent~~ director substantiation of the renewal of continuance of the bond provided for in this section.

7. Suspension or revocation of certificate. The ~~superintendent~~ director may issue a certificate to engage in such business to any person who in ~~his~~ the ~~director's~~ judgment has complied with this section, but ~~he~~ the director may at any time suspend or revoke such certificate, after notice and hearing, for failure to comply with this section; or of any rule ~~or regulation~~ promulgated adopted by him, the ~~director~~ director or for failure to pay any check or money order upon presentation for payment.

8. Penalties. Whoever violates any provision of this section or any rule ~~or regulation~~ established ~~hereunder shall be punished by~~ under this section is subject to a fine of not more than \$100 for each day during which such violation continues.

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

~~A. "Superintendent" means the Superintendent of Banking.~~

Sec. 22. 32 MRSA §11002, sub-§9, as enacted by PL 1985, c. 702, §2, is repealed and the following enacted in its place:

9. Administrator. "Administrator" means the Director of the Office of Consumer Credit Regulation.

Sec. 23. 32 MRSA §11002, sub-§10 is enacted to read:

10. Supervised financial organization. "Supervised financial organization" has the same meaning as defined in Title 9-A, section 1-301, subsection 38.

Sec. 24. 32 MRSA §11051-A is enacted to read:

§11051-A. Enforcement; financial institutions

When a supervised financial organization is the creditor, the Superintendent of Banking has concurrent examination authority under section 11051. The administrator and the Superintendent of Banking shall cooperate in enforcing this chapter.

Sec. 25. Transition. The following provisions apply to the reassignment of the duties and responsibilities of the Bureau of Consumer Credit

Protection assigned under this Act to the Office of Consumer Credit Regulation.

1. The Office of Consumer Credit Regulation is the successor in every way to the powers, duties and functions transferred under this Act and formerly held by the Bureau of Consumer Credit Protection.

2. All rules, regulations and procedures of the Bureau of Consumer Credit Protection in effect on January 1, 1996 remain in effect until rescinded, revised or amended.

3. All contracts, agreements and compacts of the Bureau of Consumer Credit Protection in effect on January 1, 1996 remain in effect until they expire or are altered by the parties involved in the contracts, agreements or compacts.

4. Any positions authorized and allocated, subject to the personnel laws, to the Bureau of Consumer Credit Protection are transferred to the Office of Consumer Credit Regulation and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for the use of the Bureau of Consumer Credit Protection become, on the effective date of this Act, the property of the Office of Consumer Credit Regulation.

Sec. 26. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Bureau of Consumer Credit Protection" appear or reference is made to those words, they are amended to read and mean "Office of Consumer Credit Regulation" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 27. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Superintendent of Consumer Credit Protection" appear or reference is made to those words, they are amended to read and mean "Director of Consumer Credit Regulation" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 28. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96	1996-97
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**PROFESSIONAL AND
FINANCIAL
REGULATION,
DEPARTMENT OF
Bureau of Banking**

Positions - Other Count	(1.0)	(1.0)
Personal Services	\$11,800	\$53,700
All Other	18,900	55,000
Capital Expenditures	8,500	
TOTAL	\$39,200	\$108,700

Allocates funds to reflect the elimination of one vacant Bank Examiner position and the transfer of one Senior Consumer Credit Examiner position and one Consumer Credit Examiner position from the Bureau of Consumer Credit Protection and associated operating costs necessary for the Bureau of Banking to administer the Maine Consumer Credit Code for financial institutions.

Bureau of Consumer Credit Protection

Positions - Other Count	(-16.0)	(-16.0)
Personal Services	(438,630)	(741,264)
All Other	(50,000)	(182,487)
TOTAL	(\$488,630)	(\$923,751)

Transfers one Senior Consumer Credit Examiner position and one Consumer Credit Examiner position to the Bureau of Banking and deallocates funds to reflect the elimination of the remainder of the bureau as of January 1, 1996.

Office of Consumer Credit Regulation

Positions - Other Count	(11.0)	(11.0)
Personal Services	260,850	468,800
All Other	61,350	125,450
TOTAL	\$322,200	\$594,250

Allocates funds to establish the Office of Consumer Credit Regulation as of January 1, 1996 with one Director position, one Deputy Superintendent position, 2 Principal Examiner positions, 2 Senior Examiner positions, one

Consumer Outreach Specialist position, one Examiner position, one Administrative Secretary position, one Clerk Typist II position and one Clerk Typist III position and associated operating costs. The Deputy Superintendent position is eliminated as of October 1, 1996.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

TOTAL	(\$127,230)	(\$220,801)
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Sec. 29. Effective date. This Act takes effect January 1, 1996.

Effective January 1, 1996.

CHAPTER 310

H.P. 950 - L.D. 1339

An Act to Create Fair School Bus Driver Licensing

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

Sec. 1. 29-A MRSA §2303, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Requirements. ~~The~~ Except as provided in subsection 6, the Secretary of State may not issue a school bus operator endorsement unless the applicant:

- A. Holds a valid driver's license for operation of the class vehicle and has at least one year's experience as a licensed motor vehicle operator;
- B. Is at least 21 years of age and has held a driver's license for at least one year;
- C. Meets all training, physical, mental and moral requirements of the Commissioner of Education, as certified to the Secretary of State in writing;
- D. Is qualified as a driver under the motor carrier safety regulations of the Federal Highway Administration, if that person or that person's employer is subject to those regulations;
- E. Passes an examination of the person's ability to operate the specific vehicle that will be driven as a school bus or a vehicle of comparable type;

F. Has not had a license revoked pursuant to chapter 23, subchapter V, within the preceding 6-year period; and

G. Has not received an OUI conviction, as defined in section 2401, subsection 9, within the preceding 6-year period.

Sec. 2. 29-A MRSA §2303, sub-§6 is enacted to read:

6. Waiver of skill and road test. The Secretary of State may waive the skill and road tests for an applicant who has a valid authorization from another state to operate a school bus. The applicant for whom the skill and road tests are waived must comply with all other applicable state and federal requirements governing the issuance of school bus operator endorsements.

See title page for effective date.

CHAPTER 311

S.P. 436 - L.D. 1204

An Act to Wind Up the Affairs of the Maine Medical and Hospital Malpractice Joint Underwriting Association

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

Sec. 1. 24 MRSA c. 20, as amended, is repealed.

Sec. 2. Decision of Superintendent of Insurance ratified. The decision of the Superintendent of Insurance to approve the assumption agreement between the Maine Medical and Hospital Malpractice Joint Underwriting Association and Healthcare Underwriters Mutual Insurance Company, dated March 31, 1995, and the distribution of the net surplus of the joint underwriting association is ratified by this section. The Maine Medical and Hospital Malpractice Joint Underwriting Association is authorized to wind up its affairs in accordance with the decision of the Superintendent of Insurance.

Sec. 3. Effective date. Section 1 of this Act takes effect December 31, 1995.

See title page for effective date, except as otherwise indicated.

CHAPTER 312

S.P. 328 - L.D. 909

An Act to Establish Temperature Limits for Certain Existing Discharges

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

Whereas, industrial dischargers may be affected by the application of an existing temperature rule in June 1995 with which, after application of best practicable treatment, they are unable to comply; and

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

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

Sec. 1. 38 MRSA §464, sub-§4, ¶I is enacted to read:

I. Temperature limits for certain facilities are governed by the following provisions.

(1) Dischargers licensed by the department prior to January 11, 1989 that raise the temperature of the receiving water more than 0.5°F when the receiving water temperature is above 66°F, as measured outside a mixing zone, and that have demonstrated to the satisfaction of the department that they are unable to meet the standards in the existing temperature rule after application of best practicable treatment, are limited to discharging heat in an amount not exceeding the heat that has been discharged since January 11, 1989. The quantity of heat discharged during a 7-day period may not exceed the maximum heat discharged in any 7-day period between January 11, 1989 and January 11, 1995. The 7-day maximum quantity of heat discharged must be used to establish the interim license effluent limit that protects existing uses. The amount of heat discharged on any single day may not exceed 1.15 times the maximum 7-day average.

(2) The department shall develop, in consultation with the affected dischargers, facility-specific solutions and, no later than January 1, 1996, appropriate amendments

to the license of the affected dischargers must be proposed. Until the facility-specific solutions are implemented, which in no case may be later than January 1, 1999, the criteria for temperature are the criteria established in subparagraph (1).

(3) This paragraph is repealed January 1, 1999.

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

Effective June 26, 1995.

CHAPTER 313

S.P. 385 - L.D. 1062

An Act to Reduce Duplicative Reporting

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

Whereas, existing rules of the Department of Environmental Protection require businesses in this State to submit hazardous air pollutant inventory statements by July 1st of each year; and

Whereas, it is not necessary to the development and maintenance by the State of an adequate hazardous air pollutant emissions inventory to collect data on an annual basis; and

Whereas, it is essential that state personnel and resources and personnel and resources of the regulated community be expended efficiently and that reporting of hazardous air pollutant emissions data be required only to the extent necessary; and

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

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

Sec. 1. 38 MRSA §585-C, sub-§2, ¶B, as amended by PL 1989, c. 890, Pt. B, §160 and affected by Pt. A, §40, is further amended to read:

B. In conducting this inventory, the commissioner may rely upon questionnaires or other reasonable methods, including those established by the United States Environmental Protection

Agency, for the purpose of carrying out this duty as promptly and efficiently as possible. The commissioner shall clearly indicate on any requests for information the minimum amount of emissions that must be reported. The commissioner may not require reporting of this information more frequently than every other year.

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

Effective June 26, 1995.

CHAPTER 314

H.P. 558 - L.D. 759

An Act to Prevent and Abate Uncontrolled Tire Stockpiles

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

Sec. 1. 38 MRSA §1310-AA is enacted to read:

§1310-AA. Use of unauthorized tire management site or facility

A person may not dispose, store or process or cause to be disposed, stored or processed used motor vehicle tires at a site or facility in this State that:

1. **Uncontrolled tire stockpile.** Is an uncontrolled tire stockpile that is the subject of an order of the commissioner pursuant to section 1316-A; or

2. **Unlicensed, unauthorized site of facility.** Is unlicensed, unless the facility is exempt from licensing or otherwise authorized under state law to dispose, store or process such tires.

The department shall maintain a current list of uncontrolled tire stockpiles and of licensed and authorized tire management sites and facilities and shall make the list available upon request to any interested party.

Sec. 2. 38 MRSA §1316-A, as enacted by PL 1991, c. 517, Pt. A, §2, is amended by adding at the end a new paragraph to read:

The Office of the State Fire Marshal may employ its enforcement powers as authorized in Title 25, section 2396 to require a responsible party or parties to take any action necessary to protect public health and safety from substantial and immediate fire danger posed by an uncontrolled tire stockpile.

Sec. 3. 38 MRSA §1316-B, sub-§§5 and 6, as enacted by PL 1991, c. 517, Pt. A, §2, are amended to read:

5. Alter. Have the physical characteristics of the stockpile site altered, including the construction of fire lanes, fire or pollution barriers or other necessary site remediation activity; ~~or~~

6. Close. Permanently close the stockpile and prohibit the use of the site for the storage or disposal of used motor vehicle tires; or

Sec. 4. 38 MRSA §1316-B, sub-§7 is enacted to read:

7. Consultation. Consult with the Office of the State Fire Marshal regarding on-site fire abatement and control measures.

See title page for effective date.

CHAPTER 315

H.P. 797 - L.D. 1114

An Act to Amend the Law Regarding the Possession of Short Lobsters

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

Sec. 1. 12 MRSA §6402-B, as enacted by PL 1993, c. 550, §1, is amended to read:

§6402-B. Suspension based on 2 or more convictions of possessing short lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any ~~licenseholder~~ license holder convicted of a 2nd or subsequent offense of possessing a lobster smaller than the minimum size established in section 6431, subsection 1 if the conviction of the 2nd or subsequent offense involved possession of 3 or more lobsters smaller than that minimum size. ~~The suspension is for a period of 3 years from the date of conviction.~~

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years.

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license.

3. Offenses after July 1, 1994. Subsections 1 and 2 apply only if that person's first conviction for possessing a lobster smaller than the minimum size established in section 6431, subsection 1 was for an offense that occurred after July 1, 1994.

See title page for effective date.

CHAPTER 316

S.P. 277 - L.D. 749

An Act to Prohibit Any State or Independent Agency from Establishing Private Accounts

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

Sec. 1. 5 MRSA §1541, sub-§12-A, as enacted by PL 1985, c. 761, Pt. G, §9, is repealed.

Sec. 2. 5 MRSA §1550 is enacted to read:

§1550. Conference fee accounts

If a state agency conducts a conference, workshop or seminar for which fees are charged to defray the costs of the conference, workshop or seminar, including information disseminated at these programs, the state agency must establish an account for the sole purpose of receiving and expending reasonable fees for the operation of the conference, workshop or seminar. Conference fee accounts are subject to the following.

1. Prior approval required. Any conference fee account must receive prior approval by the Department of Administrative and Financial Services through the Bureau of Accounts and Control.

2. Certain uses prohibited. Expenditures from the personal services category and transfers to other accounts are not permitted from a conference fee account. Any item, equipment or other property purchased from the capital expenditure category is state property.

3. Account balance to carry forward once. At the end of the fiscal year, any balance remaining for a given event may carry forward once and other balances lapse to the General Fund undedicated revenue.

4. Misapplication from a conference fee account. A person is guilty of misapplication from a conference fee account if that person intentionally or knowingly violates any of the restrictions contained in

this section. Misapplication from a conference fee account is a Class E crime.

See title page for effective date.

CHAPTER 317

S.P. 157 - L.D. 419

An Act to Expedite the Hearing Process Relating to the Uniform Classification System Used in Workers' Compensation Insurance

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

Sec. 1. 24-A MRSA §2320, sub-§3 is enacted to read:

3. Upon a request by a person aggrieved by the application of the rating system or an insurer, or either of their authorized representatives, the person aggrieved has the right to a hearing held by the superintendent without the matter first being heard by the rating organization or insurer pursuant to subsection 2. Such hearing must be held within 60 days following receipt by the superintendent of a written request for a hearing. At least 30 days' written notice of the date, time and place of the hearing, together with a reasonably accurate description of the subject matter of the hearing, must be provided by the superintendent to the person aggrieved, the insurer and the rating organization. Upon request by any party, the hearing may be continued to allow a reasonable period for conducting investigation of the matter, discovery and preparation of factual and legal materials for the hearing. Each party to a hearing is entitled to only one continuance. Prior to continuation of a hearing, the superintendent shall, upon not less than 5 days' notice to all parties, conduct an informal prehearing conference at which the parties shall identify the issues to be addressed at the hearing, establish a schedule for all investigation, discovery and hearing preparation reasonably necessary based upon the nature and scope of the hearing and establish a date certain for the hearing.

See title page for effective date.

CHAPTER 318

S.P. 486 - L.D. 1320

An Act to Amend the Law Pertaining to Grievance Procedures Concerning Discrimination on the Basis of Disability

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

Sec. 1. 20-A MRSA §18017 is enacted to read:

§18017. Adoption of a grievance procedure concerning discrimination on the basis of disability

The commissioner shall adopt rules pursuant to Title 5, chapter 375, subchapter II to create a grievance procedure applicable to all bodies of State Government in accordance with 45 Code of Federal Regulations, Section 84.7 and with 28 Code of Federal Regulations, Section 35.107(b). To the extent that a grievance procedure adopted under this section conflicts with a grievance procedure otherwise adopted by a state agency to comply with 45 Code of Federal Regulations, Section 84.7, the procedure adopted under this section controls, except in cases of conflict with other federal regulations.

Sec. 2. 22 MRSA §42-B, as amended by PL 1989, c. 502, Pt. A, §64, is repealed.

See title page for effective date.

CHAPTER 319

H.P. 589 - L.D. 799

An Act to Amend the Laws Governing HIV Testing at the Request of Victims of Sexual Assault

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

Sec. 1. 5 MRSA §19203, sub-§10, ¶B, as enacted by PL 1991, c. 803, §1, is amended to read:

B. A victim-witness advocate authorized by section ~~19203-E~~ 19203-F to receive the test results of a person convicted of ~~gross~~ a sexual assault crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a ~~petitioner~~ victim under section ~~19203-E~~ 19203-F, subsection 4.

Sec. 2. 5 MRSA §19203-A, sub-§5, as enacted by PL 1991, c. 803, §2, is amended to read:

5. Exposure from sexual crime. Consent need not be obtained when a victim of gross sexual assault has been exposed to the blood or body fluids of the convicted offender and the exposure creates a significant risk of infection, provided that a court order has been obtained issued under section ~~19203-E~~ 19203-F. The fact that an HIV test was given as a

result of the exposure and the results of that test may not appear in a convicted offender's medical record. Counseling on risk reduction must be offered, but the convicted offender may choose not to be informed about the result of the test unless the court has ordered that the convicted offender be informed of the result.

Sec. 3. 5 MRSA §19203-E, as amended by PL 1993, c. 391, §§1 and 2, is repealed.

Sec. 4. 5 MRSA §19203-F is enacted to read:

§19203-F. HIV test after conviction for sexual assault

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

A. "Convicted offender" means a person who has been convicted of a sexual crime or, in the case of a juvenile, a person who has been adjudicated as having committed a sexual crime.

B. "Incapacitated adult" means an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual.

C. "Sexual crime" means a crime involving a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, subparagraph (1).

2. Request for testing. A person who is the victim of a sexual crime, or that person's parent, guardian or authorized representative if that person is a minor or incapacitated adult, may petition the court at any time prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.

3. Duties of the court. Upon receipt of the petition, the court shall order that the convicted offender obtain HIV testing conducted by or under authority of the Department of Human Services and, if requested by the petitioner, that the convicted offender be informed of the test results.

4. Reporting and counseling. The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. The test result may not be disclosed to the petitioner until the petitioner has received counseling, pursuant to section 19204-A, regarding the nature, reliability and significance of the convicted offender's HIV test and has been offered

referrals for health care and support services for the victim. The health care facility shall, upon order of the court, disclose the results of the test to the convicted offender.

Sec. 5. 5 MRSA §19204-A, first ¶, as amended by PL 1991, c. 803, §4, is further amended to read:

Except as otherwise provided by this chapter, persons who obtain an HIV test must be offered pretest and post-test counseling. Persons who are authorized by section 19203-C or ~~19203-E~~ 19203-F to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test.

See title page for effective date.

CHAPTER 320

H.P. 759 - L.D. 1033

An Act Relating to the Renewal of a Teacher Certificate That Has Lapsed for More Than 5 Years

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

Sec. 1. 20-A MRSA §13012, sub-§2, ¶¶B and C, as enacted by PL 1983, c. 845, §4, are amended to read:

B. For secondary school, has graduated from an accredited, degree-granting, educational institution upon completion of:

- (1) A 4-year program in liberal arts and sciences; or
- (2) An approved 4-year teacher preparation program and has majored in the subject area to be taught; and

Has met other academic and preprofessional requirements established by the state board for teaching at the secondary school level; ~~or~~

C. Is otherwise qualified by having met separate educational criteria for specialized teaching areas including, but not limited to, special education, home economics, agriculture, vocational education, art, music, business education, physical education and industrial arts, as established by the state board for teaching in these specialized areas; ~~or~~

Sec. 2. 20-A MRSA §13012, sub-§2, ¶D is enacted to read:

D. Has completed 6 credit hours of approved study within 5 years prior to application, has met entry level standards and has held either a professional teacher certificate that expired more than 5 years prior to the application date or a provisional teacher certificate issued prior to July 1, 1988 that expired 5 years prior to the application date.

Sec. 3. 20-A MRSA §13013, sub-§2-A, ¶¶A and B, as amended by PL 1993, c. 435, §5, are further amended to read:

A. Holds a provisional teacher certificate and has taught in a classroom for 2 academic years or has held a professional teacher certificate that has lapsed within the last 5 years. In this case an applicant must receive a recommendation to the commissioner by an approved support system pursuant to section 13015; ~~or~~

B. Is a teacher with 5 or more years of experience teaching within the 7 years prior to application in the State under a valid certificate in another state and who has graduated from a state-approved preparation program that utilizes the standards of a national association of state directors of teacher education and certification or a national council for accreditation of teacher education or, with the exception of the national teachers exam, meets entry-level standards for the endorsement; or

Sec. 4. 20-A MRSA §13013, sub-§2-A, ¶C is enacted to read:

C. Holds a provisional teacher certificate issued under section 13012, subsection 2, paragraph D and has taught for at least one year under a provisional teacher certificate.

See title page for effective date.

CHAPTER 321

S.P. 353 - L.D. 981

An Act to Amend the Teacher Certification Laws Relating to Certification Waivers

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

Sec. 1. 20-A MRSA §13011, sub-§7, as enacted by PL 1993, c. 200, §1, is amended to read:

7. Certification waiver. Under rules adopted by the state board, the commissioner may grant a waiver for an appropriate period of time to an

individual seeking the issuance or renewal of a certificate. The commissioner may grant a waiver to an individual who:

A. Receives allegedly inaccurate, incomplete or untimely information or action from the department ~~or its agents~~, the local support system or a regional support system. The waiver must be for a reasonable period of time to permit the applicant to complete certification requirements; or

B. Demonstrates compliance with certification requirements by ~~some means not anticipated in the certification rules~~ professional alternative methods, including the following:

(1) Scores on Graduate Record Examinations demonstrating content area proficiency equal to approved course work, with passing scores established under rules adopted by the state board;

(2) Examinations accepted by state-approved programs in lieu of course work, with passing scores established under rules adopted by the state board;

(3) Examinations from professional testing corporations demonstrating content area proficiency equal to approved course work, with professional testing corporations approved by the state board and passing scores established under rules adopted by the state board; and

(4) Work experience equivalent to outcomes for approved course work and a formal recommendation from the state professional organization in that content area. The professional organizations are established under rules adopted by the state board. The waiver is for the duration of the certificate or endorsement sought.

~~An individual who is denied the issuance or renewal of a certificate for reasons outlined in paragraphs A and B may apply for a waiver to an appeals committee selected by the state board. The appeals committee must consist of 4 permanent members who serve for terms of 3 years, including one school administrator, one teacher or educational specialist, one faculty member from a teacher education program approved by the state board and one public member who is not, and never has been, a professional educator. For each case considered by the appeals committee, the state board shall select a 5th appeals committee member representing the professional specialty organization in the discipline or level under review.~~

~~The appeals committee shall review the application for a waiver and make a recommendation to the commis-~~

sioner. Following a review of the application and recommendation, the commissioner shall make a final decision and provide a written justification for the decision.

The state board and the commissioner shall test and evaluate this certification waiver process and report their findings to the joint standing committee of the Legislature having jurisdiction over educational matters on or before January 1, 1995.

See title page for effective date.

CHAPTER 322

S.P. 542 - L.D. 1479

An Act to Amend the Laws Relating to Education

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

Sec. 1. 5 MRSA §12004-G, sub-§10-A is enacted to read:

<u>10-A.</u>	<u>Adaptive</u>	<u>Expenses</u>	<u>10</u>
<u>Education</u>	<u>Equipment</u>	<u>Only</u>	<u>MRSA</u>
	<u>Loan</u>		<u>§373</u>
	<u>Program</u>		
	<u>Fund Board</u>		

Sec. 2. 5 MRSA §12004-G, sub-§14-A, as enacted by PL 1989, c. 503, Pt. A, §14, is repealed.

Sec. 3. 10 MRSA §373, sub-§1, as amended by PL 1989, c. 276, §1, is further amended to read:

1. Establishment; membership. There is established the Adaptive Equipment Loan Program Fund Board ~~which shall consist~~ that consists of 9 members as follows: The Commissioner of ~~Human Services~~ Education or the commissioner's designee; the Treasurer of State or the Treasurer of State's designee; an experienced consumer lender; a certified public accountant; and 5 persons with a range of disabilities, all to be appointed by the Governor, subject to review of the ~~Joint Standing Committee~~ joint standing committee of the Legislature having jurisdiction over ~~Housing and Economic Development~~ housing and economic development matters, and confirmed by the Legislature. The board shall annually elect a chair from among its members.

Sec. 4. 20-A MRSA §901, as amended by PL 1985, c. 470, §1, is repealed.

Sec. 5. 20-A MRSA §1001, sub-§9-A is enacted to read:

9-A. Students expelled or suspended under the requirements of the federal Gun-Free School Zones Act of 1994. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the district; or

(2) Providing educational services in an alternative setting to a student who has been expelled.

C. In accordance with the proper investigation and due process provisions required in subsection 9, a principal may suspend immediately for good cause a student who is determined to have brought a firearm to school under this subsection.

Sec. 6. 20-A MRSA §6401, as amended by P&SL 1993, c. 67, §1, is repealed.

Sec. 7. 20-A MRSA §18022, sub-§1, as enacted by PL 1993, c. 708, Pt. B, §1, is amended to read:

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

Sec. 8. 20-A MRSA §18022, sub-§2, as enacted by PL 1993, c. 708, Pt. B, §1, is repealed and the following enacted in its place:

2. Deaf. "Deaf" means that the sense of hearing of an individual is nonfunctional for the purpose of communication and that individual must depend primarily upon visual communication.

Sec. 9. 20-A MRSA §18022, sub-§3, as enacted by PL 1993, c. 708, Pt. B, §1, is repealed.

Sec. 10. 20-A MRSA §18022, sub-§3-A is enacted to read:

3-A. Hard of hearing. "Hard of hearing" means a hearing loss in an individual that results in a functional loss, but not to the extent that the individual must depend primarily upon visual communication.

Sec. 11. 20-A MRSA §18022, sub-§4, as enacted by PL 1993, c. 708, Pt. B, §1, is amended to read:

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

Sec. 12. 20-A MRSA §§18023 and 18024, as enacted by PL 1993, c. 708, Pt. B, §1, are amended to read:

§18023. Powers and duties

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

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

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

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

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

5. Community service center. Continue to study the need to establish, maintain and fund at least one community service center where deaf and ~~hearing-impaired~~ hard-of-hearing persons and their families

can receive pertinent information relating to the coordination of services that each requires;

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

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

§18024. Advisory council

There is established within the Department of Education, Office of Rehabilitation Services, Division of Deafness, an advisory ~~committee~~ council consisting of ~~23~~ 24 members and 3 ~~nonvoting~~ members-at-large to be appointed by the Director of the Office of Rehabilitation Services in conjunction with the Director of the Division of Deafness and representing equally consumers, professionals and the public. Members are entitled to compensation in accordance with Title 5, chapter 379.

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

Sec. 13. 20-A MRSA §18025, as enacted by PL 1993, c. 708, Pt. B, §1, is amended to read:

§18025. Advisory council; powers and duties

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

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

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

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

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

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

Sec. 14. 20-A MRSA §18026, sub-§2, as enacted by PL 1993, c. 708, Pt. B, §1, is amended to read:

2. Director of the Division of Deafness; staff; qualifications. The Director of the Division of Deafness and the staff must be knowledgeable of the needs of the deaf and ~~hearing-impaired~~ hard of hearing and possess the ability to communicate on a meaningful basis with those persons.

Sec. 15. 20-A MRSA §18070, sub-§§1 and 6, as enacted by PL 1993, c. 708, Pt. G, §1, are amended to read:

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

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

Sec. 16. 20-A MRSA §§18076 and 18077, as enacted by PL 1993, c. 708, Pt. G, §1, are amended to read:

§18076. Business Enterprise Program

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

1. Vending facility. To install in a building or property a vending facility whenever a vending facility may be operated by ~~an operator~~ a blind person; and

2. Vending machines. To place vending machines operated by the division in a building or property if a vending facility operated by ~~an operator~~ a blind person is not warranted. Income from these vending machines must be used for the purposes set forth in this section.

§18077. Preference

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

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

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

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

4. Licensing. Not less than ~~30~~ 60 days prior to the ~~license~~ termination, issuance or renewal ~~or licensing of a contract~~ for the operation of a vending facility, inform the division; and

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

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

Sec. 17. 20-A MRSA §18078, sub-§1, as enacted by PL 1993, c. 708, Pt. G, §1, is amended to read:

1. Rules. Prescribe rules governing:

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

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

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

D. The civil rights of ~~operators~~ managers;

Sec. 18. 20-A MRSA §18078, sub-§3, as enacted by PL 1993, c. 708, Pt. G, §1, is amended to read:

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

Sec. 19. 20-A MRSA §18079, as enacted by PL 1993, c. 708, Pt. G, §1, is amended to read:

§18079. Construction, remodeling; planning for vending facility

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

Sec. 20. 20-A MRSA §18081, as enacted by PL 1993, c. 708, Pt. G, §1, is amended to read:

§18081. Fees

A ~~license fee, a rental fee or other charge~~ may not be ~~demanded, assessed, exacted,~~ required or received ~~from an operator for the granting of authority to the division to operate a vending facility.~~

See title page for effective date.

CHAPTER 323

S.P. 428 - L.D. 1196

An Act to Encourage an Alternative Fishery

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

Sec. 1. 12 MRSA §6621, sub-§3, as amended by PL 1991, c. 168, §§1 to 3, is further amended to read:

3. Exception. This section ~~shall~~ does not apply to:

A. The taking of shellfish under the authority of section 6856;

B. Shellfish kept or washed in waters sterilized with a system that has been approved in writing by the commissioner, ~~provided that~~ if the waters are also approved for that use;

C. Municipal officials, with express written authorization from the commissioner, who are engaging in activities authorized under section 6671. Requests for exception must be submitted to the commissioner in writing stating the activities proposed and the name of the person designated by the municipal officials to supervise those activities. In addition, the municipality shall, at least 24 hours prior to engaging in the activity, notify the department of the time or times the activity authorized under this paragraph will be conducted; ~~or~~

D. The harvesting of shellfish from closed areas designated for purposes of relaying when harvesting is approved in writing by the commissioner consistent with regulations promulgated under section 6856; or

E. The harvesting of marine mollusks from closed areas for the use of bait or other uses not meant for human consumption, if the harvesting takes place according to rules adopted by the commissioner. The commissioner may adopt rules that permit the taking, possession, shipping, transportation and selling of marine mollusks for bait or other uses not meant for human consumption, if the rules do not jeopardize certification of the State's shellfish according to the National Shellfish Sanitation Program.

See title page for effective date.

CHAPTER 324

H.P. 860 - L.D. 1191

An Act to Amend the Substance Abuse Testing Laws

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

Sec. 1. 26 MRSA §681, sub-§3, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

3. Collective bargaining agreements. This subchapter does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees or applicants than is provided by this subchapter.

A labor organization with a collective bargaining agreement effective in the State may conduct a program of substance abuse testing of its members. The program may include testing of new members and periodic testing of all members. It may not include random testing of members. The program may be voluntary. The results may not be used to preclude referral to a job where testing is not required or to otherwise discipline a member. Sample collection and testing must be done in accordance with this subchapter. Approval of the Department of Labor is not required.

Sec. 2. 26 MRSA §681, sub-§8, ¶B, as repealed and replaced by PL 1989, c. 832, §2, is amended to read:

B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by ~~this State's~~ the Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers. This exception does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees as long as the agreements are consistent with federal law.

(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.

Sec. 3. 26 MRSA §682, sub-§2, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

2. Employee. "Employee" means a person who is permitted, required or directed by any employer to engage in any employment for consideration of direct gain or profit. A person separated from employment while receiving a mandated benefit, including but not limited to workers' compensation, unemployment compensation and family medical leave, is an employee for the period the person receives the benefit and for a minimum of 30 days beyond the termination of the benefit. A person separated from employment while receiving a nonmandated benefit is

an employee for a minimum of 30 days beyond the separation.

A. A full-time employee is an employee who customarily works 30 hours or more each week.

Sec. 4. 26 MRSA §683, sub-§2, ¶K, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

K. A procedure under which an employee or applicant who receives a confirmed positive result may appeal and contest the accuracy of that result. The policy must include a mechanism that provides an opportunity to appeal at no cost to the appellant; and

Sec. 5. 26 MRSA §683, sub-§3, as amended by PL 1989, c. 832, §7, is further amended to read:

3. Copies to employees and applicants. The employer shall provide each employee with a copy of the written policy approved by the Department of Labor under section 686 at least 30 days before any portion of the written policy applicable to employees takes effect. The employer shall provide each employee with a copy of any change in a written policy approved by the Department of Labor under section 686 at least 60 days before any portion of the change applicable to employees takes effect. The Department of Labor may waive the 60-day notice for the implementation of an amendment covering employees if the amendment was necessary to comply with the law or if, in the judgment of the department, the amendment promotes the purpose of the law and does not lessen the protection of an individual employee. If an employer intends to test an applicant, the employer shall provide the applicant with a copy of the written policy under subsection 2 before administering a substance abuse test to the applicant. The 30-day and 60-day notice periods provided for employees under this subsection do not apply to applicants.

Sec. 6. 26 MRSA §683, sub-§5, ¶A, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

A. Segregate a portion of the sample for that person's own testing. Within 5 days after ~~the sample is collected~~ notice of the test result is given to the employee or applicant, the employee or applicant shall notify the employer of the testing laboratory selected by the employee or applicant. This laboratory must comply with the requirements of this section related to testing laboratories. When the employer receives notice of the employee or applicant's selection, the employer shall promptly send the segregated portion of the sample to the named testing laboratory, subject to the same chain of custody

requirements applicable to testing of the employer's portion of the sample. The employee or applicant shall pay the costs of these tests. Payment for these tests may not be required earlier than when notice of the choice of laboratory is given to the employer; and

Sec. 7. 26 MRSA §685, sub-§2, ¶A, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

A. Subject to any limitation of the Maine Human Rights Act or any other state law or federal law, an employer may use a confirmed positive result or refusal to submit to a test as a factor in any of the following decisions:

- (1) Refusal to hire an applicant for employment or refusal to place an applicant on a roster of eligibility;
- (2) Discharge of an employee;
- (3) Discipline of an employee; or
- (4) Change in the employee's work assignment.

Sec. 8. 26 MRSA §685, sub-§2, ¶A-1 is enacted to read:

A-1. An employer who tests a person as an applicant and employs that person prior to receiving the test result may take no action on a positive result except in accordance with the employee provisions of the employer's approved policy.

Sec. 9. 26 MRSA §686, sub-§2, ¶A, as affected by PL 1989, c. 604, §§2 and 3, is amended to read:

A. The rules ~~shall~~ must provide for notice to be given to the employees of any employer who submits a written policy or amendment applicable to employees to the department for review under this section. The employees may submit written comments to the department challenging any portion of the employer's written policy, including the proposed designation of any position under section 684, subsection 3, paragraph B.

See title page for effective date.

CHAPTER 325

S.P. 495 - L.D. 1354

An Act to Modify the Electricians' Examining Board Law

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

Sec. 1. 32 MRSA §1101, sub-§1-A is enacted to read:

1-A. Electrical company. "Electrical company" means a person, firm, corporation or partnership employing licensees engaged in the business of doing electrical installations. A company license must be validated by an employee or officer of the company holding a current master or limited electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the death of or the severance from the company of the validating licensee.

Sec. 2. 32 MRSA §1101, sub-§3, as amended by PL 1989, c. 450, §11, is further amended to read:

3. Helper electrician. "Helper electrician" means a person ~~who is engaged in assisting in~~ making electrical installations in the employment of a master electrician, limited electrician or electrical company and under the direct supervision of a master, journeyman or limited electrician but ~~who~~ does not qualify under subsection 1. The biennial renewal fee for a helper electrician license ~~shall be~~ is \$20.

Sec. 3. 32 MRSA §1101, sub-§3-A, as amended by PL 1987, c. 735, §43, is further amended to read:

3-A. Journeyman-in-training electrician. "Journeyman-in-training electrician" means a person ~~doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment making electrical installations in the employment of a master electrician, limited electrician or electrical company and under the supervision of a journeyman, limited or a master electrician.~~

Sec. 4. 32 MRSA §1101, sub-§4, as amended by PL 1987, c. 735, §44, is further amended to read:

4. Journeyman electrician. "Journeyman electrician" means a person ~~doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment making electrical installations in the employment of a master electrician, limited electrician or electrical company.~~

Sec. 5. 32 MRSA §1101, sub-§4-A, as amended by PL 1993, c. 349, §66, is further amended to read:

4-A. Supervision. One apprentice electrician or one helper electrician may work with and under the

supervision of each master electrician, limited electrician or journeyman electrician. A master electrician, who teaches an electrical course at a Maine applied technology center, a Maine applied technology region or a Maine technical college, may have a maximum of 12 helper electricians under direct supervision while making electrical installations that are a part of the instructional program of the school, ~~provided that as long as~~ the total value of each installation does not exceed ~~\$1,000~~ \$2,500. ~~No~~ An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

A. School administrative units;

B. Nonprofit organizations; and

C. Households as defined in Title 36, ~~section 6103, where the household income as defined in that section is within the limits established for one or 2 member households by Title 36, section 6108, except that if there are more than 2 members in a household, an additional \$500 of household income shall be allowed for each additional member of the household in computing the income limitation and provided that the household is owner occupied~~ sections 6206 and 6207.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, ~~shall~~ must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There ~~shall~~ must be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

Sec. 6. 32 MRSA §1101, sub-§5, as amended by PL 1987, c. 735, §45, is further amended to read:

5. Limited electrician. ~~A limited electrician's license~~ "Limited electrician" means a person doing work to install and service the electrical work related to a specific type of electrically operated equipment or to specific electrical installations ~~shall be granted to any person who has passed a satisfactory examination before the board. It shall specify the name of such person who shall be limited to engage in the occupation of installing and servicing the electrical work related to the type of equipment or to specific electrical installations only authorized by this license.~~

Sec. 7. 32 MRSA §1102-B, sub-§5, ¶A, as enacted by PL 1981, c. 432, §2, is amended to read:

A. ~~One or 2 family~~ Single-family dwellings;

Sec. 8. 32 MRSA §1104, first ¶, as amended by PL 1981, c. 432, §3, is further amended to read:

State electrical inspectors, upon an oral complaint of imminent danger or upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector or whenever they ~~shall deem~~ determine it necessary at all reasonable hours, for purposes of examination, may enter into and upon all buildings or premises within their jurisdiction and inspect the same. They may enter any building only with the permission of the person having control thereof, or after hearing, upon order of court. Whenever any state electrical inspector ~~shall find~~ finds any electrical installation in any building or structure ~~which that~~ does not comply with this chapter, ~~he the inspector~~ shall order the same to be removed or remedied and ~~such order shall forthwith be complied with by the owner or occupant of such the premises or buildings~~ shall immediately comply with the order. Whenever any state electrical inspector finds any electrical installation in any building or structure ~~which that~~ creates a danger to other property or to the public, ~~he the inspector~~ may forbid use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

Sec. 9. 32 MRSA §1155-A, sub-§1, as enacted by PL 1983, c. 413, §38, is amended to read:

1. Investigations. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any person licensed or required to be licensed under this chapter. These complaints ~~shall~~ must be in writing, ~~shall be~~ sworn to by the person making them and filed with the ~~executive secretary of the board~~ case compliance coordinator in the Division of Licensing and Enforcement.

Sec. 10. 32 MRSA §1155-A, sub-§2, ¶B, as enacted by PL 1983, c. 413, §38, is amended to read:

B. Any gross negligence, incompetency or misconduct in the performance of the work of making electrical installations. Continued failure to conform with application applicable regulations of the National Electrical Code, National Electrical Safety Code or of other safety codes ~~which that~~ have been approved by the American Standards Association ~~shall be~~ is prima facie evi-

dence of that gross negligence and incompetency. ~~For motion picture projectionists licensed under Title 8, section 653, any gross negligence, incompetency or misconduct in the performance of their work shall be prima facie evidence of that gross negligence and incompetency;~~

Sec. 11. 32 MRSA §1201, as repealed and replaced by PL 1987, c. 735, §53, is amended to read:

§1201. License required

No electrical installations may be made unless by an electrician or other person licensed by the board except as provided in this chapter. No person may perform any electrical installations on behalf of an electrical company unless licensed as provided in this chapter.

Sec. 12. 32 MRSA §1202, sub-§1, ¶C, as corrected by RR 1991, c. 2, §117, is amended to read:

C. For a limited electrician's license, a person must meet the following requirements.

(1) A limited electrician in water pumps ~~shall must~~ have ~~90~~ 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice ~~shall be~~ are restricted to electrical work between the branch circuits and power supplies.

(2) A limited electrician in outdoor signs, including sign lighting, ~~shall must~~ have ~~90~~ 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice do not include branch circuit wiring.

(3) A limited electrician in gasoline dispensing ~~shall must~~ have ~~90~~ 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice ~~shall be~~ are restricted to electrical work between the branch circuit and the power supply.

(4) A limited electrician in traffic signals, including outdoor lighting of traffic signals, ~~shall must~~ have ~~90~~ 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience.

(5) A limited electrician in house wiring ~~shall must~~ have 225 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Privileges of practice ~~shall be~~ are restricted to one-family and 2-family dwellings, including modular and mobile homes. Any person having a limited license in mobile homes prior to the effective date of this section ~~shall is~~ automatically ~~be~~ licensed as a limited electrician in house wiring.

(6) A limited electrician in refrigeration must have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 6,000 hours of experience. Graduates of a Maine technical college electrical program in refrigeration approved by the Electricians' Examining Board or from an accredited institution are credited with 4,000 hours of experience upon graduation. Privileges of practice are restricted to all associated wire from the loadside of distribution.

(7) A limited electrician in low energy, including fire alarms, ~~shall must~~ have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Any person having a limited license in fire alarms or experience in the installation of low-energy electronics, as defined by the National Electrical Code, prior to the effective date of this section, ~~shall automatically qualifies to be~~ licensed as a limited electrician in low energy.

Sec. 13. 32 MRSA §1202, sub-§1, ¶D, as repealed and replaced by PL 1989, c. 878, Pt. A, §92, is amended to read:

D. For a journeyman-in-training ~~electricians'~~ electrician's license, a person must be a graduate of an accredited Maine technical college or Department of Corrections electrical program ~~or a vocational electrical program of the Department of Corrections~~, receive a passing grade on the journeyman examination and complete 2,000 hours of experience. ~~This provision shall be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation by March 1, 1991, and, unless continued by law, shall terminate at this time.~~

Sec. 14. 32 MRSA §1202, sub-§4, as enacted by PL 1991, c. 531, §11, is amended to read:

4. Inactive licenses. ~~Any~~ A licensee, who does not desire to perform any of the electrical installations described in section 1101, and who wants to preserve the license while not engaged in any electrical installations, shall surrender the license to the board for placement on inactive status. The board shall place the license on inactive status upon proper application by the licensee. The fee for inactive status may not exceed \$80 per renewal. During inactive status the licensee is required to renew the license biennially, but is not required to meet the education provisions under the rules of the board. ~~The dates on which the licenses expire are as provided in section 1204.~~

A licensee surrendering a license pursuant to this section may have the license reinstated to active status by demonstrating compliance within the previous biennium with section 1204 and proper application for an active license. Any license placed on inactive status after the effective date of this subsection and remaining inactive for 3 or more years may be reactivated by the applicant being required to successfully pass a license examination at the discretion of the board.

Sec. 15. 32 MRSA §1202, sub-§5 is enacted to read:

5. Electrical company. The board shall issue a license to operate an electrical company to a person who files an application validated by a master or limited electrician licensee.

Sec. 16. 32 MRSA §1203, as amended by PL 1993, c. 659, Pt. A, §3, is further amended to read:

§1203. Examinations

Applicants for licensure shall present to the board a written application for examination and license, containing such information as the board may require. The board shall adopt application, examination, licensure and biennial renewal fees in amounts ~~which~~ that are reasonable and necessary for their respective purposes, but in amounts not to exceed the following:

1. Applications \$25;
2. Examinations \$50; and
3. Licensure:
 - A. Journeyman/Journeyman-in-training \$80;
 - B. Master \$150;
 - C. Limited. \$100; and
 - D. Electrical company \$0.

~~Applications for a first examination must be received by the board at least 15 days prior to a scheduled meeting of the board. An applicant who has failed the examination is permitted to take the examination again as often as necessary upon timely payment of an additional examination fee for each examination.~~

~~When the unexpired term of license of an applicant is or will be more than one year at the time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial license renewal fee.~~

Sec. 17. 32 MRSA §1204, first ¶, as amended by PL 1991, c. 531, §12, is further amended to read:

~~All licenses issued expire October 31st of each biennial period as to master electricians and April 30th of each biennial period as to other licensees or other such times the Commissioner of Professional and Financial Regulation designates. All licensees licenses may be renewed for 2-year periods without further examination, upon the payment of the proper renewal fee and documentation of continuing education as established by rule as the board determines necessary. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Professional and Financial Regulation may designate. The board shall notify everyone registered under this chapter of the date of expiration of the license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

See title page for effective date.

CHAPTER 326

H.P. 1068 - L.D. 1503

An Act to Protect Consumers in High-cost Mortgages and Reverse Mortgages

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

Sec. 1. 9-A MRSA §1-301, sub-§17, as amended by PL 1987, c. 129, §23, is further amended to read:

17. "Creditor" means a person who both:

- A. Regularly extends credit in consumer credit transactions; and

B. Is the person to whom the debt arising from the consumer credit transactions is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit from persons who are not creditors is a creditor and, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount ~~which~~ that is a finance charge are creditors.

For the purposes of the requirements imposed under section 8-205, subsection 1, paragraphs E, F, G, and subsection 2, paragraphs A, B, C, D, I, K, and Article VIII, Parts 3 and 4, the term "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4 installments or the payment of a finance charge is or may be required, and the administrator shall, by regulation, apply these requirements to those card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.

A person regularly extends consumer credit only if ~~he~~ that person extended credit more than 25 times, or more than 5 times for transactions secured by a dwelling, in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards ~~shall~~ must be applied to the current calendar year.

Notwithstanding the provisions of this section, any person who originates 2 or more high-rate, high-fee mortgages as defined in section 8-103, subsection F-1 in any 12-month period or any person who originates one or more such mortgages through a credit services organization as defined in Article X of this Act in any 12-month period is considered a creditor.

Sec. 2. 9-A MRSA §8-103, sub-§1, ¶F-1 is enacted to read:

F-1. "High-rate, high-fee mortgage" means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction or a transaction under an open-end credit plan, if:

(1) The annual percentage rate at consummation of the transaction exceeds by more than 10 percentage points the yield on treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

(2) The total of the points and fees payable by the consumer at or before closing exceeds the greater of 8% of the total loan amount or \$400.

For purposes of this subparagraph, points and fees include:

(a) All items included in the finance charge, except interest and the time-price differential;

(b) All compensation paid to mortgage brokers;

(c) Each of the charges listed in section 1-301, subsection 19, paragraph B or section 8-105, subsection 5 except an escrow for future payment of taxes, unless the:

(i) Charge is reasonable;

(ii) Creditor receives no direct or indirect compensation; and

(iii) Charge is paid to a 3rd party unaffiliated with the creditor; and

(d) Any other charges the administrator determines appropriate.

Sec. 3. 9-A MRSA §8-103, sub-§1, ¶H-1 is enacted to read:

H-1. "Reverse mortgage transaction" means a nonrecourse transaction in which a mortgage, deed of trust or equivalent consensual security interest is created against the consumer's principal dwelling to secure one or more advances and with respect to which the payment of any principal, interest and shared appreciation or equity is due and payable, other than in the case of default, only after the transfer of the dwelling, the consumer ceases to occupy the dwelling as a principal dwelling or the death of the consumer.

Sec. 4. 9-A MRSA §8-106-A is enacted to read:

§8-106-A. Number of percentage points

1. Beginning 2 years after the effective date of the regulations adopted under the federal Riegle Community Development and Regulatory Improvement Act of 1994, Public Law No. 103-325, Section 155, 108 Stat. 2160, 2197 (1994) and no more often than biennially after the first increase or decrease in the number of percentage points under this section, the administrator may by rule increase or decrease the number of percentage points specified in section

8-103, subsection 1, paragraph F-1, subparagraph (1) if the administrator determines that the increase or decrease is:

A. Consistent with the consumer protection against abusive lending provided by amendments made by the federal Riegle Community Development and Regulatory Improvement Act of 1994, Title I, subtitle B, Public Law No. 103-325, 108 Stat. 2160, 2190 (1994); and

B. Warranted by the need for credit.

2. An increase or decrease under subsection 1 may not result in the number of percentage points referred to in subsection 1 being less than 8 percentage points or greater than 12 percentage points.

3. In determining whether to increase or decrease the number of percentage points referred to in subsection 1, the administrator shall consult with representatives of consumers, including low-income consumers, and lenders.

The dollar amount specified in section 8-103, subsection 1, paragraph F-1, subparagraph (2) must be adjusted annually on January 1st by the annual percentage change in the Consumer Price Index, as reported on June 1st of the year preceding the adjustment.

This section may not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for an extension of credit.

Sec. 5. 9-A MRSA §§8-206-A and 8-206-B are enacted to read:

§8-206-A. High-rate, high-fee mortgages

1. In addition to other disclosures required under this article, for each high-rate, high-fee mortgage the creditor shall provide to the consumer the following disclosures in conspicuous type size.

A. "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application."

B. "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home and any money you have put into it if you do not meet your obligations under the loan."

2. In addition to the disclosures required under subsection 1, the creditor shall disclose:

A. For a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

B. For any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase and the amount of the maximum monthly payment based on the maximum interest rate allowed pursuant to the federal Competitive Equality Banking Act of 1987, Public Law No. 100-86, Section 1204, 101 Stat. 552, 662 (1987).

3. The disclosures required by this section must be given to the consumer at least 3 business days prior to the consummation of the transaction.

4. After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if the changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

A. A creditor may provide new disclosures by telephone under the following terms:

(1) The change is initiated by the consumer; and

(2) At the consummation of the transaction under which the credit is extended, the creditor provides to the consumer the new disclosures in writing and the creditor and the consumer certify in writing that those new disclosures were provided by telephone at least 3 days prior to the date of consummation of the transaction.

5. Upon determining that a modification of the disclosure process is necessary to permit consumers to meet bona fide personal financial emergencies, the administrator may adopt rules authorizing the modification or waiver of the rights of disclosure created under subsections 3 and 4 to the extent allowed under the regulations.

6. A high-rate, high-fee mortgage may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

A. For purposes of this subsection and subsection 7, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d), 106 Stat. 3672, 3892 (1992).

7. Notwithstanding subsection 6, a high-rate, high-fee mortgage may contain a prepayment penalty, including terms calculating a refund by a method that is not prohibited under the federal Housing and

Community Development Act of 1992, Public Law No. 102-550, Section 933(b), 106 Stat. 3672, 3892 (1992), for the transaction in question if:

A. At the time the mortgage is consummated:

(1) The consumer is not liable for an amount of monthly indebtedness payments, including the amount of credit extended or to be extended under the transaction, that is greater than 50% of the monthly gross income of the consumer; and

(2) The income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report and, in the case of employment income, by payment records or by verification from the employer of the consumer, which may be in the form of a copy of a pay stub or other payment record supplied by the consumer;

B. The penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage or an affiliate of that creditor;

C. The penalty does not apply after the end of the 5-year period beginning on the date the mortgage is consummated; and

D. The penalty is not prohibited under other applicable law.

8. A high-rate, high-fee mortgage may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of such a mortgage is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate must be computed by a method that is not less favorable than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d) 106 Stat. 3672, 3892 (1992).

9. A high-rate, high-fee mortgage that has a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments will not fully amortize the outstanding principal balance.

10. A high-rate, high-fee mortgage may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

11. A high-rate, high-fee mortgage may not include terms under which more than 2 periodic

payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

12. A creditor may not engage in a pattern or practice of extending credit to a consumer under a high-rate, high-fee mortgage based on the consumer's collateral without regard to the consumer's repayment ability, including the consumer's current and expected income, current obligations and employment.

13. A creditor may not make a payment to a contractor under a home improvement contract from amounts extended as credit under a high-rate, high-fee mortgage, except:

A. In the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

B. At the election of the consumer, by a 3rd-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor and the contractor before the date of payment.

14. A mortgage that contains a provision prohibited by this section is deemed a failure to deliver the material disclosures required under this article for the purpose of section 8-204.

15. The administrator may, by rule or order, exempt specific mortgage products or categories of mortgages from any of the prohibitions specified in subsections 6 to 13 if the administrator finds that the exemption:

A. Is in the interest of the borrowing public; and

B. Applies only to products that maintain and strengthen home ownership and equity protection.

16. The administrator, by regulation or order, shall prohibit acts or practices in connection with:

A. Mortgage loans that the administrator finds unfair, deceptive or designed to evade the provisions of this section; and

B. Refinancing of mortgage loans that the administrator finds are associated with abusive lending practices or that are otherwise not in the interest of the borrowing public.

17. For purposes of this section, the term "affiliate" has the same meaning as in the federal Bank Holding Company Act of 1956, 12 United States Code, Section 1841, subsection (K).

§8-206-B. Reverse mortgages

1. In addition to the disclosures required under this article, for each reverse mortgage the creditor shall provide to the consumer, at least 3 days prior to the consummation of the transaction, a disclosure in conspicuous type of a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate must be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure must include:

A. Statements of the annual interest rates for at least 3 projected appreciation rates and at least 3 credit transaction periods, as determined by the administrator, including:

- (1) A short-term reverse mortgage;
- (2) A term equaling the actuarial life expectancy of the consumer; and
- (3) Any longer term the administrator determines appropriate; and

B. A statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

2. In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection 1, the creditor shall take into account:

A. Any shared appreciation or equity that the lender is, by contract, entitled to receive;

B. All costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

C. All payments to and for the benefit of the consumer including, when an associated annuity is purchased and whether or not that purchase is required by the lender as a condition of making the reverse mortgage, the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

D. Any limitation on the liability of the consumer under reverse mortgage transactions such as nonrecourse limits and equity conservation agreements.

See title page for effective date.

CHAPTER 327

H.P. 1076 - L.D. 1515

**An Act Authorizing the Judicial
Supervision of the Disclosure of
Utility Records to the Attorney
General**

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

Sec. 1. 5 MRSA §200-B, as repealed and replaced by PL 1987, c. 769, Pt. A, §9, is repealed and the following enacted in its place:

**§200-B. Authority of Attorney General to request
utility records**

1. Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 5, 7, 8, 12, 14, 15, 17, 19 and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

2. Demand for utility records; cause. The Attorney General, a deputy attorney general or a district attorney may demand, in writing, all the records or information in the possession of the public utility relating to the furnishing of public utility services to a person or a location if the attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility are being or may be used for, or to further, an unlawful purpose. Upon a showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

3. Release of other information. An order approving a demand for utility records may include a provision prohibiting the public utility from releasing the fact of the request or that the records or information will be or have been supplied. The public utility may not release the fact or facts without obtaining a court order to that effect.

4. Production of utility records. Upon receipt of a demand, approved by a justice or judge, the public utility shall immediately deliver to the attorney, or the attorney's designee or agent, making the request all the records or information demanded. A public utility or employee of that public utility is not criminally or civilly liable for furnishing any records or information in compliance with the order approving the demand.

5. Orders permitted under federal law. The Attorney General, a deputy attorney general or a

district attorney may, upon an affidavit of an investigating law enforcement officer, make application to any Justice of the Superior Court or any Judge of the District Court for any order permitted pursuant to 18 United States Code, Section 3122(a)(2).

See title page for effective date.

CHAPTER 328

H.P. 701 - L.D. 959

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1995-96

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

Whereas, prompt determination and certification of the municipal cost components in the unorganized territory district are necessary to the establishment of a mill rate and the levy of the unorganized territory educational and services tax; 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. 36 MRSA §1605, sub-§3, as enacted by PL 1977, c. 698, §8, is amended to read:

3. Balance carried forward. Any unexpended balance ~~shall may~~ not lapse but ~~shall must~~ be carried forward to the same fund for the next fiscal year and ~~shall must~~ be available for the purposes authorized by this chapter. Any unexpended balance remaining in the fund at the end of the year, not including amounts set aside in any capital reserve accounts, that is in excess of 10% of the amount of expenditures for that year must be used to reduce the amount to be collected in taxes during the next year.

Sec. 2. Municipal cost components for services rendered. In accordance with the Maine Revised Statutes, Title 36, chapter 115, the Legislature determines that the net municipal cost component for services and reimbursements to be rendered in fiscal year 1995-96 is as follows.

Audit - Fiscal Administration	\$108,207
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Education - Operations	9,605,547
Forest Fire Protection	200,000
Human Services - General Assistance	78,060
Property Tax Assessment - Operations	509,990
Maine Land Use Regulation Commission - Operations	173,005
TOTAL STATE AGENCIES	\$10,674,809

County reimbursements for services:

Aroostook	\$571,516
Franklin	308,503
Hancock	93,880
Oxford	327,729
Penobscot	563,336
Piscataquis	349,485
Somerset	590,808
Washington	313,504

TOTAL COUNTY SERVICES	\$3,118,761
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TOTAL REQUIREMENTS	\$13,793,570
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COMPUTATION OF ASSESSMENT

Requirements	\$13,793,570
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Less Deductions:

General -	
State Revenue Sharing	\$170,000
Miscellaneous Revenues	125,000
Transfer from undesignated fund balance	800,000

TOTAL	\$1,095,000
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Educational -

Lands Reserve Trust	\$100,000
Tuition - Travel	175,000
Miscellaneous	10,000
Special - Retirement	130,000
Brookton School Closure	100,000
Transfer - Fiscal Year 1994-95	
Salary Savings	110,000

TOTAL	\$625,000
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TOTAL DEDUCTIONS	(\$1,720,000)
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TAX ASSESSMENT

\$12,073,570

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

Effective June 26, 1995.

CHAPTER 329

H.P. 1100 - L.D. 1547

**An Act to Provide Administrative
Clarification within the Maine
Insurance Code**

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

Sec. 1. 9-A MRSA §2-501, sub-§2, ¶B, as enacted by PL 1973, c. 762, §1, is amended to read:

B. With respect to consumer credit insurance providing life, accident or health coverage or involuntary unemployment coverage, if the insurance coverage is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the consumer, and if, in order to obtain the insurance in connection with the extension of credit, the consumer gives ~~his~~ specific affirmative written indication of ~~his~~ the desire to do so after written disclosure to ~~him~~ the consumer of the cost ~~thereof~~ of the insurance.

Sec. 2. 9-A MRSA §8-105, sub-§2, as amended by PL 1987, c. 129, §71, is further amended to read:

2. Charges or premiums for credit life, accident or health insurance or involuntary unemployment insurance written in connection with any consumer credit transaction ~~shall~~ must be included in the finance charge unless:

A. The coverage of the debtor by the insurance is not a factor in the approval by the creditor of the extension of credit and this fact is clearly disclosed in writing to the person applying for or obtaining the extension of credit; and

B. In order to obtain the insurance in connection with the extension of credit, the person to whom the credit is extended ~~shall~~ must give specific affirmative written indication of ~~his~~ the desire to do so after written disclosure to ~~him~~ the person of the cost ~~thereof~~ of the insurance.

Sec. 3. 24-A MRSA §7, as enacted by PL 1969, c. 132, §1, is amended to read:

§7. "State" defined

When in context signifying other than this State, "state" means any state, district, territory, commonwealth or possession of the United States of America; ~~and the Panama Canal Zone.~~

Sec. 4. 24-A MRSA §706, as enacted by PL 1969, c. 132, §1, is amended to read:

§706. "Bonds" defined

~~Surety insurance~~ The definition of "bonds" includes:

1. Fidelity insurance, which is insurance guaranteeing the ~~fidelity~~ honesty of persons holding positions of public or private trust;

2. ~~Insurance~~ Surety insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings and contracts of suretyship; and

3. Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, gems, precious and semiprecious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

Sec. 5. 24-A MRSA §742, sub-§4, ¶B, as enacted by PL 1991, c. 828, §20, is amended to read:

B. If the applicant is an individual and if the application is not submitted simultaneously with an application for an agent or broker license pursuant to chapter 17, the application must include full answers to questions reasonably necessary to determine the following: the applicant's identity; age; residence; present occupation and occupations over the 5 years preceding the date of the application; financial responsibility; insurance experience; and education in insurance and insurance laws of this State the applicant has had or expects to receive. ~~The application must be accompanied by an imprint of the applicant's fingerprints and a recent photograph of the ap-~~

~~applicant.~~ The application must include full answers to questions necessary to understand the purpose for which the license is to be used, whether the applicant will devote all or part of the applicant's efforts to transactions under the license and, if part only, how much time the applicant will devote to transactions and in what other business or businesses the applicant is or will be engaged or employed. The application must contain any other facts as the superintendent may require relative to the applicant's qualifications for the license as those qualifications are stated in this subchapter.

Sec. 6. 24-A MRSA §764, sub-§2, as enacted by PL 1993, c. 603, is amended to read:

2. Payment of premium. Payment of the next premium to the assuming company after notice is received is determined to indicate the policyholder's acceptance of the transfer to the assuming insurer and a novation is determined to have been effected if the premium notice clearly states that payment of the premium to the assuming insurer constitutes acceptance of the transfer. The premium notice must also provide a method for the policyholder to pay the premium while reserving the right to reject the transfer. With respect to a home service business or any other business not using premium notices, the disclosures and procedural requirements of this subsection are to be set forth in the notice of transfer required by section 763, subsection 1, paragraph A and in the assumption certificate.

Sec. 7. 24-A MRSA §1503, first ¶, as enacted by PL 1969, c. 132, §1, is amended to read:

A general lines agent is any person authorized or appointed by an insurer to solicit applications for insurance contracts or to negotiate for such contracts in its behalf and, if authorized to do so by the insurer, to effectuate ~~and countersign~~ insurance contracts for one or more kinds of insurance as follows:

Sec. 8. 24-A MRSA §1509-A, as enacted by PL 1989, c. 168, §5, is amended to read:

§1509-A. "Adjuster trainee" defined

An adjuster trainee is any person with less than 2 years one year total experience handling loss claims under insurance contracts or the workers' compensation laws. An adjuster trainee must be employed by and subject to the immediate personal supervision of an adjuster who is licensed in this State and who has been established in the business of adjusting for 3 years or more. An adjuster trainee is exempt from the licensure requirement.

Sec. 9. 24-A MRSA §1511, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. For the purposes of this chapter a "resident" is an individual whose domicile or principal place of business is located in this State, or an organization ~~with an established~~ either incorporated in this State or having its principal place of business in this State.

Sec. 10. 24-A MRSA §1514-A, sub-§2, as amended by PL 1993, c. 322, §3, is further amended to read:

2. Prohibition on licensing. A financial institution, financial institution holding company or the subsidiary of either or an officer, employee, agent or representative of a financial institution, financial institution holding company or the subsidiary of either may not be licensed as an insurance agent, broker or consultant in this State or may not act as an insurance agent, broker or consultant in this State. Nothing in this section limits the activity of these organizations with respect to credit life and credit health insurance to the extent authorized by chapter 37, group health insurance to the extent authorized by chapter 35 and group life insurance to the extent authorized by chapter 31. Nothing in this section prohibits a financial institution, credit union, financial institution holding company or a subsidiary or employee of any such entity from selling annuities, arranging for the sale of annuities or sharing commissions in connection with the sale of annuities to the extent authorized by Title 9-B, section 443, subsection 11, provided that such entity has been licensed pursuant to section 1531, subsection 1, paragraph F and if that activity includes the sale of variable annuity contracts, the National Association of Securities Dealers registration form has been submitted to the superintendent as required by the provisions of section 1520, subsection 3. ~~In the event that a financial institution, credit union or financial institution holding company or subsidiary of a financial institution, credit union or financial institution holding company contracts for the sale of annuity products through a licensed 3rd party agent who is also licensed to sell other insurance products, if the agent sells any insurance product other than annuities, in each instance the agent shall provide a written disclosure to the party purchasing the insurance product. The disclosure must state that in making the sale the agent is acting as an independently licensed insurance agent and not as an agent of the financial institution, credit union, financial institution holding company or subsidiary of a financial institution, credit union or financial institution holding company.~~

Sec. 11. 24-A MRSA §1517, sub-§2, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 12. 24-A MRSA §1517, sub-§3, as enacted by PL 1969, c. 132, §1, is repealed and the following enacted in its place:

3. A nonresident organization establishing a place of business in this State shall procure an organization license for each location in this State and shall staff each location with at least one resident broker or agent. A nonresident organization may register either nonresident or resident individual licensees to act in the name of the organization. Licensure of a nonresident organization does not depend upon the organization maintaining an organization license in another state. A resident organization may register either resident or nonresident licensees to act in the name of the organization.

Sec. 13. 24-A MRSA §1517, sub-§4-A, as enacted by PL 1979, c. 301, is amended to read:

4-A. All the licensees ~~shall be~~ are subject to the same restrictions with regard to deceptively similar names as applied to insurers under section 408, ~~sub-§1 subsections 1 and 4.~~

Sec. 14. 24-A MRSA §1517, sub-§6, as enacted by PL 1993, c. 322, §5, is amended to read:

6. A financial institution, credit union, financial institution holding company or a subsidiary of any such entity may be licensed as an insurance agent for the limited purpose of selling annuities as provided in section 1531, subsection 1, paragraph F or for the purpose of sharing commissions in the connection with the sale of annuities as provided in this Title. ~~An entity that is authorized to sell annuities or to share in commissions from the sale of annuities pursuant to Title 9-B, section 443, subsection 11 is not required to comply with the requirements of subsection 2.~~

Sec. 15. 24-A MRSA §1519, sub-§2, as amended by PL 1993, c. 637, §19, is further amended to read:

2. As to applicants not ~~licensed~~ licensed under this Title or licensed as insurance agent, broker or adjuster in this State under laws now in force, the superintendent shall secure, as soon as is reasonably possible after filing of the application, ~~a credit or investigation report relative to the applicant from a recognized and established independent investigation and reporting agency appropriate background information with which to ascertain the applicant's character. The cost, if any, of such report, in a reasonable uniform flat amount as from time to time fixed by the superintendent, must be paid by or on behalf of the applicant, and must be deposited with the superintendent at the time of filing the application. The superintendent shall promptly deposit the payment with the Treasurer of State to the credit of the Insurance Regulatory Fund. The superintendent shall keep confidential the contents of any such report and shall destroy the report after the application has been approved.~~

Sec. 16. 24-A MRSA §1525, sub-§2, as amended by PL 1989, c. 168, §13, is further amended to read:

2. Each board ~~shall consist~~ consists of 5 members, to be appointed by the superintendent for terms of 3 years each, on a staggered term system so as to prevent the terms of more than 2 members from expiring in any one year. Except as otherwise provided, no person may be eligible for appointment to such a board unless that person is active on a full-time basis in the general lines insurance business, as to the ~~general lines advisory board~~ General Lines Advisory Board, or in the life or health insurance business, as to the ~~life advisory board~~ Life and Health Advisory Board, and is a resident of this State. Except as otherwise provided, no person may be eligible for appointment to the Adjuster License Advisory Board unless active as an adjuster on a full-time basis and a resident of this State. The superintendent so far as practicable shall appoint persons with prior experience in the education and training of agents or prospective agents and, so far as practicable, shall constitute the boards to include at least one licensed agent and one representative of a domestic insurer. No person may be reappointed to a board for more than one 3-year term.

Sec. 17. 24-A MRSA §1525, sub-§§3 and 4, as amended by PL 1973, c. 585, §12, are repealed.

Sec. 18. 24-A MRSA §1526, sub-§1, as amended by PL 1989, c. 168, §15, is further amended to read:

1. Each respective advisory board shall meet with the superintendent ~~twice during each calendar year~~ as often as is necessary at times and places to be designated by the superintendent, and on other occasions as its members ~~deem~~ consider appropriate. The superintendent shall furnish to each board information, not otherwise designated by law as confidential, as its members may reasonably require with respect to the conduct, scope and results of examinations with which it is concerned.

Sec. 19. 24-A MRSA §1535, sub-§1, ¶A, as enacted by PL 1991, c. 112, §1, is amended to read:

A. The agent is subject to suspension or revocation of license under section 1539, Title 19, section 305, subsections 6 and 7 or Title 36, section 175;

Sec. 20. 24-A MRSA §1606, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. Every applicant for a broker's license shall file with the superintendent with the application and shall thereafter maintain in force while so licensed; a

bond in favor of the State of Maine executed by an authorized surety insurer. The bond ~~shall~~ must be conditioned upon full accounting and due payment to the person entitled thereto, of funds coming into the broker's possession through insurance transactions under the license. The bond may be continuous in form and aggregate liability on the bond ~~shall be~~ is limited to payment of not less than ~~\$2,500~~ \$10,000 per line of authority.

Sec. 21. 24-A MRSA §1680, sub-§4, as amended by PL 1993, c. 221, §26, is further amended to read:

4. Any nonresident agent or broker licensed under this section, or any other individual currently licensed as a resident agent or broker in another state, who becomes a resident and applies for licensing status as a resident is subject to the state-specific portion of the license examination.

Sec. 22. 24-A MRSA §1853, sub-§3, as amended by PL 1989, c. 168, §27, is further amended to read:

3. Must pass any written examination required for the license under this chapter, except that with respect to adjusters employed by insurers and persons acting as public adjusters in this State as of September 1, 1989, this subsection will not apply until July 1, 1991; and

Sec. 23. 24-A MRSA §1853, sub-§4, as amended by PL 1993, c. 221, §28, is further amended to read:

4. Must have been employed as an adjuster trainee as defined in section 1509-A for a period of no less than one year or must have had special training in handling of loss claims under insurance contracts. Special training means successfully completing courses of instruction that may be reasonably required and approved by the superintendent. Courses of instruction may be completed successfully by attendance at an educational institution or by correspondence with or under the supervision and direction of an educational institution or insurer. This subsection does not apply as to persons holding subsisting licenses as adjuster in this State immediately prior to January 1, 1970; and

Sec. 24. 24-A MRSA §1853, sub-§5, as amended by PL 1969, c. 177, §28, is repealed.

Sec. 25. 24-A MRSA §1854, as amended by PL 1993, c. 637, §§31 and 32, is repealed.

Sec. 26. 24-A MRSA §1876, as enacted by PL 1989, c. 31, §4, is amended to read:

§1876. Continuing Education Advisory Committee

The Continuing Education Advisory Committee is established and ~~shall consist~~ consists of 6 members to be appointed by the superintendent for terms of 3 years each, on a staggered term system to prevent the terms of more than 2 members from expiring in any one year. A person may not be reappointed to a board for more than one 3-year term. No person is eligible for appointment to the committee unless that person is an active, full-time insurance agent, broker or consultant. Board members are eligible for reimbursement of expenses consistent with section 1526, subsection 6.

Sec. 27. 24-A MRSA §1904, sub-§1, as amended by PL 1993, c. 171, Pt. A, §1, is further amended to read:

1. Every applicant for an administrator's license shall file with the application, and shall maintain in force while licensed, a fidelity bond, and at the superintendent's discretion, a surety bond, in favor of the Treasurer of State, for the benefit of covered persons or plan sponsors as their interest may appear, executed by a surety company authorized to do business in this State and payable to any party injured under the terms of the bond. The bond must be continuous in form and in one of the following amounts:

A. For an administrator that maintains an ATF but does not maintain a CASA, the greater of \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the following plan year from residents of the State, but not to exceed \$1,000,000;

B. For an administrator that maintains a CASA but does not maintain an ATF, the greater of \$50,000 or 5% of the claims and claim expenses projected to be held in the CASA for the following year to pay claims and claim expenses for residents of the State, but not to exceed \$1,000,000; or

C. For an administrator that maintains an ATF and a CASA, the greater of \$50,000 or 5% of contributions and premiums projected to be received or collected in the ATF for the following plan year from residents of the State plus 5% of the claims and claim expenses projected to be held in the CASA accounts for the following year to pay claims and claim expenses for residents of the State, but not to exceed \$1,000,000.

This subsection applies to an administrator who is required to maintain funds in a fiduciary capacity as set forth in section 1909.

Sec. 28. 24-A MRSA §2013, sub-§1, ¶A, as amended by PL 1985, c. 564, §3, is further amended to read:

A. If the broker fails to ~~file the annual statement or to~~ remit the tax as required by section 2017 2016;

Sec. 29. 24-A MRSA §2013, sub-§1, ¶E, as enacted by PL 1985, c. 564, §3, is amended to read:

E. If the broker assists any person or persons not licensed as surplus lines brokers by serving as a reporting broker for purposes of section 2005, 2015, or 2016 ~~or 2017~~ with respect to insurance coverage not procured by the broker.

Sec. 30. 24-A MRSA §2017, as repealed and replaced by PL 1991, c. 674, §1, is repealed.

Sec. 31. 24-A MRSA §2020, sub-§1, as enacted by PL 1993, c. 153, §17, is amended to read:

1. Every applicant for a surplus lines broker's license shall file with the superintendent evidence of a bond in favor of the State executed by an authorized surety insurer. The bond is conditioned upon full accounting and due payment to the person entitled to the bond of funds coming into the surplus lines broker's possession through insurance transactions under the license. The bond may be continuous in force and aggregate liability on the bond is limited to payment of not less than ~~\$2,500~~ \$20,000.

Sec. 32. 24-A MRSA §2308, sub-§2, as enacted by PL 1987, c. 337, is amended to read:

2. To promote the availability of coverage in lines of insurance when coverage is difficult to obtain or unavailable, a form more restrictive than that provided by filings otherwise applicable may be used on any specific risk, provided that the following requirements are satisfied.

A. The restrictive form and applicable rates are filed with the bureau.

B. A disclosure statement detailing the nature of the restriction or restrictions contained in the form and the manner in which the provisions of the restrictive form differ from an otherwise applicable filing is provided to and acknowledged by the applicant for insurance.

C. A copy of the disclosure statement and the written application for insurance submitted by the applicant are submitted to the bureau.

D. The superintendent does not disapprove the use of the restrictive form in the specific case.

~~The period during which a restrictive form may be employed, consistent with this subsection, is for the maximum period of one year. At any subsequent policy renewal, the provisions of this subsection must again be satisfied.~~

Sec. 33. 24-A MRSA §2308, sub-§§3 and 4 are enacted to read:

3. At any subsequent policy renewal in which additional or different restrictive policy forms or excess rates are employed, the provisions of this section must again be satisfied.

4. Notification to the superintendent of cancellation or nonrenewal of a policy containing restrictive forms or employing excess rates is required within 30 days following cancellation or nonrenewal of the policy.

See title page for effective date.

CHAPTER 330

S.P. 572 - L.D. 1552

An Act Concerning the Sites for Western Aroostook District Court

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

Sec. 1. 4 MRSA §153, sub-§3, as amended by PL 1993, c. 675, Pt. B, §1, is further amended to read:

3. **Western Aroostook.** Western Aroostook consists of the municipalities and unorganized territory known as Hamlin Plt., Cyr Plt., T17 R3, T17 R4, T16 R5, T15 R6, Winterville Plt., T15 R8, T15 R9, T14 R10, T14 R11, T14 R12, T14 R13, T14 R14, T14 R15, T14 R16, and all municipalities and unorganized territory in Aroostook County lying to the west and north of these. The District Court for Western Aroostook must be held at Madawaska, and Fort Kent ~~and Van Buren~~. The Chief Judge shall determine the level of service at each location.

See title page for effective date.

CHAPTER 331

H.P. 794 - L.D. 1111

An Act to Enable Small Farm Owners to Process and Sell Foods They Produce

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

Sec. 1. 22 MRSA §2152, sub-§4-A, as amended by PL 1991, c. 784, §13, is repealed and the following enacted in its place:

4-A. Food establishment. "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. The following establishments are not considered food establishments required to be licensed under section 2167:

A. Eating establishments, as defined in section 2491, subsection 7;

B. Fish and shellfish processing establishments inspected under Title 12, section 4682, 6101, 6102 or 6856;

C. Storage facilities for native produce;

D. Establishments, such as farm stands primarily selling fresh produce, not including dairy and meat products;

E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process.

Sec. 2. 36 MRSA §4312-B, sub-§4, as repealed and replaced by PL 1985, c. 737, Pt. A, §100, is amended to read:

4. Organization. Members of the commission shall elect annually by majority vote one member of the commission who shall to serve as ~~chairman~~ chair. The ~~chairman~~ commission may appoint by majority vote an executive director or and such personnel as he deems the commission considers necessary to administer policies and programs established by the commission. The executive director and other staff serve at the pleasure of the commission. The salaries paid to the executive director and other staff of the commission must be fixed by the commission, subject to the approval of the Governor. ~~These officers or personnel shall~~ The executive director and other staff are not be subject to the ~~Personnel Laws~~ personnel laws of the State.

See title page for effective date.

CHAPTER 332

H.P. 994 - L.D. 1405

An Act to Amend the Laws Concerning Health Insurance

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

PART A

Sec. A-1. 24 MRSA §2330, sub-§1, as amended by PL 1991, c. 822, §1 and affected by §6, is further amended to read:

1. Conversion provision required. A group hospital, medical or health care service contract issued for delivery in this State prior to January 1, 1996, by a nonprofit hospital, medical or health service organization, other than a contract that provides benefits for specific diseases or accidental injuries only, must contain a provision that if the health coverage on an employee or member ceases because of termination of employment or termination of the contract or any portion thereof of the contract, and the person has been continuously insured for a period of at least 3 months under the group contract or under the group contract and any prior group contract or policy providing similar benefits that it replaces, that person is entitled to have issued to that person by the nonprofit service corporation, without evidence of insurability, a nongroup health care contract or, at the option of the nonprofit service corporation, a group certificate, provided if that application is made and the first subscription charge paid to the nonprofit service corporation within 90 days after that termination. At the option of the employee or member, the converted contract may cover the employee or member, the employee or member and the dependents of the employee or member or the dependents of the employee or member; ~~provided that if, in the latter 2 cases, the dependents had been covered for a period of at least 3 months under the group contract, unless the dependent persons were not eligible for coverage until after the beginning of the 3-month period.~~ The nonprofit service corporation has the option to provide the required coverage upon conversion through either a group or nongroup health care contract, and may issue a separate converted contract to cover any dependent. A nonprofit service corporation may not be required to provide a conversion privilege if termination of coverage under the group contract occurred because the employee or member failed to pay any required contribution or if any discontinued group coverage is replaced by continuous and substantially similar group coverage within 31 days.

Sec. A-2. 24 MRSA §2330, sub-§1-A, as amended by PL 1995, c. 189, §1, is further amended to read:

1-A. Notification of cancellation. A nonprofit hospital or medical service organization or nonprofit health care plan must provide by first class mail at least 10 days' prior notification of cancellation for nonpayment of subscription charges according to this section. The notice must include the date of cancellation of coverage and, if applicable, the time period for exercising contract conversion rights. Notification is not required when the nonprofit hospital or medical service organization or nonprofit health care plan has received written notice from the group contract holder or subgroup sponsor that replacement coverage has been obtained.

A. Notice must be mailed to the group contract holder or subgroup sponsor;

B. At the time of notification under paragraph A, notice must be mailed to the certificate holder at:

(1) The last address provided by the subgroup sponsor or the group contract holder to the nonprofit hospital or medical service organization or nonprofit health care plan; or

(2) The office of the subgroup sponsor, if any, or the group contract holder; and

C. Notice must be mailed to the Bureau of Insurance ~~and to the Bureau of Labor Standards~~.

Sec. A-3. 24 MRSA §2330, sub-§2, as enacted by PL 1981, c. 606, §1, is amended to read:

2. Other circumstances where conversion provision required. ~~The~~ If a conversion privilege shall is applicable pursuant to subsection 1, it must also be available:

A. Upon the death of an employee or member, to the surviving spouse with respect to the spouse and the children whose coverage terminates by reason of that death, or if there is no surviving spouse to each surviving child whose coverage so terminates. If the group contract provides for continuation of dependents' coverage upon the death of the employee or member, the conversion privilege ~~shall~~ must be made available at the end of that continuation;

B. To the spouse of a member or employee upon termination of coverage by reason of ceasing to be a qualified family member under the group policy whether by divorce or otherwise, whether or not the employee or member remains covered,

with respect to the spouse and the children whose coverage terminates at the same time;

C. To a child upon termination of coverage by reason of ceasing to be a qualified family member under the group contract if a conversion privilege is not otherwise provided with respect to ~~him~~ that child in this subsection; or

D. To an employee or member whose coverage would otherwise continue under the group contract upon retirement prior to eligibility for coverage under Medicare, "United States Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, Public Law 89-97, as amended, at the option of that employee or member in lieu of continued coverage under the group contract.

Sec. A-4. 24 MRSA §2330, sub-3-A is enacted to read:

3-A. Contracts issued or renewed on or after January 1, 1996. A nonprofit service corporation that offers individual health plans pursuant to Title 24-A, section 2736-C is permitted, but not required, to include a conversion privilege in group contracts issued or renewed on or after January 1, 1996. If the corporation does include a conversion privilege in these contracts, individuals exercising these rights must be offered a choice of any individual health plan offered by the corporation. A nonprofit service corporation that does not offer individual health plans pursuant to Title 24-A, section 2736-C may not include a conversion privilege in group contracts issued or renewed on or after January 1, 1996.

Sec. A-5. 24 MRSA §2330, sub-§4, ¶¶A and B, as enacted by PL 1991, c. 668, §1, are amended to read:

A. Conversion is provided through a form that is also issued to ~~individually underwritten standard risks~~ members of the general public applying for an individual health plan pursuant to Title 24-A, section 2736-C;

B. The rates for that form ~~are based on individually underwritten standard risks~~ comply with Title 24-A, section 2736-C; and

Sec. A-6. 24 MRSA §2330, sub-§§7 and 9, as enacted by PL 1981, c. 606, §1, are amended to read:

7. Notice. Notice of the conversion privilege ~~shall, if one is applicable, must~~ be included in each certificate of coverage.

9. Refusal to renew. A contract issued pursuant to the conversion privilege provided by this section

may provide that the nonprofit service corporation may refuse to renew the contract or coverage of any person covered ~~thereunder for the following reasons only: only as permitted by Title 24-A, section 2736-C.~~

~~A. Fraud or material misrepresentation in applying for any benefits under the converted contract; or~~

~~B. Any reason for which the nonprofit service corporation may refuse to issue a converted contract under subsection 3.~~

Sec. A-7. 24 MRSA §2330, sub-§10, as amended by PL 1991, c. 885, Pt. E, §21 and affected by §47, is repealed.

Sec. A-8. 24-A MRSA §2809-A, sub-§1, as amended by PL 1991, c. 822, §3 and affected by §6, is further amended to read:

1. A group policy issued prior to January 1, 1996, that provides hospital, surgical or major medical expense insurance or any combination thereof, other than a policy that provides benefits for specific diseases or accidental injuries only, must contain a provision that if the insurance on an employee or member ceases because of termination of employment or termination of the policy or any portion ~~thereof~~ of a policy, and the person has been continuously insured for a period of at least 3 months under the group policy or under the group policy and any prior group policy or contract providing similar benefits that it replaces, that person is entitled to have issued to that person by the insurer, without evidence of insurability, an individual policy or, at the insurer's option, a group certificate of health insurance, provided that application is made and the first premium paid to the insurer within 90 days after that termination. At the option of the employee or member, the converted policy may cover the employee or member, the employee or member and the employee or member's dependents or the dependents of the employee or member; ~~provided that if~~, in the latter 2 cases, the dependents have been covered for a period of at least 3 months under the group policy, unless the dependent persons were not eligible for coverage until after the beginning of the 3-month period. The insurer has the option to provide the required coverage upon conversion through either a group or individual policy, and may issue a separate converted policy to cover any dependent. An insurer is not required to provide a conversion privilege if termination of insurance under the group policy occurred because the employee or member failed to pay any required contribution or if any discontinued group coverage is replaced by continuous and substantially similar group coverage within 31 days.

Sec. A-9. 24-A MRSA §2809-A, sub-§1-A, as enacted by PL 1991, c. 822, §4, is amended to read:

1-A. Notification of cancellation. An insurer must provide by first class mail notification of cancellation for nonpayment of premium for hospital, surgical or major medical expense insurance according to this section. The notice must include the date of cancellation of coverage and, if applicable, the time period for exercising policy conversion rights. Notification is not required when the insurer has received written notice from the group policyholder that replacement coverage has been obtained.

A. Notice must be mailed to the group policyholder or subgroup sponsor.

B. At the time of notification under paragraph A, notice must be mailed to the certificate holder at:

(1) The last address provided by the subgroup sponsor or the group policyholder to the insurer; or

(2) The office of the subgroup sponsor, if any, or the group policyholder.

C. Notice must be mailed to the Bureau of Insurance ~~and to the Bureau of Labor Standards.~~

Sec. A-10. 24-A MRSA §2809-A, sub-§2, as enacted by PL 1981, c. 606, §2, is amended to read:

2. ~~The~~ If a conversion privilege shall is applicable pursuant to subsection 1, it must also be available:

A. Upon the death of an employee or member, to the surviving spouse with respect to the spouse and the children whose coverage terminates by reason of that death, or if there is no surviving spouse to each surviving child whose coverage so terminates. If the group policy provides for continuation of dependents' coverage upon the death of the employee or member, the conversion privilege ~~shall~~ must be made available at the end of that continuation;

B. To the spouse of a member or employee upon termination of coverage by reason of ceasing to be a qualified family member under the group policy whether by divorce or otherwise, whether or not the employee or member remains insured, with respect to the spouse and the children whose coverage terminates at the same time;

C. To a child upon termination of coverage by reason of ceasing to be a qualified family member under the group policy if a conversion privilege is not otherwise provided with respect to ~~him~~ that child in this subsection; or

D. To an employee or member whose coverage would otherwise continue under the group policy

upon retirement prior to eligibility for coverage under Medicare," United States Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, Public Law 89-97, as amended, at the option of that employee or member in lieu of continued coverage under the group policy.

Sec. A-11. 24-A MRSA §2809-A, sub-§3-A is enacted to read:

3. Policies issued or renewed on or after January 1, 1996. An insurer that offers individual health plans pursuant to section 2736-C is permitted, but not required, to include a conversion privilege in group policies issued or renewed on or after January 1, 1996. If the insurer does include a conversion privilege in those policies, individuals exercising these rights must be offered a choice of any individual health plan offered by the insurer. An insurer that does not offer individual health plans pursuant to section 2736-C may not include a conversion privilege in group policies issued or renewed on or after January 1, 1996.

Sec. A-12. 24-A MRSA §2809-A, sub-§4, ¶¶A and B, as enacted by PL 1991, c. 668, §2, are amended to read:

A. Conversion is provided through a form that is also issued to ~~individually underwritten standard risks~~ members of the general public applying for an individual health plan pursuant to section 2736-C;

B. The rates for that form ~~are based on individually underwritten standard risks~~ comply with section 2736-C; and

Sec. A-13. 24-A MRSA §2809-A, sub-§§7 and 9, as enacted by PL 1981, c. 606, §2, are amended to read:

7. Notice. Notice of the conversion privilege ~~shall, if one is applicable, must~~ be included in each certificate of coverage.

9. Refusal to renew. A policy issued pursuant to the conversion privilege provided by this section may provide that the insurer may refuse to renew the policy or coverage of any person insured ~~thereunder for the following reasons only:~~ only as permitted by section 2736-C.

~~A. Fraud or material misrepresentation in applying for any benefits under the converted policy; or~~

~~B. Any reason for which the insurer may refuse to issue a converted policy under subsection 3.~~

Sec. A-14. 24-A MRSA §2809-A, sub-§10, as amended by PL 1991, c. 885, Pt. E, §29 and affected by §47, is repealed.

PART B

Sec. B-1. 24-A MRSA §2808-A, as amended by PL 1991, c. 828, §24, is repealed.

PART C

Sec. C-1. 24-A MRSA §2740, as amended by PL 1973, c. 205, is repealed.

PART D

Sec. D-1. 24-A MRSA 2808-B, sub-§1, ¶E, as enacted by PL 1991, c. 861, §2, is amended to read:

E. "Late enrollee" means an eligible employee or dependent who requests enrollment in a small group health plan following the initial minimum 30-day enrollment period provided under the terms of the plan, except that, an eligible employee or dependent is not considered a late enrollee if the eligible employee or dependent meets the requirements of section 2849-B, subsection 3, paragraph A ~~or B, C or D.~~

Sec. D-2. 24-A MRSA §2808-B, sub-§4, ¶A, as enacted by PL 1991, c. 861, §2, is amended to read:

A. Coverage must be guaranteed to all eligible groups that meet the carrier's minimum participation requirements, which may not exceed 75%, to all eligible employees and their dependents in those groups. If an employee declines coverage because the employee has other coverage, any dependents of that employee who are not eligible under the employee's other coverage are eligible for coverage under the small group health plan.

Sec. D-3. 24-A MRSA §2808-B, sub-§4, ¶B, as amended by PL 1993, c. 645, Pt. A, §4, is further amended to read:

B. Renewal must be guaranteed to all eligible groups, to all eligible employees and their dependents in those groups except:

(1) For nonpayment of the required premiums by the policyholder, contract holder or employer;

(2) For fraud or material misrepresentation by the policyholder, contract holder or employer or;

(3) With respect to coverage of eligible individuals, for fraud or material misrepresentation on the part of the individual or the individual's representative;

(4) For noncompliance with the carrier's minimum participation requirements, which may not exceed 75%;

(5) When the carrier ceases providing small group health plans in compliance with subsection 5; or

(6) When the carrier ceases offering a product and replaces it with a product that complies with the requirements of this section, including renewability, and the superintendent finds that replacement is in the best interest of the policyholders.

Sec. D-4. 24-A MRSA §2808-B, sub-§7, as enacted by PL 1991, c. 861, §2, is amended to read:

7. Applicability. This section applies to all policies, plans, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 15, 1993. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary date of the policy, plan, contract ~~date~~ or certificate.

PART E

Sec. E-1. 24-A MRSA §5001, sub-§4, as amended by PL 1993, c. 154, §1, is further amended to read:

4. Medicare supplement policy. "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of a nonprofit hospital or medical service organization or nonprofit health care plan or health maintenance organization other than a policy issued pursuant to a contract under the federal Social Security Act, 42 United States Code, Section 1395, et seq., ~~Section 1833 or Section 1876 or an issued policy under a demonstration project authorized pursuant to amendments to the federal Social Security Act specified in the 42 United States Code, Section 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.~~

Sec. E-2. 24-A MRSA §5001-A, sub-§§1 and 3, as enacted by PL 1991, c. 740, §2, are amended to read:

1. Application. Except as otherwise specifically provided in ~~sections 5004 and~~ section 5013, this chapter applies to:

A. All Medicare supplement policies delivered or issued for delivery in this State on or after the effective date of this section; and

B. All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this State.

3. Plans not marketed as Medicare supplements. ~~The~~ Except as otherwise provided in section 5005, subsection 3-A, the provisions of this chapter are not intended to prohibit or apply to insurance policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons that are not marketed or held to be Medicare supplement policies or benefit plans.

Sec. E-3. 24-A MRSA §5005, sub-§3-A, as enacted by PL 1991, c. 740, §7, is amended to read:

3-A. Captions or notice requirements. The superintendent may adopt rules for captions or notice requirements determined to be in the public interest and designed to inform the prospective insureds that particular insurance coverages are not Medicare supplement coverages for all accident and sickness insurance policies sold to persons eligible for Medicare ~~by reason of age~~ other than:

A. Medicare supplement policies; or

B. Disability income policies;

~~C. Basic, catastrophic or major medical expense policies; or~~

~~D. Single premium, nonrenewable policies.~~

PART F

Sec. F-1. 24 MRSA §2347, sub-§1, as amended by PL 1993, c. 666, Pt. D, §1, is further amended to read:

1. Contracts subject to this section. Notwithstanding any other provision of law, this section applies to all group contracts, except group long-term care policies as defined in Title 24-A, section 5051, issued by nonprofit hospital or medical service organizations to contract holders who are obtaining coverage for a group or subgroup to replace coverage under a different contract or policy issued by any insurer, health maintenance organization or nonprofit hospital or medical service organization, or to replace coverage under an uninsured employee benefit plan that provides payment for health services received by employees or their dependents if the contract holder has applied for coverage under this replacement contract within 90 days after termination of coverage under the contract or policy being replaced. For purposes of this section, the group contract issued to

replace the prior contract or policy is the "replacement contract." The group contract or policy or the uninsured employee benefit plan, or a number of individual contracts or policies if the premiums were paid by the employer or by payroll deduction, being replaced is the "replaced contract or policy."

Sec. F-2. 24 MRSA §2349, sub-§3, as amended by PL 1995, c. 77, §1, is further amended to read:

3. Exception for late enrollees. Notwithstanding subsection 2, this section does not provide continuity of coverage for a late enrollee. A late enrollee may be excluded from coverage for not more than 12 months based on medical underwriting or preexisting conditions. For purposes of this section, a "late enrollee" is a person who requests enrollment in a group plan following the initial enrollment period provided under the terms of the plan, except that a person is not a late enrollee if:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract, or terminated coverage under the succeeding contract, because that individual was covered under a prior contract or policy and coverage under that contract or policy ceased ~~due to~~ because the individual became ineligible for reasons other than fraud or material misrepresentation, including, but not limited to, termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce;

B. A court has ordered that coverage be provided for a spouse or minor child under a covered employee's plan and the request for coverage is made within 30 days after issuance of the court order; ~~or~~

C. That person was covered by the Maine High-Risk Insurance Organization on December 1, 1993 and the request for replacement coverage is made while coverage is in effect or within 30 days of the termination of coverage; ~~or~~

D. That person was previously ineligible for coverage and the request for enrollment is made within 30 days of the date the person becomes eligible.

Sec. F-3. 24-A MRSA §2849, sub-§1, as amended by PL 1993, c. 666, Pt. D, §3, is further amended to read:

1. Policies subject to this section. Notwithstanding any other provision of law, this section applies to all group and blanket medical insurance

policies issued by insurers or health maintenance organizations to policyholders who are obtaining coverage for a group or subgroup to replace coverage under a different contract or policy issued by any nonprofit hospital or medical service organization, insurer or health maintenance organization, or to replace coverage under an uninsured employee benefit plan that provides payment for health services received by employees or their dependents if the policyholder has applied for coverage under the replacement policy within 90 days after termination of coverage under the contract or policy being replaced. For purposes of this section, the group policy issued to replace the prior contract or policy is the "replacement policy." The group contract or policy or uninsured employee benefit plan or a number of individual contracts or policies if the premiums were paid by the employer or by payroll deduction, being replaced is the "replaced contract or policy."

Sec. F-4. 24-A MRSA §2849-B, sub-§1, as amended by PL 1993, c. 477, Pt. A, §8 and affected by Pt. F, §1, is further amended to read:

1. Policies subject to this section. This section applies to all individual ~~and~~ group medical and blanket insurance policies except hospital indemnity, specified accident, specified disease, and long-term care ~~and Medicare supplement~~ policies issued by insurers or health maintenance organizations.

Sec. F-5. 24-A MRSA §2849-B, sub-§3, as amended by PL 1995, c. 77, §2, is further amended to read:

3. Exception for late enrollees. Notwithstanding subsection 2, this section does not provide continuity of coverage for a late enrollee. A late enrollee may be excluded from coverage for not more than 12 months based on medical underwriting or preexisting conditions. For purposes of this section, a "late enrollee" is a person who requests enrollment in a group plan following the initial enrollment period provided under the terms of the plan, except that a person is not a late enrollee if:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract or policy, or terminated coverage under the succeeding contract, because that individual was covered under a prior contract or policy and coverage under that contract or policy ceased ~~due to~~ because the individual became ineligible for reasons other than fraud or material misrepresentation, including, but not limited to, termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce;

B. A court has ordered that coverage be provided for a spouse or minor child under a covered employee's plan and the request for coverage is made within 30 days after issuance of the court order; ~~or~~

C. That person was covered by the Maine High-Risk Insurance Organization on December 1, 1993 and the request for replacement coverage is made while coverage is in effect or within 30 days of the termination of coverage; ~~or~~

D. That person was previously ineligible for coverage and the request for enrollment is made within 30 days of the date the person becomes eligible.

PART G

Sec. G-1. 24 MRSA 2325-A, sub-§5-C, ¶B, as amended by PL 1993, c. 586, §1, is further amended to read:

B. All policies and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1994 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

(1) The contracts must provide inpatient care benefits of at least 60 days per calendar year. For purposes of this paragraph, 2 days of day treatment is deemed equivalent to one day of inpatient care.

(2) The contracts must provide ~~outpatient care benefits~~ an annual benefit of at least \$2,000 for ~~any combination of~~ outpatient and day treatment care. The minimum level of benefits provided must be at least 50% of the usual, customary and reasonable charge.

(3) The contracts must contain a maximum lifetime benefit of at least \$100,000 for the aggregate costs associated with mental illness.

Sec. G-2. 24-A MRSA 2843, sub-§5-C, ¶B, as amended by PL 1993, c. 586, §3, is further amended to read:

B. All policies and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1994 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed to be renewed no later

than the next yearly anniversary of the contract date.

(1) The contracts must provide inpatient care benefits of at least 60 days per calendar year. For purposes of this paragraph, 2 days of day treatment is deemed equivalent to one day of inpatient care.

(2) The contracts must provide ~~outpatient care benefits~~ an annual benefit of at least \$2,000 for ~~any combination of~~ outpatient and day treatment care. The minimum level of benefits provided must be at least 50% of the usual, customary and reasonable charge.

(3) The contracts must contain a maximum lifetime benefit of at least \$100,000 for the aggregate costs associated with mental illness.

PART H

Sec. H-1. 24-A MRSA §2844, sub-§1, as enacted by PL 1993, c. 666, Pt. B, §2, is amended to read:

1. Authorization. Provisions contained in group and blanket health insurance contracts relating to coordination of benefits payable under the contract and under other plans of insurance or of health care coverage under which a certificate holder or the certificate holder's dependents may be covered must conform to rules adopted by the superintendent. These rules may establish uniformity in the permissive use of coordination of benefits provisions in order to avoid claim delays and misunderstandings that otherwise result from the use of inconsistent or incompatible provisions among the several insurers and nonprofit hospital, medical service and health care plans.

PART I

Sec. I-1. 24-A MRSA §4204, sub-§2-A, ¶J, as enacted by PL 1993, c. 702, Pt. B, §1, is amended to read:

J. ~~The A~~ The A health maintenance organization that offers coverage to groups in this State shall offer to groups of all sizes health benefit plans that meet the requirements for standardized health plans specified in Bureau of Insurance Rule Chapter 750.

Sec. I-2. 24-A MRSA §4204, sub-§2-A, ¶N, as enacted by PL 1993, c. 702, Pt. B, §1, is amended to read:

N. Beginning July 1, 1995, ~~the a~~ a health maintenance organization that offers coverage to groups

in the State shall offer coverage for purchase by individuals.

PART J

Sec. J-1. 24-A MRSA §2701, sub-§2, as amended by PL 1991, c. 701, §5, is further amended to read:

2. Any group or blanket policy, except that:

A. Sections 2736, 2736-A and 2736-B ~~shall~~ apply to group Medicare supplement policies as defined in chapter 67 and group nursing home care and long-term care insurance policies as defined in chapter 68; ~~and~~

B. Section 2752 applies with respect to mandated benefits for group or blanket health policies; ~~and~~

C. Section 2736-C applies to:

(1) Association groups as defined by section 2805-A, except associations of employers; and

(2) Other groups as defined by section 2808.

Sec. J-2. 24-A MRSA §2736-C, sub-§1, ~~¶C~~, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

C. "Individual health plan" means any hospital and medical expense-incurred policy or health, hospital or medical service corporation plan contract. It includes both individual contracts and certificates issued under group contracts specified in section 2701, subsection 2, paragraph C. "Individual health plan" does not include the following types of insurance:

- (1) Accident;
- (2) Credit;
- (3) Disability;
- (4) Long-term care or nursing home care;
- (5) Medicare supplement;
- (6) Specified disease;
- (7) Dental or vision;
- (8) Coverage issued as a supplement to liability insurance;
- (9) Workers' compensation;
- (10) Automobile medical payment; or

(11) Insurance under which benefits are payable with or without regard to fault and that is required statutorily to be contained in any liability insurance policy or equivalent self-insurance.

PART K

Sec. K-1. 24-A MRSA §2736-C, sub-§6, ~~¶A~~, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

A. Each carrier must actively market individual health plan coverage, including any standardized plans defined pursuant to subsection 8, to individuals in this State.

Sec. K-2. 24-A MRSA §2808-B, sub-§6, ~~¶A~~, as enacted by PL 1991, c. 861, §2, is amended to read:

A. Each carrier must actively market small group health plan coverage, including the basic and standard plans defined in subsection 8, to eligible groups in this State.

PART L

Sec. L-1. 24 MRSA §2327-A, as amended by PL 1991, c. 861, §1 and affected by §4, is further amended to read:

§2327-A. Applicability

Title 24-A, sections ~~2808-A~~ 2803 and 2808-B apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter.

Sec. L-2. 24-A MRSA §4222, sub-§4, as enacted by PL 1991, c. 861, §3 and affected by §4, is amended to read:

4. ~~Section~~ Sections 2803 and 2808-B ~~applies~~ apply to health maintenance organizations except that a health maintenance organization is not required to offer coverage or accept applications from an eligible group located outside the health maintenance organization's approved service area.

PART M

Sec. M-1. 24 MRSA §2302-B, as enacted by PL 1989, c. 767, §2 and PL 1993, c. 645, Pt. B, §1, is repealed and the following enacted in its place:

§2302-B. Penalty for failure to notify of hospitalization

A contract issued by a nonprofit hospital or medical services organization may not include a

provision permitting the organization to impose a penalty for the failure of any person to notify the organization of a covered person's hospitalization for emergency treatment. For purposes of this section, "emergency treatment" has the same meaning as defined in Title 22, section 1829.

This section applies to contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after the effective date of this section. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. M-2. 24 MRSA §2302-C is enacted to read:

§2302-C. Penalty for noncompliance with utilization review programs

A contract issued or renewed by a nonprofit service organization after April 8, 1994 may not contain a provision that permits, upon retroactive review and confirmation of medical necessity, the imposition of a penalty of more than \$500 for failure to provide notification under a utilization review program. This section does not limit the right of nonprofit service organizations to deny a claim when appropriate prospective or retroactive review concludes that services or treatment rendered were not medically necessary.

Sec. M-3. 24 MRSA §2342, sub-§1, as amended by PL 1993, c. 602, §1, is further amended to read:

1. Licensure. A person, partnership or corporation, other than an insurer or nonprofit service organization, health maintenance organization, preferred provider organization or an employee of those exempt organizations, that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, 3rd-party administrators, health maintenance organizations, preferred provider organizations or employers, shall apply for licensure by the Bureau of Insurance and pay an application fee of not more than \$400 and an annual license fee of not more than \$100; except that programs of review of medical services for occupational claims compensated under Title 39-A are subject only to the certification requirements of that Title and are not subject to licensure under this section. A person, partnership or corporation, other than an insurer or nonprofit service organization, health maintenance organization, preferred provider organization or the employees of exempt organizations, may not perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license to perform those activities.

Sec. M-4. 24-A MRSA §2749-B, as enacted by PL 1993, c. 645, Pt. B, §3, is amended to read:

§2749-B. Penalty for noncompliance with utilization review programs

A health insurance policy issued or renewed in this State after the effective date of this section April 8, 1994 may not contain a provision that establishes permits, upon retroactive review and confirmation of medical necessity, the imposition of a penalty of more than \$500 for failure to provide notification under a utilization review program. This section does not limit the right of insurers to deny a claim when appropriate prospective or retroactive review concludes that services or treatment rendered were not medically necessary.

Sec. M-5. 24-A MRSA §2771, sub-§1, as amended by PL 1993, c. 602, §4, is further amended to read:

1. Licensure. A person, partnership or corporation, other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or employee of those exempt organizations, that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, 3rd-party administrators, health maintenance organizations, preferred provider organizations or employers shall apply for licensure by the Bureau of Insurance and pay an application fee of not more than \$400 and an annual license fee of not more than \$100; except that programs of review of medical services for occupational claims compensated under Title 39-A are subject only to the certification requirements of that title and are not subject to licensure under this section. A person, partnership or corporation, other than an insurer or nonprofit service organization, health maintenance organization, preferred provider organization or the employees of exempt organizations, may not perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license to perform those activities.

Sec. M-6. 24-A MRSA §2771, sub-§3, ¶A, as amended by PL 1993, c. 171, Pt. B, §1, is further amended to read:

A. The process by which the entity carries out its utilization review services. The information provided to the bureau must include the categories of health care personnel that perform any activities coming under the definition of utilization review and whether or not these individuals are licensed in the State and all medical utilization review criteria employed in the review process by these individuals. Updated medical utilization review criteria must be filed with an application for renewal of a license. The infor-

mation provided to the bureau also must include copies of any licensure agreements the utilization review entity has in effect with any entity that sells or furnishes the utilization review entity with medical utilization review criteria and the expiration date of any such agreements. If the utilization review entity develops its own medical utilization review criteria, the utilization review entity shall include copies of any policies and procedures or both for the use of the criteria;

Sec. M-7. 24-A MRSA §2772, sub-§3-A is enacted to read:

3-A. Medical utilization review criteria. The licensee must have written medical utilization review criteria to be employed in the review process. The criteria must be available for review as a part of any review conducted pursuant to section 2774, subsection 1 and a copy of the criteria must be provided to the bureau upon request.

Sec. M-8. 24-A MRSA §2772, sub-§5, as enacted by PL 1993, c. 645, Pt. B, §4, is amended to read:

5. Penalty for noncompliance with utilization review programs. A medical utilization review program may not recommend or implement a penalty of more than \$500 for failure to provide notification. This subsection does not limit the right of insurers to deny a claim when appropriate prospective or retroactive review concludes that services or treatment rendered were not medically necessary.

Sec. M-9. 24-A MRSA §2847-D, as enacted by PL 1993, c. 645, Pt. B, §5, is amended to read:

§2847-D. Penalty for noncompliance with utilization review programs

A policy or certificate issued or renewed after the effective date of this section April 8, 1994 may not contain a provision that establishes permits, upon retroactive review and confirmation of medical necessity, the imposition of a penalty of more than \$500 for failure to provide notification under a utilization review program. This section does not limit the right of insurers to deny a claim when appropriate prospective or retroactive review concludes that services or treatment rendered were not medically necessary.

PART N

Sec. N-1. 24 MRSA §2319, first ¶, as enacted by PL 1975, c. 770, §101, is amended to read:

All individual and group nonprofit hospital and medical service organization contracts ~~which provide coverage for a family member of the subscriber shall,~~

~~as to such family members' coverage, also must provide that the benefits applicable for children shall be applicable are payable~~ with respect to a newly born child from the moment of birth.

Sec. N-2. 24-A MRSA §2743, first ¶, as enacted by PL 1975, c. 770, §104, is amended to read:

All individual health insurance policies providing coverage on an expense incurred basis ~~which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also must~~ provide that the health insurance benefits ~~applicable for children shall be~~ are payable with respect to a newly born child of the insured or subscriber from the moment of birth.

Sec. N-3. 24-A MRSA §2834, first ¶, as amended by PL 1993, c. 686, §12 and affected by §13, is further amended to read:

All group and blanket health insurance policies providing coverage on an expense incurred basis ~~that provide coverage for a family member of the insured or subscriber must, also must~~ provide that the health insurance benefits ~~applicable for children be~~ are payable for a newly born child of the insured or subscriber from the moment of birth. An adopted child is deemed to be newly born to the adoptive parents from the date of the signed placement agreement. Preexisting conditions of an adopted child may not be excluded from coverage.

PART O

Sec. O-1. 24-A MRSA §4203, sub-§1, as amended by PL 1993, c. 702, Pt. A, §11, is further amended to read:

1. Subject to the Maine Certificate of Need Act of 1978, a person may apply to the superintendent for and obtain a certificate of authority to establish, maintain, own, merge with, organize or operate a health maintenance organization in compliance with this chapter. A person may not establish, maintain, own, merge with, organize or operate a health maintenance organization in this State either directly as a division or a line of business or indirectly through a subsidiary or affiliate, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic consideration in conjunction with, a health maintenance organization without obtaining a certificate of authority under this chapter. ~~A foreign corporation may qualify under this chapter, subject to its registration to do business in this State as a foreign corporation.~~

Sec. O-2. 24-A MRSA §4204, sub-§2-A, ¶I, as enacted by PL 1989, c. 842, §10, is amended to read:

I. If any agreement, as set forth in paragraph D, subparagraph ~~(3)~~ (2), division (c), is made by the health maintenance organization, the entity executing the agreement with the health maintenance organization must demonstrate to the superintendent's satisfaction that the entity has sufficient unencumbered surplus funds to cover the assured payments under the agreement, otherwise the superintendent shall disallow the agreement. In considering approval of such an agreement, the superintendent shall consider the entity's record of earnings for the most recent 3 years, the risk characteristics of its investments and whether its investments and other assets are reasonably liquid and available to make payments for health services.

Sec. O-3. 24-A MRSA §4207, sub-§2, as enacted by PL 1975, c. 503, is amended to read:

2. No evidence of coverage, or amendment thereto, ~~shall or underlying contract may~~ be issued or delivered to any person in this State until a copy of the form of the evidence of coverage, ~~or~~ amendment thereto and any underlying contract, has been filed with and approved by the superintendent.

Sec. O-4. 24-A MRSA §4210, sub-§1, as enacted by PL 1975, c. 503, is amended to read:

1. After a health maintenance organization has been in operation 24 months, it shall have an annual open enrollment period of at least one month during which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment. ~~A-~~ To the extent not inconsistent with the requirements of chapter 36 and sections 2736-C and 2808-B as qualified by section 4222-B, subsection 3, a health maintenance organization may apply to the superintendent for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The superintendent shall approve or deny such the application within 10 days of the receipt thereof of that application from the health maintenance organization.

Sec. O-5. 24-A MRSA §4210-A, as enacted by PL 1989, c. 867, §§9 and 10, is repealed.

Sec. O-6. 24-A MRSA §4212, sub-§2, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

2. An enrollee may not be cancelled nor denied renewal except for the following:

A. Fraud or material misrepresentation;

B. Failure to pay the charge for coverage;

C. When the provisions of the State's community rating law are applicable, as provided by section 2736-C, subsection 3, paragraph B and section 2808-B, subsection 4, paragraph B; or

D. Other reasons promulgated by the superintendent.

Sec. O-7. 24-A MRSA §4222, sub-§4, as enacted by PL 1991, c. 861, §3 and affected by §4, is repealed.

Sec. O-8. 24-A MRSA §4222-B is enacted to read:

§4222-B. Applicability

1. Every health maintenance organization licensed under this chapter is considered an insurer for purposes of those provisions of the insurance laws that do not expressly reference health maintenance organizations, but are applicable to health maintenance organizations under this chapter.

2. The requirements of chapter 36, continuity of health insurance coverage law, apply to health maintenance organizations.

3. The requirements of sections 2736-C and 2808-B, community rating law, apply to health maintenance organizations, except that a health maintenance organization is not required to offer coverage or accept applications from an eligible group or individual located outside the health maintenance organization's approved service area.

4. The requirements of chapter 23 and any rules adopted pursuant to it, to the extent not inconsistent with this chapter and the reasonable implications of this chapter, apply to health maintenance organizations.

5. The requirements of section 222, subsections 2 to 9 and subsections 13 to 18 apply to domestic health maintenance organizations.

6. The requirements of chapter 57, subchapters I and II apply to domestic health maintenance organizations.

7. The requirements of sections 421 and 422 apply to health maintenance organizations.

8. The requirements of chapter 32, the Preferred Provider Arrangement Act of 1986, apply to health maintenance organizations only with respect to activities that are not otherwise authorized by chapter 56.

Sec. O-9. 24-A MRSA §4230, as enacted by PL 1989, c. 345, §2, is repealed.

Sec. O-10. 24-A MRSA §4231, sub-§3, as enacted by PL 1989, c. 842, §18, is repealed.

Sec. O-11. 24-A MRSA §4233, sub-§1, as enacted by PL 1993, c. 313, §36, is repealed.

PART P

Sec. P-1. 24-A MRSA §2671, sub-§1, as enacted by PL 1985, c. 704, §4, is amended to read:

1. "Administrator" means any person, partnership or corporation, other than an insurer, health maintenance organization or nonprofit health service organization, that arranges, contracts with or administers contracts with a provider ~~whereby~~ in which beneficiaries are provided an incentive to use the services of that provider.

PART Q

Sec. Q-1. Bureau of Insurance report required. The Bureau of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on or before January 1, 1996 on the alternatives for clarifying the guaranteed issuance requirement for small group health plans under the Maine Revised Statutes, Title 24-A, section 2808-B. The committee may then report out legislation based on the bureau's report.

See title page for effective date.

CHAPTER 333

S.P. 383 - L.D. 1060

An Act to Correct Errors and Inconsistencies with Regard to the Restructuring of Maine Government to Conform with the Provisions of the Texas Compact

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

Whereas, this legislation corrects inadvertent errors and inconsistencies in legislation previously enacted to streamline the regulatory functions of the State and alter the regulation of radioactive waste in the State; and

Whereas, the changes would be beneficial to the State if made immediately; 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. 22 MRSA §679-B, sub-§2, as enacted by PL 1993, c. 664, §10, is amended to read:

2. Service fee; ceiling. Except for waste that is exempt in accordance with subsection 4, the department shall assess annually by September 1st each low-level radioactive waste generator a service fee on all low-level radioactive waste generated in this State that is shipped to a low-level radioactive waste disposal facility, stored awaiting disposal at such a facility or stored for any other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of \$100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section can not be reassessed for the purposes of this section. The radiation control program within the Division of Health Engineering shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section. The revenue from this service fee each year must amount to ~~\$260,000~~ \$135,000 and must be credited to the fund established in subsection 1 and used to carry out the purposes of this section and of Title 38, section 1453-A. If the Advisory Commission on Radioactive Waste, as established in Title 38, section 1453-A is dissolved, the service fee ceiling must be lowered by the amount of the budget of that commission.

Sec. 2. 22 MRSA §679-B, sub-§5, as enacted by PL 1993, c. 664, §10, is amended to read:

5. Allocation from fund. Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature for the following purposes: to the Radioactive Waste Advisory Commission Fund as established in Title 38, section 1454-A to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A for advisory and public information activities; and to the department for administrative and regulatory activities as described in

this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 679-A, subsection 2. ~~The money received by the department from federal sources may not be counted toward the ceiling established in subsection 2.~~

Sec. 3. 38 MRSA §1453-A, sub-§2, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

2. Membership; appointment. The commission consists of 16 members, appointed as follows:

- A. The commissioner or the commissioner's designee;
- B. The Commissioner of Human Services or the commissioner's designee;
- C. The State Geologist or a designee;
- D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor;
- E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;
- F. Three Senators, appointed by the President of the Senate, 2 belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the 2nd largest number of seats in the Senate;
- G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, 2 belonging to the political party holding the largest number of seats in the House of Representatives and one belonging to the political party holding the 2nd largest number of seats in the House of Representatives; and
- H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives.

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed

by the Speaker of the House of Representatives expire December ~~31st of odd-numbered~~ 31, 1997 and every 2 years ~~thereafter~~. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December ~~31st of even-numbered~~ 31, 1996 and every 2 years ~~thereafter~~. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.

Sec. 4. 38 MRSA §1453-A, sub-§6, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

6. Staff assistance. ~~The department~~ Department of Human Services shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

Sec. 5. 38 MRSA §1454-A, sub-§§1, 2, 4 and 5, as enacted by PL 1993, c. 664, §17, are amended to read:

1. Establishment. There is established the Radioactive Waste Advisory Commission Fund to be used to carry out the purposes of this chapter. Money allocated to the commission ~~and to the Department of Environmental Protection~~ from this fund must be administered by the Commissioner of ~~Environmental Protection~~ Human Services in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to carry out the functions of the Advisory Commission on Radioactive Waste as set forth in section 1453-A.

2. Allocation. Money in the fund established by this section must be allocated from time to time by the Legislature to the ~~department~~ Department of Human Services to fund advisory and public information activities of the commission. These amounts ~~shall~~ become available in accordance with Title 5, chapters 141 to 155.

The commission may receive and expend federal grants and payments for the purpose of carrying out its duties.

4. Financial reports. ~~The commissioner~~ Commissioner of Human Services shall report quarterly to the Advisory Commission on Radioactive

Waste and annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the expenditures from the Radioactive Waste Advisory Commission Fund for the previous fiscal year and on the budget for the coming year. Those reports must include line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for the commission and transfers of funds under subsection 5.

5. Transfer of funds. Notwithstanding Title 5, section 1585, funds allocated under this section may be transferred as necessary to accomplish the purposes of this chapter from the Department of ~~Environmental Protection~~ Human Services to other agencies, including the Department of Environmental Protection, Maine Geological Survey, Maine Land Use Regulation Commission, Division of Health Engineering and the State Planning Office.

Sec. 6. 38 MRSA §§1546 to 1550 are enacted to read:

§1546. Policy and findings

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

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

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

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

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

§1547. Member of commission

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

§1548. Term of commission member

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

§1549. Compensation of commission member

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

§1550. Nondiscrimination in access

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

Sec. 7. Transition. The Department of Environmental Protection shall transfer to the Department of Human Services all personal property, equipment and files, account balances and any other liabilities and obligations consistent with the support of the Radioactive Waste Advisory Commission. The Department of Environmental Protection must be reimbursed or otherwise made whole by the Radioactive Waste Advisory Commission Fund for any costs associated with the transfer of staffing responsibilities, including but not limited to costs associated with the layoff of staff, the termination of leases and the resolution of any other obligations.

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

1995-96 1996-97

ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF

Advisory Commission on
Radioactive Waste

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(\$84,718)	(\$93,265)
All Other	(42,166)	(43,356)

Deallocates funds to reflect the transfer of the staffing responsibility for the Advisory Commission on Radioactive Waste from the Department of Environmental Protection to the Department of Human Services.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
TOTAL**

	(126,884)	(136,621)
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**HUMAN SERVICES,
DEPARTMENT OF**

Health - Bureau of

All Other	10,000	10,000
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Allocates funds to reflect the transfer of the staffing responsibility for the Advisory Commission on Radioactive Waste from the Department of Environmental Protection to the Department of Human Services.

**DEPARTMENT OF HUMAN SERVICES
TOTAL**

	10,000	10,000
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TOTAL ALLOCATIONS	(\$116,884)	(\$126,621)
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 27, 1995.

CHAPTER 334

H.P. 100 - L.D. 135

An Act Relating to Telephone Solicitation

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

Sec. 1. 10 MRSA c. 225 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 225

TELEPHONE SOLICITATION

Sec. 2. 10 MRSA §1499, as amended by PL 1993, c. 589, §1, is repealed and the following enacted in its place:

§1499. Telephone solicitation

1. Prohibition. A person or entity may not initiate a solicitation call to a residential telephone subscriber in this State who has notified that person or entity, pursuant to Federal Communications Commission Regulations, 47 Code of Federal Regulations, Part 64, Section 64.1200, Paragraph e, as in effect on January 1, 1995, of the subscriber's wish not to receive solicitation calls made by or on behalf of that person or entity.

2. Civil action. A person within this State who has received within any 12-month period more than one telephone call in violation of subsection 1 by or on behalf of the same person or entity may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop future calls; or

B. Recovery of actual monetary losses from each violation or up to \$500 in damages for each violation, whichever is greater.

It is an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of subsection 1.

If the court finds that the defendant willfully or knowingly violated subsection 1, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

3. Attorney General action. Whenever the Attorney General has reason to believe that any person within this State has engaged or is engaging in a pattern or practice of telephone calls in violation of subsection 1, the Attorney General may bring a civil action on behalf of consumers for either or both of the following:

A. An injunction to stop future calls; or

B. Recovery of actual monetary losses from each violation or up to \$500 in damages for each violation.

If the court finds the defendant willfully or knowingly violated subsection 1, the court may, in its discretion, increase the amount of the award to an amount equal

to not more than 3 times the amount available under paragraph B.

Sec. 3. 35-A MRSA §7103, as amended by PL 1993, c. 589, §12, is repealed.

See title page for effective date.

CHAPTER 335

S.P. 264 - L.D. 704

An Act to Provide Limited Immunity to Former Employers Who Provide References

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

Sec. 1. 26 MRSA §598 is enacted to read:

§598. Employment reference immunity

An employer who discloses information about a former employee's job performance or work record to a prospective employer is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences. Clear and convincing evidence of lack of good faith means evidence that clearly shows the knowing disclosure, with malicious intent, of false or deliberately misleading information. This section is supplemental to and not in derogation of any claims available to the former employee that exist under state law and any protections that are already afforded employers under state law.

See title page for effective date.

CHAPTER 336

H.P. 1044 - L.D. 1463

An Act to Prevent Master Electrician License Fee Payment Duplication

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

Sec. 1. 32 MRSA §1101, sub-§6, as amended by PL 1987, c. 735, §46, is further amended to read:

6. Master electrician. "Master electrician" ~~shall mean a person, firm or corporation,~~ means an individual qualified under this chapter, engaging in, or about to engage in, the business of installing electrical wires, conduits, apparatus, fixtures and other electrical

equipment. The certificate ~~shall~~ must specify the name of the ~~person, individual~~ who, ~~in case of a firm, shall be one of its members or employees and in case of a corporation, one of its officers or employees passing said examination, by which he or it shall be~~ is authorized to enter upon or engage in business as set forth in this chapter. ~~In the case of a firm or corporation, the license shall become void upon the death of, or the severance from the company of, said person.~~

See title page for effective date.

CHAPTER 337

H.P. 1063 - L.D. 1498

An Act to Increase Access to Primary Care Physician Services in Maine

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

Sec. 1. 32 MRSA §2577 is enacted to read:

§2577. Joint program interns

An applicant who is enrolled in a program of medical and graduate medical training conducted jointly by a college or university having the power to grant a D.O. degree and accredited by the American Osteopathic Association and a graduate medical education program approved by the American Osteopathic Association may receive a temporary educational certificate from the board to act as a hospital intern as part of that graduate medical education program as long as the applicant is concurrently enrolled in the final year of medical training and initial year of graduate medical education. The board may not issue a certificate pursuant to this section for a period longer than that required to obtain the D.O. degree. The period during which the certificate is in force may not be considered as satisfaction of the requirement for postgraduate medical education under section 2571.

Sec. 2. 32 MRSA §3279, sub-§2-A is enacted to read:

2-A. Joint-program resident. An applicant who is enrolled in a program of medical and graduate medical training conducted jointly by a medical school accredited by the Liaison Committee on Medical Education and a graduate medical education program approved by the Accreditation Council on Graduate Medical Education may receive a temporary educational certificate from the board to act as a hospital resident as part of that graduate medical education program if the applicant is concurrently enrolled in the final year of medical training and the initial year of graduate medical education. The board may not issue

a certificate pursuant to this subsection for a period longer than that required to obtain the M.D. degree. The period during which the certificate is in force may not be considered in determining satisfaction of the requirement for postgraduate medical education under section 3271, subsection 2.

See title page for effective date.

CHAPTER 338

S.P. 433 - L.D. 1201

An Act to Provide for Public Health Standards in Public Schools Similar to Standards Required in Private Industry

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

Sec. 1. 20-A MRSA §258-B is enacted to read:

§258-B. Air quality testing

1. Petition percentage. A request for an inspection of schools to test air quality is subject to the criteria established in section 258-A, except that a petition by 50% of the parents of the children of one school is sufficient to initiate an inspection by the commissioner.

2. Notify citizens. The commissioner shall direct superintendents to notify any citizen who requests an inspection of school facilities of the petition process for requesting such an inspection under this section and section 258-A.

See title page for effective date.

CHAPTER 339

H.P. 637 - L.D. 860

An Act to Ensure the Integrity of the Maine Turnpike Electronic Toll System

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

Sec. 1. 23 MRSA §1964, sub-§5-B is enacted to read:

5-B. Law enforcement officer. "Law enforcement officer" means a person who by virtue of public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether

that duty extends to all crimes or is limited to specific crimes.

Sec. 2. 23 MRSA §1980, sub-§2-B, ¶B, as enacted by PL 1993, c. 698, §2, is amended to read:

B. Notwithstanding any other provision of law, a photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. This material is confidential and is not available to the public. The authority shall make this information available to a law enforcement officer upon request. The material is not available to the public and, except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph H, F or to prosecute a criminal offense, this material may not be used in a court in an action or proceeding.

Sec. 3. 23 MRSA §1982 is enacted to read:

§1982. Confidentiality of authority records

A log or record identifying the name, address or travel patterns of a patron of the turnpike, whether prepared for enforcement of authority tolls or other purposes of the authority, is for the exclusive use of the authority in the discharge of its duties under this chapter. This material is confidential and is not available to the public except that a law enforcement officer or a representative of an insurance company making a request for specific records in the course of conducting the officer's or representative's business may have access to this material to the extent and in the manner access to such material is afforded under Title 1, chapter 13, subchapter I. The authority may release accident and other incident reports to affected parties and may release information specific to a commuter pass account or commercial billing account to the holder of that account.

See title page for effective date.

CHAPTER 340

S.P. 259 - L.D. 695

An Act to Authorize Municipalities to Pay Employees Biweekly

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

Sec. 1. 26 MRSA §621, sub-§1, as enacted by PL 1983, c. 778, is amended to read:

1. Certain employers; payment schedule.

Every corporation, person or partnership engaged in a manufacturing, mechanical, mining, quarrying, mercantile, restaurant, hotel, summer camp, beauty parlor, amusement, telegraph or telephone business; in any of the building trades; in logging or lumbering operation; upon public works; or in the construction or repair of roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in ~~his or~~ its business the wages earned by the employee to within 8 days of the date of that payment; every county ~~and city~~ shall so pay every employee who is engaged in its business the wages or salary earned by ~~him~~ that employee, unless the employee requests in writing to be paid in a different manner. ~~Every town shall so pay each employee in its business if so required by the employee.~~ Municipalities shall pay their employees at least once every 2 weeks unless the employee agrees to be paid under a less frequent pay schedule. An employee who is absent from ~~his~~ that employee's regular place of employment at a time fixed for payment ~~shall~~ must be paid ~~thereafter~~ on demand.

See title page for effective date.

CHAPTER 341
S.P. 489 - L.D. 1323**An Act to Widen the Maine Turnpike**

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

Sec. 1. 23 MRSA §1965, sub-§1, ¶D, as amended by PL 1993, c. 410, Pt. MM, §4, is further amended to read:

D. Construct, maintain, reconstruct and operate a toll turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, except that the traveled way may not be widened or expanded beyond 3 lanes for each direction of travel from Exit 1 to, and including, Exit 6A and beyond 2 lanes for each direction of travel elsewhere on the turnpike without the express approval of the Legislature.

~~A- Except as provided in section 1965-A, a license, permit, or approval necessary for the widening or expansion of the turnpike may not be issued by any state agency unless that agency makes an affirmative finding that the widening or expansion is consistent with state transporta-~~

tion policy as well as rules implementing that policy;

Sec. 2. 23 MRSA §1965-A is enacted to read:

§1965-A. Widening of the turnpike between Exit 1 and Exit 6-A

1. Evaluation of reasonable alternatives. No later than December 15, 1996, the authority shall complete an evaluation of the reasonable alternatives specified in this subsection to widening the turnpike to 3 lanes for each direction of travel from Exit 1 to, and including, Exit 6A. To evaluate reasonable alternatives, the authority shall:

A. Convert the turnpike toll collection system to an automated electronic system designed to move traffic more efficiently through toll plazas;

B. Complete an alternative mode feasibility study that examines regional travel patterns and demographics and provides an inventory of existing transportation infrastructure and employer-based commuter programs in the study area;

C. Develop and implement a rideshare program to promote vanpooling and carpooling, including funding and completion of a park and ride facility at Exit 2; and

D. Complete a 2-year study of the effects of congestion pricing on the turnpike and travel needs of the southern part of the State.

In conducting the evaluation required by this subsection, the authority shall provide for public participation consistent with the Sensible Transportation Policy Act and the rules adopted pursuant to that Act.

Completion of the evaluation components specified in paragraphs A to D satisfies the alternative evaluation requirements of the Sensible Transportation Policy Act and of the rules adopted pursuant to that Act.

2. Review of alternatives. Upon completing the evaluation required under subsection 1, the authority shall review the alternatives to determine if the alternatives can meet the identified transportation deficiency or need in a safe manner at a reasonable cost with available technology. If, based on the evaluation, the authority finds that the alternatives do not meet the identified deficiency or need:

A. A final license, permit, or approval necessary for the widening or expansion of the turnpike may be issued by the appropriate state agency; and

B. The alternative evaluation and preference requirements of section 73 and rules adopted pursuant to section 73 are considered satisfied.

Sec. 3. Maine Turnpike Authority to submit report and legislation. On or before January 15, 1996, the Maine Turnpike Authority shall submit a preliminary report on the evaluation of alternatives to widening the Maine Turnpike that is being conducted in accordance with the Maine Revised Statutes, Title 23, section 1965-A to the Joint Standing Committee on Transportation. The preliminary report must include a progress report on each of the evaluation components and preliminary findings. On or before January 15, 1996, the Maine Turnpike Authority may submit legislation to authorize the issuance of revenue bonds to pay the cost or a portion of the cost of widening the turnpike to the Second Regular Session of the 117th Legislature.

See title page for effective date.

CHAPTER 342

H.P. 321 - L.D. 442

An Act to Exclude Short-term Health Insurance Policies in the Continuity Laws

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

Sec. 1. 24 MRSA §2349, sub-§1, as amended by PL 1993, c. 547, §2, is further amended to read:

1. Contracts subject to this section. This section applies to all individual and group contracts issued by nonprofit hospital or medical service organizations, except long-term care policies as defined in Title 24-A, section 5051, and short-term contracts. For purposes of this section, a short-term contract is an individual, nonrenewable contract issued for a term that does not exceed 12 months.

Sec. 2. 24 MRSA §2349, sub-§2, ¶A, as amended by PL 1993, c. 666, Pt. D, §2, is further amended to read:

A. That person was covered under an individual or group contract or policy, except for a short-term contract, issued by any insurer, health maintenance organization, nonprofit hospital or medical service organization, or was covered under an uninsured employee benefit plan that provides payment for health services received by employees and their dependents or a governmental program such as Medicaid, the Maine Health Program, as established in Title 22, section 3189,

the Maine High-Risk Insurance Organization, as established in Title 24-A, section 6052, and the Civilian Health and Medical Program of the Uniformed Services, 10 United States Code, Section 1072, Subsection 4. For purposes of this section, the individual or group contract under which the person is seeking coverage is the "succeeding contract." The group or individual contract or policy or the uninsured employee benefit plan that previously covered the person is the "prior contract or policy"; and

Sec. 3. 24 MRSA §2349, sub-§8 is enacted to read:

8. Short-term insurance. A person eligible for continuity of coverage under subsection 2 may be allowed to purchase coverage under an individual, nonrenewable short-term policy. The issuance of a short-term policy is subject to the following conditions.

A. Upon offering an individual short-term policy for purchase, an insurer or the insurer's agent or broker must provide written disclosure of the terms and benefits of the policy. Specific disclosure that the short-term policy is not subject to any limitation on preexisting condition exclusions or the provisions of guaranteed renewal and continuity of coverage is required.

B. An insurer or the insurer's agent or broker may not issue a short-term policy that replaces a prior short-term policy if the combined term of the new policy and all prior successive policies exceed 12 months. All individuals making an application for coverage under a short-term policy must disclose any prior coverage under a short-term policy and the policy duration.

Sec. 4. 24-A MRSA §2736-C, sub-§3, ¶B, as amended by PL 1993, c. 645, Pt. A, §3, is further amended to read:

B. Renewal must be guaranteed to all individuals except:

- (1) For nonpayment of the required premiums by the policyholder or contract holder;
- (2) For fraud or material misrepresentation by the policyholder or contract holder;
- (3) For fraud or material misrepresentation on the part of the individual or the individual's representative;
- (4) When the carrier ceases providing individual health plans in compliance with subsection 4; ~~or~~

(5) When the carrier ceases offering a product and replaces it with a product that complies with the requirements of this section, including renewability, and the superintendent finds that replacement is in the best interest of the policyholders; or

(6) A short-term, nonrenewable policy may be issued for a term not exceeding 12 months. A short-term policy may not be issued to replace a prior short-term policy if the combined term of the new policy and all prior successive short-term policies would exceed 12 months.

Sec. 5. 24-A MRSA §2736-C, sub-§7, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

7. Applicability. This section applies to all policies, plans, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after December 1, 1993 with the exception of short-term contracts, as defined in section 2349, subsection 1. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 6. 24-A MRSA §2849-B, sub-§1, as amended by PL 1993, c. 477, Pt. A, §8 and affected by Pt. F, §1, is further amended to read:

1. Policies subject to this section. This section applies to all individual and group medical insurance policies except hospital indemnity, specified accident, specified disease, long-term care and, Medicare supplement and short-term policies issued by insurers or health maintenance organizations. For purposes of this section, a short-term policy is an individual, nonrenewable policy issued for a term that does not exceed 12 months.

Sec. 7. 24-A MRSA §2849-B, sub-§2, ¶A, as amended by PL 1993, c. 666, Pt. D, §4, is further amended to read:

A. That person was covered under an individual or group contract or policy, except for a short-term contract, issued by any nonprofit hospital or medical service organization, insurer, health maintenance organization, or was covered under an uninsured employee benefit plan that provides payment for health services received by employees and their dependents or a governmental program such as Medicaid, the Maine Health Program, as established in Title 22, section 3189, the Maine High-Risk Insurance Organization, as established in section 6052 or the Civilian Health and Medical Program of the Uniformed Services, 10 United States Code, Section 1072, Subsection 4. For purposes of this section, the individual or

group policy under which the person is seeking coverage is the "succeeding policy." The group or individual contract or policy or the uninsured employee benefit plan that previously covered the person is the "prior contract or policy";

Sec. 8. 24-A MRSA §2849-B, sub-§8 is enacted to read:

8. Short-term insurance. A person eligible for continuity of coverage under subsection 2 may be allowed to purchase coverage under an individual, nonrenewable short-term policy. The issuance of a short-term policy is subject to the following conditions.

A. Upon offering an individual short-term policy for purchase, an insurer or the insurer's agent or broker must provide written disclosure of the terms and benefits of the policy. Specific disclosure that the short-term policy is not subject to any limitation on preexisting condition exclusions or the provisions of guaranteed renewal and continuity of coverage is required.

B. An insurer or the insurer's agent or broker may not issue a short-term policy that replaces a prior short-term policy if the combined term of the new policy and all prior successive policies exceed 12 months. All individuals making an application for coverage under a short-term policy must disclose any prior coverage under a short-term policy and the policy duration.

See title page for effective date.

CHAPTER 343

H.P. 489 - L.D. 670

An Act to Extend the Medical Liability Demonstration Project Deadline by 3 Years

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

Sec. 1. 24 MRSA §2975, sub-§4, as enacted by PL 1989, c. 931, §4, is amended to read:

4. Application. This section applies to causes of action accruing between January 1, 1992 and December 31, ~~1996~~ 1999.

Sec. 2. 24 MRSA §2977, as enacted by PL 1989, c. 931, §4, is amended to read:

§2977. Evidence; inadmissibility

Unless independently developed from a source other than the demonstration project, the practice

parameters and risk management protocols are not admissible in evidence in a lawsuit against any physician who is not a participant in the demonstration project or against any physician participating in the project who is defending against a cause of action accruing before January 1, 1992 or after December 31, ~~1996~~ 1999.

Sec. 3. 24 MRSA §2978, sub-§1, ¶C, as amended by PL 1993, c. 189, §1, is further amended to read:

C. A report of each claim made against any physician practicing in a medical specialty area described in section 2972, alleging malpractice as a result of incidents occurring on or after January 1, 1992 and before January 1, ~~1997~~ 2000, that includes, but is not limited to, the name of the insured, policy number, classification of risk, medical specialty, date of claim and the results of each claim, including defense costs and indemnity payments as a result of settlement or verdict, any awards or amounts paid in excess of policy limits and any finding, if made, of whether the physician's practice was consistent with the parameters and protocols developed and adopted under section 2973. These reports must be provided not less than semiannually according to a schedule established by the Bureau of Insurance; except that reports on open claims must be made not later than June 1, ~~1997~~ 2000. At the discretion of the Bureau of Insurance, reports must be provided until all claims are closed; and

Sec. 4. 24 MRSA §2978, sub-§2, as amended by PL 1993, c. 600, Pt. B, §21, is further amended to read:

2. Reports by Bureau of Insurance and Board of Licensure in Medicine. The Bureau of Insurance and the Board of Licensure in Medicine shall report the results of the project to the Governor and to the joint standing committees of the Legislature having jurisdiction over insurance and judiciary matters and to the Office of the Executive Director of the Legislative Council ~~by December 1, 1997~~. An interim report is due by December 1, 1997. The final report is due by December 1, 2000. The ~~report~~ reports must include the following.

A. The Bureau of Insurance shall report:

- (1) The number of claims brought against physicians in the project alleging malpractice as a result of incidents occurring on or after January 1, 1992;
- (2) The results of any closed claims described in this section, including defense costs and indemnity payments as a result of settlement or verdict;

(3) The status of all open claims described in this section, including defense costs, indemnity payments and any amounts held in reserve in the aggregate by medical specialty area as established under the medical specialty advisory committees' rule-making authority as set forth in section 2972. The bureau may identify data on claims arising from procedures covered by the protocols and those not covered and for claims arising out of services rendered by physicians participating in the project and those not participating. The bureau may comment on the statistical validity and variability of the data except that the superintendent may not report in such a way as to allow the identification of an individual claim reserve; and

(4) The effect of the project on the medical liability claims experience and premiums of those physicians in the project.

B. The Board of Licensure in Medicine shall quantify and report on any identifiable impact of the project on the cost of the practice of defensive medicine.

(1) The Board of Licensure in Medicine shall establish an economic advisory committee to establish the methodology for evaluating the effect of the project on the cost, utilization and the practice of defensive medicine. The economic advisory committee shall report the methodology developed to the Board of Licensure in Medicine by January 1, 1992.

See title page for effective date.

CHAPTER 344

H.P. 645 - L.D. 868

An Act to Amend the Substance Abuse Testing Law

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

Sec. 1. 26 MRSA §685, sub-§2, ¶C, as amended by PL 1989, c. 832, §13, is further amended by amending subparagraph (1), divisions (a) and (b):

(a) Except to the extent that costs are covered by a group health insurance plan, the costs of the public or private rehabilitation program ~~shall~~ must be equally divided between the employer and employee if the employer has more than 20 full-time employees.

This requirement does not apply to municipalities or other political subdivisions of the State or to any employer when the employee is tested because of the alcohol and controlled substance testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V. If necessary, the employer shall assist in financing the cost share of the employee through a payroll deduction plan.

(b) Except to the extent that costs are covered by a group health insurance plan, an employer with 20 or fewer full-time employees, a municipality or other political subdivision of the State is not required to pay for any costs of rehabilitation or treatment under any public or private rehabilitation program. An employer is not required to pay for the costs of rehabilitation if the employee was tested because of the alcohol and controlled substance testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V.

See title page for effective date.

CHAPTER 345

H.P. 890 - L.D. 1243

An Act to Reestablish the Great Pond Task Force

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

Sec. 1. 5 MRSA §3305, sub-§1, ¶H, as amended by PL 1991, c. 780, Pt. DDD, §21, is further amended to read:

H. Compile, analyze and maintain information useful to the development of industry in the State concerning resources, sites, space, equipment, adequate housing, contracts, materials, transportation, markets, labor supply, population trends and other economic considerations and shall measure and monitor economic distress and poverty in the State on an ~~on-going~~ ongoing basis. The State Planning Office, in conjunction with the Department of Economic and Community Development, shall study problems peculiar to the industry and economy of this State with a view toward the broader utilization of our natural

resources, which studies ~~shall~~ must be advanced by coordination of research with existing private and governmental agencies and educational institutions, and may be advanced by contractual relations with persons or organizations equipped to conduct the needed research. The State Planning Office shall, upon request from the Governor or any state department, assist in the preparation of reports regarding the responsibilities and duties provided by this subsection, including regular analysis of poverty and economic distress. The State Planning Office shall coordinate its activities pursuant to this paragraph with the Bureau of Child and Family Services to meet the annual reporting needs of the bureau; ~~and~~

Sec. 2. 5 MRSA §3305, sub-§1, ¶K, as enacted by PL 1989, c. 501, Pt. DD, §12, is further amended to read:

K. Coordinate the development of energy policy, including:

(1) Collecting and analyzing energy data from all available energy sources in the State. The director shall afford confidential treatment to information, documents and data dealing with sales of individual companies that are engaged in the wholesale and retail trade of petroleum products in the State, upon request of the individual companies;

(2) Preparation of an energy resources plan to be submitted to the Governor and the Legislature every 2 years that includes a description of historical energy demand by end-use sector and energy resources used to meet that demand and a forecast of energy demand by end-use sector for the next 5 years, 10 years and 20 years, which shall include an electric and gas forecast;

(3) Encouragement and direction or sponsorship of research, experiments and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources that rely on renewable natural resources of the State, such as solar energy, water of tides and rivers, forests, winds and other sources ~~which that~~ to date have not been fully explored or utilized; and

(4) Provision of conservation alternatives to proposed new electric power generating plants and assessment of the long-term and short-term energy savings realized by the conservation alternatives; ~~and~~

Sec. 3. 5 MRSA §3305, sub-§1, ¶L is enacted to read:

L. Review and update the great ponds management strategy developed by the Great Pond Task Force pursuant to Title 38, section 1843-A at least every 5 years, based on the goals and principles set forth in the original strategy report.

Sec. 4. 5 MRSA §12004-I, sub-§22-C is enacted to read:

22-C.	<u>Great Pond</u>	<u>Expenses</u>	<u>38 MRSA</u>
<u>Environment</u>	<u>Task Force</u>	<u>Only</u>	<u>§1842-A</u>

This subsection is repealed December 31, 1998.

Sec. 5. 38 MRSA §1842-A is enacted to read:

§1842-A. Great Pond Task Force

There is established, pursuant to Title 5, section 12004-I, subsection 22-C, the Great Pond Task Force, referred to in this chapter as the "task force," to develop a strategy to coordinate the State's great pond protection efforts in a manner that incorporates a watershed and ecosystem management approach and to assist in implementation of the strategy.

1. Composition. The task force is composed of the State Planning Director, or the director's designee, who serves as chair; the Commissioner of Conservation, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Agriculture, Food and Rural Resources, the Commissioner of Inland Fisheries and Wildlife, and the Commissioner of Economic and Community Development, or the commissioners' designees; the Director of the Division of Health Engineering within the Department of Human Services or the director's designee; the Director of the Natural Resources Center at the University of Maine or the director's designee; a nominee of the Maine Municipal Association appointed by the Governor; a nominee of the Sportsman's Alliance of Maine appointed by the Governor; a nominee of the Maine Forest Products Council appointed by the Governor; and not less than 4 nor more than 10 public members appointed by the Governor representing environmental concerns, recreational concerns, the concerns of landowners, the interests of water utilities and the concerns of other interested parties.

2. Terms. Members are appointed for the duration of the task force authorization.

3. Duties. The task force shall:

A. In developing the management strategy as directed under section 1843-A, solicit input from

the public, municipal officers and interested organizations;

B. Identify new major public policy issues associated with the use, conservation and management of the State's great ponds;

C. Develop guidelines for state rules governing surface uses of great ponds that avoid or minimize conflicts between user groups;

D. Develop a great pond classification system according to the intensity of development and use of the great pond, consistent with the classification system used by the Maine Land Use Regulation Commission;

E. Develop an implementation strategy for public access and land acquisition on great ponds;

F. Develop a plan for strengthening enforcement for violations occurring on and around great ponds through training, equipping and funding municipal enforcement. This plan must include a review of appropriate funding mechanisms, including dedicated funds, and recommendations for streamlining the enforcement process for violations occurring on and around great ponds;

G. Recommend a mechanism for educating the public about water quality, surface use and land use planning;

H. Subject to available funding, develop a plan for phasing out substandard wastewater disposal systems around great ponds pursuant to this chapter;

I. Recommend a mechanism for coordinating great pond issues that involve roles of multiple agencies within state government and between state and local governments; and

J. Determine the economic benefits of great ponds to the State's inland economy.

4. Staff; expenses. The State Planning Office shall provide funding and staff assistance to the task force. Members of the task force are entitled to reimbursement for expenses, as provided in Title 5, section 12004-I.

5. Repeal. This section is repealed December 31, 1998.

Sec. 6. 38 MRSA §1843-A is enacted to read:

§1843-A. Great ponds management strategy

The task force shall develop a state great ponds management strategy in keeping with the goals of section 1841 by January 1, 1997.

1. Goals. The strategy must include a statement of goals for great ponds that includes, but is not limited to:

A. Maintaining water quality in the State's great ponds or, where water quality is already degraded, restoring it so that algal blooms do not occur;

B. Ensuring that water quality is protected from long-term and cumulative increases in pollution;

C. Maintaining the ecological functions, biological diversity and important habitat of the natural ecosystem;

D. Avoiding the increase of natural hazards such as flooding;

E. Protecting the quality of drinking water;

F. Maintaining the traditional use and character of great ponds and their environs; and

G. Ensuring that the public has reasonable access to all great ponds.

2. Prevention efforts. In allocating state resources for great ponds management, the strategy must give priority to preventing the deterioration of water quality over restoration efforts.

3. Research. The strategy must include a research plan to determine significant existing or potential threats to water quality and other special values.

4. Report. The task force shall submit the strategy to the Governor and the Legislature by January 1, 1997.

5. Repeal. This section is repealed December 31, 1998.

See title page for effective date.

CHAPTER 346

H.P. 178 - L.D. 226

An Act to Strengthen the Laws Pertaining to Poaching

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

Sec. 1. 12 MRSA §7035, sub-§7, as enacted by PL 1979, c. 420, §1, is amended to read:

7. Sale of arms and ammunition. The commissioner may sell all ~~arms and ammunition~~ property

held or confiscated by the State for violation of laws relating to the protection of inland fisheries and wildlife. ~~He~~ The commissioner shall transmit all moneys money received by the sales forthwith to the Treasurer of State to be credited to the department.

Sec. 2. 12 MRSA §7035, sub-§15 is enacted to read:

15. Possession and disposal of fish and wildlife. The commissioner may take possession of sick, injured or dead fish and wildlife that is not the property of another person. For any fish and wildlife possessed by the commissioner under this section, the commissioner may:

A. For sick or injured fish and wildlife, destroy that fish or wildlife when necessary in a manner consistent with the provisions of Title 17, section 1043; and

B. For dead fish or wildlife, dispose of that fish or wildlife in any manner considered appropriate by the commissioner.

This subsection does not apply to fish or wildlife seized by the commissioner under section 7907.

Sec. 3. 12 MRSA §7071, sub-§6, as enacted by PL 1979, c. 543, §4, is repealed.

Sec. 4. 12 MRSA §7077, sub-§1, as amended by PL 1987, c. 317, §3, is repealed and the following enacted in its place:

1. Conviction of violation. Any conviction for a violation of chapters 701 to 721 is grounds for suspension of any license or permit issued under this Part. Except where provided by law, the commissioner shall determine the suspension period. To suspend a license or permit based upon a conviction, the commissioner shall follow the procedures under section 7077-B. Suspensions and revocations of a license by the Administrative Court are subject to the provisions of section 7101, subsection 8.

Sec. 5. 12 MRSA §7077, sub-§1-A, as enacted by PL 1993, c. 136, §1, is amended by repealing the first paragraph and enacting the following in its place:

1-A. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of a violation of one of the following:

Sec. 6. 12 MRSA §7077, sub-§1-B, as enacted by PL 1993, c. 136, §1, is amended by repealing the first paragraph and enacting the following in its place:

1-B. Mandatory fishing license revocation for certain violations. The commissioner shall suspend a person's fishing license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of a violation of one of the following:

Sec. 7. 12 MRSA §7077, sub-§1-B, ¶B, as enacted by PL 1993, c. 136, §1, is amended to read:

B. Taking or possessing sport fish in violation of bag, weight and size limits in violation of section 7604, as it relates to trout, salmon, togue and black bass, whenever the violation involves twice the ~~general~~ bag and possession limit adopted by rule by the commissioner for that species of fish in that body of water;

Sec. 8. 12 MRSA §7077, sub-§2, as amended by PL 1987, c. 317, §4, is repealed.

Sec. 9. 12 MRSA §7077, sub-§§3, 5 and 6, as enacted by PL 1979, c. 420, §1, are repealed.

Sec. 10. 12 MRSA §7077, sub-§7, as enacted by PL 1983, c. 329, §2, is repealed.

Sec. 11. 12 MRSA §7077-A, as enacted by PL 1993, c. 141, §1, is amended to read:

§7077-A. Mandatory license revocation for certain violations

1. Shooting domestic animals. Notwithstanding any other provision of this Part, a person convicted of shooting a domestic animal in violation of section 7406, subsection 14 is not eligible to obtain a license to hunt in this State for a period of at least 5 years from the date of conviction.

2. Offenses against a person. Notwithstanding any other provision of this Part, a person convicted of a violation of Title 17-A, chapter 9, if the offense occurred in the context of a hunting activity and if, through failure of the hunter to make proper target identification, the offense resulted in the injury or death of another person, is not eligible to obtain a license to hunt in this State for a period of at least 10 years from the date of the conviction.

~~3. Notice and hearing.~~ ~~The commissioner shall give notice to any person whose license has been revoked pursuant to this section as provided by section 7077, subsection 7.~~

~~A. Any person whose licenses have been revoked under this section may, within 30 days of the effective date of the revocation, petition for a hearing before the commissioner to show cause why the licenses should not have been revoked.~~

~~B. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of subsection 1 or 2 do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of subsection 1 or 2 apply, the revocation remains in effect. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.~~

4. Conviction of violation of Title 17-A while hunting or fishing. If a person holding a license or permit under this chapter is convicted of the violation of any provision of Title 17-A while on a hunting or fishing trip or in the pursuit of wild animals, wild birds or fish, the commissioner may revoke the license or permit held by that person for a period not to exceed 5 years, except when the killing or wounding of a human being has occurred, in which case the commissioner may revoke the license or permit for not less than 5 years.

5. Persons convicted of disturbing traps. A person convicted of a violation of section 7432, subsection 7 is not eligible to obtain any license issued by the department for 3 years from the date of conviction in the case of a first offense and 5 years from the date of conviction in the case of a 2nd or subsequent offense. Any license in effect at the time of conviction is revoked upon conviction and must be immediately surrendered to the commissioner.

~~A hunting license held by a person whose license eligibility is restricted in accordance with subsection 1 or 2 is considered revoked on the date of conviction and must be surrendered to the commissioner.~~

A person whose privilege to hold a hunting license has been revoked under this section becomes eligible to obtain a hunting license at the end of the period of ineligibility described in ~~subsection 1 or 2~~ this section only upon successful completion of a firearms training program established under section 7035, subsection 10 or some other ethics program established by the commissioner.

Sec. 12. 12 MRSA §§7077-B, 7077-C and 7077-D are enacted to read:

§7077-B. Effective date for suspensions

1. For mandatory suspensions. For violations having a minimum statutory suspension period, a suspension is effective upon conviction and the license holder must surrender the license immediately to the commissioner. That person is not entitled to a hearing under section 7077-D if the suspension period does not exceed the minimum period of suspension required by law.

2. For all other suspensions. For violations that do not have a minimum statutory suspension period, a suspension is effective upon written notification of suspension by the commissioner. That person must surrender that license to the commissioner upon receipt of a notice of suspension and is entitled to a hearing under section 7077-D.

The commissioner may require a person whose license is suspended for a violation of section 7077 or 7077-A to complete a course on hunting ethics prior to reinstatement of any suspended license.

§7077-C. Notice of suspension

A decision by the commissioner to suspend a license of a person convicted of a violation that does not carry a mandatory suspension must be made within 60 days after that conviction. The commissioner shall give written notice of all suspensions immediately following a decision to suspend. A notice of suspension must state the license or permit that is suspended and the effective date and length of the suspension and must inform the person of any applicable hearing provisions under section 7077-D.

§7077-D. Hearings

A person receiving a notice of suspension under section 7077-C may request a hearing on that suspension. A request for a hearing must be in writing and must be made not later than 30 days after receipt of the suspension notice required under section 7077-B. The commissioner shall notify the person of the date and location of the hearing.

1. Evidence. A person may present evidence at a hearing concerning the violation that might justify reinstatement of the license or permit or the reduction of the suspension period. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.

2. Decisions. Decisions of the commissioner must be in writing. Except as provided in subsection 3, the commissioner may reinstate the license or permit or reduce the suspension period if the commissioner finds that the person has not been convicted or that reinstatement of the license or permit or reduction of the suspension period would be in the best interests of justice.

3. Mandatory suspension period not waived. The commissioner may not waive or reduce any mandatory minimum suspension period established in statute.

Sec. 13. 12 MRSA §7101, sub-§8, as amended by PL 1979, c. 618, is further amended to read:

8. Suspension and revocation.

A. The commissioner may bring a complaint in the Administrative Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person who ~~he the commissioner~~ reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting. The Administrative Court shall revoke or suspend the person's license or privilege for a period ~~not to exceed~~ of at least 5 years if it finds that the person, while hunting, has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of ~~his~~ that license or privilege. For the purpose of this paragraph, "recklessly" has the same meaning as that set out in Title 17-A, section 10, subsection 3.

B. Any person described in paragraph A whose hunting license has been revoked or suspended, or whose right to hunt or the right to obtain a hunting license ~~for a period not to exceed 5 years~~ has been denied, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of ~~his the person's~~ privilege to procure such a license.

C. The commissioner, after hearing, may restore the petitioner's privilege if ~~he the commissioner~~ determines that the public safety will not be endangered by it.

D. If the commissioner disallows the petition and thereby refuses to grant the restoration of ~~his the~~ privilege, the petitioner may appeal to the commissioner's advisory council which, after hearing on the petition, may allow it and restore the privilege.

Sec. 14. 12 MRSA §7235-A, sub-§7, as enacted by PL 1993, c. 438, §11, is amended to read:

7. Permit revocation for failure to report. The commissioner may revoke any permit issued under this section if the permit holder fails to meet the reporting requirements of subsections 5 and 6. The commissioner shall notify the permit holder of the revocation in accordance with ~~section 7077, subsection 7~~ section 7077-C. A person whose permit has been revoked under this section may request a hearing before the commissioner. If, after hearing, the commissioner finds that the person met the reporting requirements of subsections 5 and 6, the revocation is rescinded. If the commissioner finds that the person did not meet the reporting requirements, the revocation remains in effect.

Sec. 15. 12 MRSA §7315, sub-§1-A, as enacted by PL 1993, c. 258, §1, is amended to read:

1-A. Mandatory revocation. The commissioner shall revoke for a period of 3 years the guide's license of a guide who is convicted of violating a provision of this Part punishable by a mandatory fine of not less than \$1,000 and at least 3 days in jail. The commissioner shall provide notice of revocation as provided in section 7077, subsection 7 section 7077-C. A person whose license has been revoked under this subsection may, within 30 days of the effective date of the revocation, petition the commissioner for a hearing to show cause why the license should not have been revoked. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of this subsection do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of this subsection apply, the revocation remains in effect.

Sec. 16. 12 MRSA §7907, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

§7907. Seizure of fish, wildlife and equipment

1. Seizure; filing libel. All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of chapters 701 to 721, and all equipment, including firearms, possessed or used in violation of chapters 701 to 721 are contraband and subject to seizure by any officer authorized to enforce chapters 701 to 721. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 7909.

2. Exemption from libel proceedings. The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

A. Unless reasonable doubt exists as to ownership, property having a value less than \$10;

B. Any firearm seized in connection with a violation of:

(1) Section 7406, subsection 5;

(2) Section 7077, subsection 1-A; or

(3) Section 7077-A;

C. Any fishing equipment that is contraband under this section and is seized in connection with a violation of section 7077, subsection 1-B; and

D. Any fish or wildlife that is contraband under this section and is seized in connection with any violation of chapters 701 to 721.

Property seized by the commissioner that is exempt from libel under this subsection must be retained by the commissioner pending disposition of criminal proceedings and is forfeited to the State upon conviction.

Property forfeited to the State under this section may be disposed of by the commissioner in any manner considered appropriate by the commissioner.

Sec. 17. Application. This Act does not apply to violations that occurred prior to the effective date of this Act.

See title page for effective date.

CHAPTER 347

S.P. 347 - L.D. 952

**An Act to Ensure Consistency
Between State and Federal
Environmental Requirements**

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

Sec. 1. 38 MRSA §341-D, sub-§1, as amended by PL 1993, c. 328, §1, is further amended to read:

1. Rulemaking. Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

The department shall identify in its regulatory agenda, ~~where~~ when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal ~~standard statute or regulation~~, if an applicable federal ~~standard statute or regulation~~ exists.

During the consideration of any proposed rule by the board, ~~where~~ when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the corresponding federal

standard statute or regulation, if such a federal standard statute or regulation exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard statute or regulation.

This subsection is repealed January 1, 1998.

Sec. 2. 38 MRSA §341-D, sub-§§1-A and 1-B are enacted to read:

1-A. Stay. Except to the extent the department determines that a proposed rule implements a state law that is more stringent than the corresponding federal statute or regulation, any provision of the proposed rule that is determined by the department to be more stringent than the corresponding federal statute or regulation must be stayed for 60 days following adoption. During this 60-day period, interested persons may petition the board to have the Legislature review those provisions of the proposed rule that have been determined to be more stringent. The filing with the board of petitions from 5 or more interested persons stays the effective date of those provisions of the rule until 60 days after the filing, if the Legislature is then in session. If the Legislature is not then in session and is not scheduled to convene within the next 60 days, then those provisions of the rule that have been determined to be more stringent are stayed for 60 days after filing of the petitions to permit consultation between the legislative committee of jurisdiction, the department and other interested persons. Copies of the petitions that are filed, along with a statement from the department outlining the provisions of the rule that have been determined to be more stringent and the accompanying basis statement, must be submitted by the department to the Executive Director of the Legislative Council pursuant to Title 5, section 8053-A, subsection 3 upon receipt of the petitions. This subsection applies to new rules that are adopted by the board after the effective date of this subsection.

This subsection is repealed January 1, 1998.

1-B. Rulemaking. Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal standard, if an applicable federal standard exists.

During the consideration of any proposed rule by the board, when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the federal standard, if such a federal standard exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard.

This subsection takes effect January 1, 1998.

Sec. 3. 38 MRSA §480-H, first ¶, as repealed and replaced by PL 1991, c. 66, Pt. A, §16, is amended to read:

In fulfilling its responsibilities to adopt rules pursuant to section 341-D, ~~subsection 1~~, the board, to the extent practicable, shall adopt performance and use standards for activities regulated by this article. These standards at a minimum must include:

See title page for effective date.

CHAPTER 348

H.P. 894 - L.D. 1247

An Act to Create the Overhead High-voltage Line Safety Act

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

Sec. 1. 35-A MRSA c. 7-A is enacted to read:

CHAPTER 7-A

OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT

§751. Short title

This Act may be known and cited as the "Overhead High-voltage Line Safety Act."

§752. Definitions

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

1. Covered equipment or items. "Covered equipment or items" means any mechanical equipment, hoisting equipment, antenna or boat mast or rigging, any part of which is capable of vertical, lateral or swinging motion that causes any portion of the equipment or item to come within 10 feet of an overhead high-voltage line during erection, construc-

tion, operation or maintenance, including, but not limited to, equipment such as cranes, derricks, power shovels, backhoes, dump trucks, drilling rigs, pile drivers, excavating equipment, hay loaders, hay stackers, combines, portable grain augers or elevators and items such as ladders, scaffolds, boat masts and outriggers, houses or other structures in transport and gutters, siding and other construction materials.

2. Overhead high-voltage line. "Overhead high-voltage line" means all above-ground bare or insulated electrical conductors of voltage in excess of 600 volts, measured between conductors or measured between a conductor and the ground, that are owned or operated by an electric utility, except those conductors that are:

A. Enclosed in a rigid metallic conduit or flexible armored conduit; or

B. On the premises of mines that are subject to the provisions of the Federal Mine Safety and Health Act of 1977, 30 United States Code, Section 801 and regulations adopted pursuant to that Act by the federal Mine Safety and Health Administration.

3. Person. "Person" means natural person, firm, business association, company, partnership, corporation or other legal entity.

4. Person responsible. "Person responsible" means the person performing or controlling the job or activity that necessitates the precautionary safety measures required by this chapter.

5. Warning sign. "Warning sign" means a weather-resistant sign of not less than 5 inches by 7 inches with at least 2 panels: a signal panel and a message panel. The signal panel must contain the signal word "WARNING" in black lettering and a safety alert symbol consisting of a black triangle with an orange exclamation point, all on an orange background. The message panel must contain the following words, either in black letters on a white background or white letters on a black background: "UNLAWFUL TO OPERATE THIS EQUIPMENT WITHIN 10 FEET OF OVERHEAD HIGH-VOLTAGE LINES - Contact with power lines may result in death or serious burns." A symbol or pictorial panel may also be added. The warning sign language, lettering, style, colors, size and format must meet the requirements of the American National Standard Institute, Standard Z535.4-1991, Product Safety Signs and Labels, or its successors.

§753. Duty and responsibility

It is the duty and responsibility of employers of persons and individuals who use any covered equipment or items, for the benefit of themselves or

others, to acquaint themselves and their employees or agents using the equipment or items or engaged in the work operations or other activities with the provisions of this chapter and the rules prescribed and adopted pursuant to it.

§754. Prohibited activities

The following activities are prohibited until the requirements of sections 756 and 757 are met.

1. Perform work. A person may not individually or through an agent or as an agent or employee perform any work or activity on any land, building, highway or other premises that may cause:

A. A person to be placed within 10 feet of an overhead high-voltage line; or

B. A tool or material used by a person to be brought within 10 feet of an overhead high-voltage line.

2. Erect; construct; operate; maintain; transport; store. A person may not, individually or through an agent or employee or as an agent or employee, erect, construct, operate, maintain, transport or store any covered equipment or item within 10 feet of an overhead high-voltage line, except as allowed in this subsection. The clearance from an overhead high-voltage line may be less than 10 feet but not less than 4 feet for the following covered equipment or items in the following circumstances:

A. A sail boat on high water;

B. Covered equipment lawfully driven or transported on public streets and highways in compliance with the height restriction applicable to that street or highway; or

C. Refuse collection equipment wherever operated.

3. Operate airplane or helicopter. A person may not, individually or through an agent or employee or as an agent or employee, operate or cause to be operated an airplane or helicopter within 20 feet of an overhead high-voltage line, except that no clearance is specified for licensed aerial spray applicators that may incidentally pass within the 20-foot limitation during normal operation.

4. Store. A person may not, individually or through an agent or employee or as an agent or employee, store or cause to be stored, underneath or in proximity to an overhead high-voltage line, any materials that are expected to be moved or handled by covered equipment in a manner that could bring the materials or the covered equipment within 10 feet of an overhead high-voltage line.

5. Provide additional clearance. A person may not, individually or through an agent or employee or as an agent or employee, provide or cause to be provided additional clearance by:

A. Raising, moving or displacing an overhead utility line of any type or nature, including high-voltage, low-voltage, telephone, cable television, fire alarm or other line; or

B. Pulling or pushing a pole, guy or other structural appurtenance.

§755. Clearance reduced

If the overhead high-voltage line is covered with a mechanical barrier, in accordance with section 758, the required clearance under section 754, subsections 1 and 2 may be reduced to the designed working dimensions of the mechanical barrier. If the line is de-energized and grounded, in accordance with section 758, subsection 5, the required clearance under section 754, subsections 1 and 2 is reduced from 10 feet to 2 feet. Under no circumstances may the overhead high-voltage line or its covering be contacted. If the overhead high-voltage lines are temporarily raised or moved to accommodate the expected work or other activity, without also being insulated or de-energized and grounded, the required clearance under section 754, subsections 1 and 2 may not be reduced.

§756. Warning signs

A person may not, individually or through an agent or employee or as an agent or employee, operate covered equipment in the proximity of an overhead high-voltage line unless there are posted and maintained warning signs as follows:

1. In covered equipment. A sign must be located in the covered equipment and readily visible and legible to the operator of the covered equipment when at the controls of the covered equipment; and

2. Outside covered equipment. Signs must be located on the outside of covered equipment in numbers and locations that are readily visible and legible at a distance of 12 feet by people engaged in the work operations.

§757. Notification

1. Notification. When a person is going to carry on any work or activity in closer proximity to an overhead high-voltage line than permitted by this chapter, the person responsible for the work or activity must notify the owner or operator of the overhead high-voltage line prior to the time the work or activity is to be commenced. Notification must be at least 72 hours in advance of the work or activity, excluding Saturday, Sunday and legal state and federal holidays,

except in emergency situations that include police, fire and rescue emergencies, in which case notification must be made as soon as possible. When the person responsible for the work activity is under contract or agreement with a government entity and the government entity and the owner or operator of the overhead high-voltage lines have already made satisfactory mutual arrangements, further arrangements for that particular activity are not required.

2. Information. A notice served by a person on an owner or operator of an overhead high-voltage line pursuant to this section must contain the following information:

A. The name of the individual serving the notice;

B. The location of the proposed work or activity;

C. The name, address and telephone number of the person responsible for the work or activity;

D. The field telephone number at the site of the work or activity, if one is available;

E. The type and extent of the proposed work or activity;

F. The name of the person for whom the proposed work or activity is being performed;

G. The time and date of the notice; and

H. The date and time when the work or activity is to begin.

3. Telephone notification. If the notification required by this section is made by telephone, a record of the notification must be maintained by the owner or operator of the overhead high-voltage line and by the person giving the notice to document compliance with the requirements of this section.

4. Address and telephone. To facilitate the notification required by this section, every owner or operator of overhead high-voltage lines that does not participate in an association for mutual receipt of notification of activities close to overhead high-voltage lines shall file with the commission the addresses and telephone numbers of the contact persons or offices of the owner or operator of overhead high-voltage lines in the State to whom all notifications concerning proposed work in the service territory of the owner or operator is directed. The information must be maintained by the commission in a manner determined by the commission.

5. Form association. Owners or operators of overhead high-voltage lines may form and operate an association providing for mutual receipt of notification

of activities close to overhead high-voltage lines in a specified area. In areas where an association is formed, the following must occur:

A. Notification of work activities to the association must be effected as set forth in this section;

B. Owners or operators of overhead high-voltage lines in the area:

(1) May become members of the association;

(2) May participate in and receive the services furnished by the association; and

(3) Shall pay their proportionate share of the cost for the services furnished;

C. The association whose members or participants have overhead high-voltage lines within the State shall file a list containing the name, address and telephone number of each owner or operator of overhead high-voltage lines within the area of an association with the commission; and

D. If notification is made by telephone, record must be maintained by the association to document compliance with the requirements of this section.

§758. Precautionary safety arrangements

1. Precautionary safety arrangements. Installation or performance of precautionary safety arrangements must be performed by the owner or operator of overhead high-voltage lines only after mutually satisfactory arrangements are negotiated between the owner or the operator of the overhead high-voltage lines and the person responsible for the work or activity to be done. The negotiations must proceed promptly and in good faith with the goal of accommodating the work or activity consistent with the owner's or operator's service needs and the intent to protect the public from the danger of contact with overhead high-voltage lines.

2. Appropriate for work. The precautionary safety measures must be appropriate for the work or activity for which the owner or operator of overhead high-voltage lines has received notification. During negotiations, the person responsible for the work or activity may change the notification of intended activities to include different or limited work or activities so as to reduce the precautionary safety measures required to accommodate the work or activities. The precautionary safety measures may not violate the requirements of the National Electrical Safety Code.

3. Agreement for payment. Agreements for payments of the costs of precautionary safety measures are governed by the following provisions.

A. If the owner or operator of the overhead high-voltage line has standard rates that apply to the provision of precautionary safety arrangements, the owner or operator of the overhead high-voltage line is not required to provide precautionary safety measures until payment has been made by the person requesting the safety measures or an agreement for payment has been reached.

B. If the owner or operator of the overhead high-voltage line does not have standard rates, the owner or operator of the overhead high-voltage lines is not required to provide the precautionary safety arrangements until an agreement for payment has been made, except that, if there is a dispute over the amount to be charged by the owner or operator of the overhead high-voltage lines for providing the arrangements, the owner or operator shall commence providing precautionary safety measures as if an agreement had been reached. If an agreement for payment has not been reached within 14 days from the completion of precautionary safety measures, the owner or operator and the person or business entity responsible for the work activities shall resolve the dispute by arbitration or other legal means.

4. Initiate; timely fashion. Unless otherwise agreed, the owner or operator of the overhead high-voltage lines shall initiate the agreed upon precautionary safety arrangements within 3 working days after the date of agreement for payment, if required, has been reached or within 5 working days of notice that the work activity is being done without an agreement. Once initiated, the owner or operator of the overhead high-voltage lines shall complete the work promptly and without interruption, consistent with the owner's or operator's service needs. If the owner or operator of the overhead high-voltage lines fails to provide the agreed upon precautionary safety arrangements within the period agreed upon, the owner or operator of the overhead high-voltage lines is liable for costs or loss of production of the person or business entity requesting the precautionary safety arrangements in order to work in proximity to overhead high-voltage lines, except that no liability exists during times of emergency, such as storm repair.

5. Inclusion. Precautionary safety arrangements may include:

A. Placement of temporary mechanical barriers separating and preventing contact between ma-

terial, equipment or persons and overhead high-voltage lines;

B. Temporary de-energization and grounding;

C. Temporary relocation or raising of the overhead high-voltage lines; or

D. Any other measures that are appropriate in the judgment of the owner or operator of the overhead high-voltage lines.

6. Expense. The actual expense incurred by an owner or operator of overhead high-voltage lines in taking precautionary measures, including wages of its workers involved in making safety arrangements, must be paid by the person responsible for the work or activity to be done except when:

A. Prior arrangements for payment are made between a government entity for whom the work is to be done and the owner or operator of the overhead high-voltage line; or

B. The owner or operator of the overhead high-voltage line has not installed the overhead high-voltage line in conformance with the applicable edition of the National Electrical Safety Code. If the overhead high-voltage line is not installed in conformance with the applicable edition of the National Electrical Safety Code, the liability of the person responsible for the work or activity is limited to the amount required to accommodate the work or activity minus the amount required to bring the installation into compliance with the National Electrical Safety Code.

§759. Enforcement

The provisions of this chapter are considered safety and health standards of the State. A person who causes, permits or allows work or other activity in violation of the provisions of this chapter may be assessed a civil penalty not exceeding \$1,000 for each day the violation continues.

Civil penalties may be recovered in a civil action in the name of the State brought in the Superior Court for the county where the violation is alleged to have occurred or where the violator resides or has its principal office. Interest accrues on the penalties at a rate of 1 1/2% per month except that the interest is suspended during the pendency of an appeal.

§760. Indemnification

A person is liable to the owner or operator of the overhead high-voltage line and 3rd parties, if any, for all damages to facilities, injuries to persons and all costs, expenses and liabilities incurred by the owner or operator of the overhead high-voltage lines and 3rd parties, if any, as a result of any contact with an

overhead high-voltage line if the person causes, permits or allows any work or activity in violation of a provision of this chapter and, as a result, a physical or electrical contact with an overhead high-voltage line occurs.

§761. Exemptions

1. Overhead electrical; communication circuits; conductors. This chapter does not apply to any person while engaged in the construction, reconstruction, operation and maintenance of overhead electrical or communication circuits or conductors and their supporting structures and associated equipment, if the person is an employee of the owner or operator of the overhead electrical or communication circuits or conductors or an independent contractor engaged on behalf of the owner or operator of the overhead electrical or communication circuits or conductors, including, but not limited to, employees of and independent contractors working for the following:

A. Any business operating rail transportation systems;

B. Any business operating electrical generating, transmission or distribution systems;

C. Any business operating communication systems; or

D. Any business operating cable television systems.

2. Agricultural activities. The provisions of sections 756 and 757 do not apply to a person operating agricultural equipment for agricultural purposes. If the equipment is likely to be routinely brought within 10 feet of an overhead high-voltage line, the owner or operator of the equipment must in each calendar year, prior to using the equipment, provide the owner or operator of the high-voltage line with the information required in section 757, subsection 2.

3. Water and sewer system operators. This chapter does not apply to any employee or independent contractor engaged on behalf of:

A. A water utility;

B. A sewer district or sanitary district; or

C. A municipal sewer department.

See title page for effective date.

CHAPTER 349

H.P. 997 - L.D. 1407

**An Act to Establish Safety Standards
for All Utility Facilities**

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

Sec. 1. 35-A MRSA §2305, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 2. 35-A MRSA §2305, last ¶, as enacted by PL 1993, c. 18, §2, is amended to read:

An electric utility may not provide electricity for any line in, upon, along or under roads, streets and public ways maintained by a municipality if the lines or poles were constructed by a person other than an electric utility, unless the electric utility is provided with certified copies of the findings by the applicable licensing authority of compliance with ~~subsections 4 and~~ subsection 2 and the commission's findings pursuant to subsection 3.

Sec. 3. 35-A MRSA §2305-A is enacted to read:

§2305-A. Electric utilities, telephone utilities and cable television companies to conform to standards

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

A. "Cable television company" has the same meaning as in Title 30-A, section 2001.

B. "Most recent edition of the Standard" means the 1993 edition or any subsequent edition of the Standard adopted by the commission pursuant to this section.

C. "Standard" means the National Electrical Safety Code (NESC)-ANSI-C2.

2. Applicable national standard. Except as otherwise provided in this section or by rule of the commission adopted pursuant to this section, every electric utility, telephone utility and cable television company shall design, construct, operate and maintain its lines and equipment in conformance with the applicable provisions of the most recent edition of the Standard.

3. Review of standards by commission. Whenever a new or revised edition of the Standard is published, an electric utility, telephone utility or cable television company may request the commission to

hold a hearing on whether the new or revised Standard should be adopted.

A. If a hearing is requested within 120 days of the publication of the new or revised Standard, the commission shall hold a hearing and shall either adopt the new or revised Standard or, pursuant to subsection 4, amend or reject the new or revised Standard. If a hearing is requested and held under this paragraph, the new or revised Standard does not go into effect in any form except as expressly provided by the commission in its order.

B. If a hearing is not requested within 120 days of the publication of the new or revised Standard, the commission is deemed to have adopted the new or revised Standard effective on the 180th day after publication. Existing facilities that meet the requirements of the previously applicable Standard but which do not meet the requirements of the new or revised Standard may remain in noncompliance only if grandfathered under the new edition.

4. Modifications, deletions and waivers to Standard. The commission may, at its discretion and after appropriate hearing, modify, delete or waive individual requirements of the Standard. The commission may make a modification or deletion or grant a waiver of a national standard of practice contained in the Standard only if it finds one of the following:

A. Other measures achieving equivalent levels of safety will be substituted for the modified, deleted or waived national standard; or

B. The national standard is not applicable or is unduly burdensome for the level of safety achieved under local conditions.

Modifications, deletions or waivers of individual requirements of the Standard remain in force until the next edition of the Standard is adopted by the commission pursuant to subsection 3 or the modification, deletion or waiver is repealed by the commission, whichever occurs first.

Pursuant to subsection 3, paragraph A, an electric utility, telephone utility or cable television company may petition the commission to continue approved modifications, deletions or waivers under a new or revised Standard. Unless the commission reaffirms a modification, deletion or waiver in its order adopting a new or revised Standard, a modification, deletion or waiver is deemed repealed on adoption of the new or revised Standard.

5. Additional safety measures. The commission may, at its discretion and after appropriate

hearing, require safety measures in addition to those required by the Standard. An additional requirement remains in force for 10 years from its effective date unless the commission:

A. Repeals the requirement; or

B. Reaffirms the requirement by order. Each reaffirmation must occur within 10 years of the original effective date of the requirement or within 10 years of the last affirmation.

See title page for effective date.

CHAPTER 350

H.P. 287 - L.D. 391

An Act to Increase Access to Chiropractor Care under Health Maintenance Organization Managed Care Plans

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

Sec. 1. 24-A MRSA §4236, sub-§3 is enacted to read:

3. Self-referrals for chiropractic care. A health maintenance organization must provide benefits to an enrollee who utilizes the services of a chiropractic provider by self-referral under the following conditions.

A. An enrollee may utilize the services of a participating chiropractic provider within the enrollee's health maintenance organization for 3 weeks or a maximum of 12 visits, whichever occurs first, of acute care treatment without the prior approval of a primary care provider of the health maintenance organization. For purposes of this subsection, "acute care treatment" means treatment for accidental bodily injury or sudden, severe pain that affects the ability of the enrollee to engage in the normal activities, duties or responsibilities of daily living.

B. Within 3 working days of the first consultation, the participating chiropractic provider shall send to the primary care provider a report containing the enrollee's complaint, related history, examination, initial diagnosis and treatment plan. If the chiropractic provider fails to send a report to the primary care provider within 3 working days, the health maintenance organization is not obligated to provide benefits for chiropractic care and the enrollee is not liable to the chiropractic provider for any unpaid fees.

C. If the enrollee and the participating chiropractic provider determine that the condition of the enrollee has not improved after 3 weeks of treatment or a maximum of 12 visits the participating chiropractic provider shall discontinue treatment and refer the enrollee to the primary care provider.

D. If the chiropractic provider recommends treatment beyond 3 weeks or a maximum of 12 visits, the participating chiropractic provider shall send to the primary care provider a report containing information on the enrollee's progress and outlining a treatment plan for extended chiropractic care of up to 5 more weeks or a maximum of 12 more visits, whichever occurs first.

E. Without the approval of the primary care provider, an enrollee may not receive benefits for more than 36 visits to a participating chiropractic provider in a 12-month period. After a maximum of 36 visits, an enrollee's continuing chiropractic treatment must be authorized by the primary care provider.

In the provision of chiropractic services under this subsection, a participating chiropractic provider is liable for a professional diagnosis of a mental or physical condition that has resulted or may result in the chiropractic provider performing duties in a manner that endangers the health or safety of an enrollee.

The provisions of this subsection apply to all health maintenance organization contracts, except a contract between a health maintenance organization and the State Employee Health Insurance Program.

This subsection takes effect January 1, 1996 and is repealed March 1, 1998.

See title page for effective date.

CHAPTER 351

H.P. 1019 - L.D. 1434

An Act to Strengthen the Laws Concerning Damage by Dogs

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

Sec. 1. 7 MRSA §3907, sub-§22-B is enacted to read:

22-B. Pet. "Pet" means a dog, cat or other domesticated animal commonly kept in a household, but does not include tamed animals that are ordinarily considered wild animals.

Sec. 2. 7 MRSA §3962-A, as enacted by PL 1993, c. 468, §19, is repealed and the following enacted in its place:

§3962-A. Penalty for damage to livestock or pets by dogs

1. Violation. Except as provided in subsection 3, the owner or keeper of a dog that kills or injures livestock, poultry, domestic rabbits or pets commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged in addition to costs.

2. Additional remedy. A person who suffers damage as a result of a violation of subsection 1 may also pursue a civil action against the owner or keeper of the dog pursuant to section 3961.

3. Exception. If the owner or keeper of a dog that kills or injures another dog establishes that the dog that was killed or injured provoked the killing or injury or that the dog that committed the killing or injury was leashed or controlled on the owner's or keeper's property at the time of the killing or injury, then the owner or keeper is not liable under this section or section 3961.

Sec. 3. 7 MRSA §3963, as enacted by PL 1987, c. 383, §3, is amended to read:

§3963. Joint and several liability

If any properly enclosed livestock, poultry or domestic rabbits or pets are killed or injured by 2 or more dogs at the same time ~~which and the dogs~~ are kept by 2 or more owners or keepers, the owners or keepers ~~shall be~~ are jointly and severally liable for the damage.

Sec. 4. 7 MRSA §3964, as enacted by PL 1987, c. 383, §3, is repealed.

Sec. 5. 7 MRSA §4041, sub-§4, as enacted by PL 1989, c. 91, is amended to read:

4. Penalty. A forfeiture of not more than \$500 ~~shall must~~ be adjudged for a civil violation under subsection 3. In addition the court may as part of the sentencing include an order of restitution for ~~damages caused by the livestock animal in accordance with section 3964 and for~~ costs incurred in removing and controlling the livestock animal.

Sec. 6. 12 MRSA §7504, sub-§6, ¶D, as enacted by PL 1979, c. 420, §1, is amended to read:

D. Any person having evidence of any dog chasing, killing, wounding or pursuing any moose, caribou, deer or elk, or any other wild animal in closed season, or of any dog kept and used for that purpose, or of any dog worrying, wounding or killing any domestic animal, includ-

ing another dog, or any livestock, poultry, fowl or furbearing animal legally in captivity, when the dog is outside of the enclosure or immediate care of ~~his the dog's~~ owner or keeper, may present that evidence to the District Court having jurisdiction.

(1) The court may issue a warrant against the owner of the dog, ordering ~~him the~~ owner to show cause why the dog should not be killed.

(2) Upon hearing the evidence in the case, the court may order the dog killed by any game warden.

(3) The costs of prosecution ~~shall must~~ be paid by the owner or keeper of the dog.

See title page for effective date.

CHAPTER 352

H.P. 824 - L.D. 1155

An Act Concerning the Liability of Governmental Entities for the Use by Employees of Private Motor Vehicles

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

Sec. 1. PL 1993, c. 707, Pt. G, §9 is repealed.

See title page for effective date.

CHAPTER 353

H.P. 933 - L.D. 1314

An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards

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

Sec. 1. 5 MRSA §12004-A, sub-§41, as enacted by PL 1987, c. 786, §5, is amended to read:

41. State Board of	Not	32 MRSA
Substance Abuse	Authorized	§6201
Counselors	<u>\$35/Day</u>	
	<u>Plus</u>	
	<u>Expenses</u>	

Sec. 2. 10 MRSA §9063, as amended by PL 1993, c. 642, §32, is further amended to read:

§9063. Rules

The ~~board~~ commissioner is authorized to issue, amend and revoke rules as necessary to implement all procedures required of a state administrative agency pursuant to 24 Code of Federal Regulations, Paragraph 3282 and 42 United States Code, ~~Section~~ Sections 5401 et seq. to 5426, including the implementation of a consumer complaint handling process and the holding of hearings. In the event of a conflict between this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 involving the state administrative agency program, the National Manufactured Housing Construction and Safety Standards Act of 1974 prevails.

Sec. 3. 10 MRSA §9064, as amended by PL 1993, c. 642, §33, is further amended to read:

§9064. Standards

1. Adoption, administration and enforcement of standards. The ~~board~~ department is charged with the adoption, administration and enforcement of manufactured housing construction and safety standards. The standards adopted must meet the standards adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code, ~~Section~~ Sections 5401 et seq. to 5426.

2. Rules. The ~~board~~ department may adopt rules necessary to enforce the standards adopted under subsection 1.

Sec. 4. 10 MRSA §9065, as amended by PL 1993, c. 642, §34, is further amended to read:

§9065. Inspections

The ~~board~~ department, by authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured housing is manufactured, stored or held for sale for the purpose of ascertaining whether the requirements of the federal manufactured housing construction and safety standards and the rules of the ~~board~~ department have been and are being met.

Sec. 5. 10 MRSA §9066, sub-§1, as amended by PL 1993, c. 642, §35, is further amended to read:

1. Violations. A person who violates any of the following provisions relating to manufactured housing or rules adopted by the ~~board~~ department is subject to a civil penalty not to exceed \$1,000 for each violation. Each violation constitutes a separate violation with respect to each manufactured housing unit, except that the maximum penalty may not exceed \$1,000,000 for

any related series of violations occurring within one year from the date of the first violation. It is a violation of this chapter for a person:

A. To manufacture for sale, lease, sell, offer for sale or lease or introduce, deliver or import into the State any manufactured housing that is manufactured on or after the effective date of any applicable federal manufactured housing construction and safety standard that does not comply with that standard;

B. To fail or refuse to permit access to or copying of records, fail to make reports or provide information or fail or refuse to permit entry or inspection as required by section 9065;

C. To fail to furnish notification of any defect as required by 42 United States Code, Section 5414;

D. To fail to issue a certification required by 42 United States Code, Section 5415 or to issue a certification to the effect that a manufactured home conforms to all applicable federal manufactured housing construction and safety standards, if that person in the exercise of due care has reason to know that the certification is false or misleading in a material respect;

E. To fail to establish and maintain records; or make such reports and provide information as the ~~board~~ department may reasonably require to enable the ~~board~~ it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974; or fail to permit, upon request of a person duly authorized by the ~~board~~ commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or with the National Manufactured Housing Construction and Safety Standards Act of 1974; or

F. To issue a certification pursuant to 42 United States Code, Section 5403, Paragraph (a), if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect.

Sec. 6. 10 MRSA §9068, first ¶, as amended by PL 1993, c. 642, §36, is further amended to read:

The ~~board~~ department shall establish a monitoring inspection fee in an amount established by the Secretary of the United States Department of Housing and Urban Development. This monitoring inspection fee is an amount paid by the manufacturer for each home produced in this State.

Sec. 7. 10 MRSA §9071, as amended by PL 1993, c. 642, §37, is further amended to read:

§9071. Revenue

The fees received by the ~~board~~ commissioner under the State Administrative Agency Program must be paid by the Treasurer of State to be used for carrying out the duties of the program. Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. 8. 10 MRSA §9084, 5th ¶, as amended by PL 1993, c. 642, §38, is further amended to read:

All mobile home park licenses expire annually on a date established by the ~~board~~ Commissioner of Professional and Financial Regulation. Licenses may be renewed upon application and upon payment of the prescribed fee, subject to compliance with rules of the board and with this subchapter. The board shall provide licensees with notice of the renewal date and necessary forms no less than 30 days prior to the expiration of the license.

Sec. 9. 32 MRSA §1100-C, sub-§1, as enacted by PL 1977, c. 484, §2, is repealed and the following enacted in its place:

1. Rules required. Not later than May 1, 1996, the board shall adopt rules relating to the licensing of denturists.

Sec. 10. 32 MRSA §1100-C, sub-§2, as amended by PL 1977, c. 696, §381, is repealed and the following enacted in its place:

2. Contents. The rules adopted pursuant to subsection 1 must pertain, but are not limited to, the following:

A. The administrative procedures relating to the issuance, refusal to issue, suspension and revocation of licenses;

B. The establishment of equivalency training and experience standards for the purpose of eligibility for the issuance of temporary denturist licenses;

C. The methods by which and the conditions under which denturists are required to practice denture technology for both temporary and full licensure;

D. The establishment of educational requirements for the purpose of eligibility for both temporary and full licensure; and

F. The specification of other procedures incidental to the practice of denture technology that may be practiced by a denturist.

Sec. 11. 32 MRSA §1658-D, sub-§1, as repealed and replaced by PL 1975, c. 463, §3, is amended to read:

1. Minors. ~~No~~ A dealer may ~~not~~ sell or furnish a hearing aid to a person of 18 years or less without a written statement, signed by a physician with specialized training in the field of otolaryngology ~~or by an audiologist~~, that ~~such~~ the person has had an ear or hearing examination within 90 days of the purchase or furnishing of a hearing aid and that a hearing aid is recommended for ~~such~~ the person.

Sec. 12. 32 MRSA §1952, sub-§1 is amended to read:

1. Certain property. ~~Any~~ A person with reference to trees on ~~his~~ that person's own premises; or on the property of ~~his~~ that person's regular employer;

Sec. 13. 32 MRSA §1952, sub-§4, as amended by PL 1971, c. 347, §2, is further amended to read:

4. Others. Highway contractors, subcontractors, and their employees in the removal of trees during the performance of contracts for the construction or maintenance of highways, and the removal of interfering shade or ornamental trees or interfering parts of shade or ornamental trees by ~~a general contractor~~ contractors in the conduct of ~~his~~ their regular business.

Sec. 14. 32 MRSA §2002, sub-§3, as enacted by PL 1983, c. 413, §104, is 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.

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

Sec. 15. 32 MRSA §2053, as amended by PL 1983, c. 413, §108, is further amended to read:

§2053. Applications

Applications for examination ~~shall~~ must be in writing on forms prescribed by the board, ~~shall be notarized and shall~~ must be accompanied by the prescribed fee. The application form ~~shall~~ may require whatever information the board finds necessary to judge qualifications of the applicant.

Sec. 16. 32 MRSA §2054, as amended by PL 1983, c. 413, §109, is further amended to read:

§2054. Nonresidents

Each nonresident applicant, ~~a resident of another state or province,~~ for an original license or a renewal license shall file an irrevocable consent that actions against ~~him~~ the applicant may be filed in any appropriate court of any county or district of this State, where some part of the transaction occurred out of which the alleged cause of action arose, and that process in any action may be served on the applicant by leaving 2 copies ~~thereof of the process~~ with the board. The consent ~~shall~~ must stipulate and agree that the service of process ~~shall~~ must be taken and held to be valid and binding for all purposes. The board shall send a copy of the process to the applicant by registered mail at the address shown in its records.

Sec. 17. 32 MRSA §2056, 2nd ¶, as amended by PL 1983, c. 413, §111, is further amended to read:

~~Where~~ When the arborist conducts business at more than one address, additional certificates ~~shall~~ must be issued. When an employee of a licensed arborist does not ~~himself~~ hold a license, ~~he shall have with him the employee must carry,~~ when working, a card or written authorization signed by the licensed arborist showing under whose supervision ~~he the employee is working and by whom he is employed the name of the employer.~~ The board ~~shall~~ may not issue more than one license card to an individual qualified to receive a license, except as provided in section 2058.

Sec. 18. 32 MRSA §2057, last ¶, as amended by PL 1983, c. 413, §112, is further amended to read:

Any arborist whose license expires while ~~he the arborist~~ is in federal service on active duty with the Armed Forces of the United States; or the National Guard, or is called into service or training, or is in

training or education under the supervision of the United States preliminary to induction into the military service may have ~~his the~~ license renewed without paying any intervening renewal license fees if within one year after termination of that service, training or education other than by dishonorable discharge, ~~and if he the arborist~~ furnishes the board with an affidavit to the effect that ~~he the arborist~~ has been so engaged and that ~~his the~~ service, training or education has been so terminated.

Sec. 19. 32 MRSA §2058, as amended by PL 1983, c. 204, §5, is further amended to read:

§2058. Renewals

~~It shall be~~ is the duty of the board to notify every person licensed under this subchapter of the date of expiration of ~~his that person's~~ certificate and the ~~amount of~~ fee required for its annual renewal. ~~Such~~ The notice ~~shall~~ must be mailed to ~~such the~~ person's last known address at least 30 days in advance of the expiration of ~~such the~~ license. Applications for renewal licenses ~~shall~~ must contain whatever information is necessary for the board to determine whether the applicant should continue to hold a license and ~~shall~~ must be accompanied by the required fee, which ~~shall be~~ is returnable if the applicant is denied a renewal license. ~~Lost licenses shall be replaced on application by the licensed arborist and payment of \$2.~~ A licensed arborist must file an application and fee of \$5 for replacement of a lost license.

Sec. 20. 32 MRSA §2059, as amended by PL 1983, c. 413, §113, is further amended to read:

§2059. Fees

An application fee and an examination fee may be established by the board in amounts ~~which that~~ are reasonable and necessary for their respective purposes. ~~When~~ After an applicant is notified ~~that he is eligible of the applicant's eligibility~~ for a license following examination, ~~he shall remit the applicant must submit~~ the annual license fee before a license is issued.

The fee for an original or renewal annual license ~~shall~~ may not exceed \$50.

Sec. 21. 32 MRSA §2060, as amended by PL 1965, c. 226, §76, is further amended to read:

§2060. Reciprocity

In the event that a nonresident applicant for a license holds a valid arborist license from another state or province, ~~he the applicant~~ may on application for a license be waived of examination by the board, ~~provided that if the other state or province in which he the applicant holds such the license requires qualification and examination equivalent to this subchapter. If~~

said ~~the law of the~~ other state or province law partially meets the standards of this subchapter, the board may decide in which respect it is lacking and what requirements the applicant must meet for waiver of examination, or whether written examination ~~shall~~ must be waived.

Sec. 22. 32 MRSA §2312-B is enacted to read:

§2312-B. Major equipment sales information

Upon request by the board or its authorized agent, wholesalers and retailers of major oil and solid fuel heating equipment shall provide sales information to the board regarding such equipment. "Major oil and solid fuel heating equipment" includes, but is not limited to, furnaces, boilers, oil burners, fuel oil supply tanks of any size and side wall direct venting space heaters. Sales information may include the identity of the purchaser, the date of purchase, the make, model and serial number, if applicable, and any other information requested.

Sec. 23. 32 MRSA §12228, sub-§4, as enacted by PL 1987, c. 489, §2, is amended to read:

4. Examination; administration. The examination to be passed as a condition for the granting of a certificate ~~shall must~~ be in writing, ~~shall must~~ be held twice a year and ~~shall must~~ be the Uniform Certified Public Accountant Examination prepared by the Board of Examiners of the American Institute of Certified Public Accountants or any other examination approved by the board. The time for holding the examination ~~shall must~~ be fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade required of an applicant for a certificate, ~~provided except~~ that the board, to the extent possible, shall see to it that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may make the use of all or any part of the Advisory Grading Service of the American Institute of Certified Public Accountants or any other examination approved by the board and may contract with 3rd parties to perform such administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

Sec. 24. 32 MRSA §12228, sub-§5, as enacted by PL 1987, c. 489, §2, is amended to read:

5. Examination; passing. An applicant ~~shall be required to must~~ pass all parts of the examination provided for in subsection 4, in order to qualify for a certificate. If, at a given sitting of the examination, an applicant passes 2 or more, but not all, parts ~~with the~~

~~accounting practice part of the examination being treated for this purpose as 2 parts of the examination~~, then the applicant ~~shall must~~ be given credit for those parts that ~~he the applicant~~ has passed and need not sit for reexamination in those parts, provided that:

A. The applicant wrote all parts of the examination at that sitting;

B. The applicant passes the remaining parts of the examination within 6 consecutive examinations given after the one at which the first parts were passed; and

C. At each subsequent sitting at which the applicant seeks to pass any additional parts, the applicant writes all parts not yet passed.

Sec. 25. 32 MRSA §12240, sub-§§4 and 5, as enacted by PL 1987, c. 489, §2, are amended to read:

4. Examination; administration. The examination to be passed as a condition for the granting of a certificate ~~shall must~~ be in writing, ~~be held twice a year, and include Parts I and II of the "Examination in Accounting Practice" portion of the Uniform Certified Public Accountant Examination prepared by the Board of Examiners of the American Institute of Certified Public Accountants and shall also include other applicable subjects in the field of accounting, such as auditing, theory of accounts, practical accounting problems, commercial law as it affects accountancy, federal and state taxation and such other subjects pertinent to accounting as the board may specify by rule. The examination may include all or part of the examination of and be the public accountant examination prepared by the National Society of Public Accountants or any other examination approved by the board.~~ The time for holding ~~that examination~~ shall examinations must be fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the ~~examination examinations~~, including methods for grading papers and determining a passing grade required of an applicant for a certificate, ~~provided except~~ that the board, to the extent possible, shall see to it that the grading of the ~~examination examinations~~ and the passing grades are uniform with those applicable in all other states. The board may contract with 3rd parties to perform those administrative services with respect to the ~~examination examinations~~ as it considers appropriate to assist it in performing its duties under this section.

5. Examination; passing. An applicant ~~shall be required to must~~ pass all parts of the examination provided in subsection 4, in order to qualify for a certificate. If, at a given sitting of the examination, an applicant passes 2 or more, but not all parts, ~~with the accounting practice part of the examination being~~

~~treated for this purpose as 2 parts~~, then the applicant ~~shall~~ must be given credit for those parts that ~~he~~ the applicant has passed and need not sit for reexamination in those parts, provided that the applicant passes the remaining parts of the examination within 6 consecutive examinations given after the one at which the first parts were passed.

Sec. 26. 32 MRSA §13908, sub-§4, as enacted by PL 1993, c. 659, Pt. A, §12 and affected by §15, is amended to read:

4. Continuing education. An applicant for license renewal as a professional land surveyor shall present evidence of having completed 12 hours of professional development in the previous biennium. This ~~section~~ subsection does not apply to a person 65 years of age or older who practices less than 160 hours a year. Credit for development hours may be earned as follows.

A. ~~Six~~ At least 6 hours must be in courses in surveying practice or in courses in at least one of the following areas:

- (1) General business administration or management;
- (2) Land use regulation;
- (3) Other related land use fields, including, but not limited to, civil or environmental engineering, site evaluation for septic system design, soils, landscape architecture, geology, forestry, title examination and insurance, and other legal issues related to real estate;
- (4) Computer application skills or programming;
- (5) Communication, including, but not limited to, speech and technical writing; or
- (6) Other subject matters the understanding of which appreciably aids a land surveyor in the performance of professional duties.

B. One hour of professional development may be earned for every 900 hours of survey practice during the past biennium and one hour may be earned for each 3 years of full-time surveying practice as a registered or licensed surveyor during the time preceding the past biennium.

C. The applicant may acquire professional development credit through the following professional activities.

- (1) Credit may be earned by membership and participation in surveying organizations as follows.

(a) Membership in a surveying organization entitles the licensee to one credit hour.

(b) Holding a leadership position in a surveying organization entitles the licensee to an additional credit hour per biennium.

(c) Active participation in an active committee of a surveying organization entitles the licensee to an additional credit hour.

(d) Chairing an active committee of a surveying organization entitles the licensee to an additional credit hour.

(e) Attendance at a minimum of 50% of the general membership meetings of a surveying organization entitles the licensee to an additional credit hour.

(2) The licensee is entitled to 1 credit hour for membership in other associations, societies, boards or clubs related to a subject matter described in paragraph A.

(3) A licensee is entitled to one credit hour for each article, column or other significant work relevant to subject matter described in subsection 4, paragraph A that is published in a professional journal, magazine or other similar publication. Credit hours for works written by multiple authors must be divided pro rata.

The board may waive requirements of this subsection in cases of undue hardship and may accept for credit worthy professional development activities as determined by the board not specified in this subsection. The board shall adopt any rules necessary to implement this subsection.

The provisions of this subsection must be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation matters by March 1, 1999.

This subsection is repealed March 1, 1999.

Sec. 27. 32 MRSA §13908, last 3 ¶¶, as enacted by PL 1993, c. 659, Pt. A, §12 and affected by §15, are repealed.

Sec. 28. 32 MRSA §13972, sub-§6, as amended by PL 1991, c. 801, §4 and affected by §§9 and 10, is further amended to read:

6. Educational requirement. The applicant must have satisfactorily completed ~~a~~ the minimum of

~~75 classroom hours required by the appraisal qualification board of the appraisal foundation in courses of study approved by the board that relate to the basic principles of real estate appraisal. The required 75 classroom hours must include no fewer than 60 classroom hours of study relating to the basic principles of real estate appraising and no fewer than 15 classroom hours of study specifically relating to the Uniform Standards of Professional Appraisal Practice.~~

A. The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group.

Sec. 29. 32 MRSA §13972, sub-§6-A, as enacted by PL 1993, c. 404, Pt. A, §21, is amended to read:

6-A. Experience requirement. The applicant must demonstrate experience in the real estate appraisal field ~~for 2 of the 5 years immediately preceding application as required by the appraisal qualification board of the appraisal foundation.~~

Sec. 30. 32 MRSA §13972-A, sub-§1, ¶E is enacted to read:

E. The applicant must submit evidence of completion of the minimum classroom hour requirement as set by the appraisal qualification board of the appraisal foundation.

Sec. 31. 32 MRSA §13972-A, sub-§2, as enacted by PL 1993, c. 404, Pt. A, §22, is amended to read:

2. Registration. Upon receiving an application pursuant to subsection 1 that is satisfactory to the board, the board shall furnish to the applicant a registration for real estate appraiser trainee, which expires 12 months from the date of issuance. The registration is renewable upon payment of the registration fee and evidence of meeting the continuing education requirement as set by the appraisal qualification board of the appraisal foundation.

A person may not be registered as a real estate appraiser trainee for more than 5 years.

Sec. 32. 32 MRSA §13979, sub-§1, ¶A, as enacted by PL 1989, c. 806, §3, is amended to read:

A. Hold a valid real estate appraiser license under this Act and demonstrate experience as a real estate appraiser ~~for 2 of the 5 years immediately preceding application as required by the ap-~~

praisal qualification board of the appraisal foundation;

Sec. 33. 32 MRSA §13979, sub-§1, ¶B, as amended by PL 1991, c. 801, §5 and affected by §§9 and 10, is further amended to read:

B. Satisfactorily complete ~~a the minimum of 105 classroom hours required by the appraisal qualification board of the appraisal foundation in courses of study approved by the board that relate to real estate appraisal theory and practice. To meet the 105 classroom hour requirement, an applicant must successfully complete no fewer than 90 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board that relate specifically to the Uniform Standards of Professional Appraisal Practice.~~

(1) The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

Sec. 34. 32 MRSA §13979, sub-§2, ¶A, as enacted by PL 1989, c. 806, §3, is amended to read:

A. Hold a valid real estate appraisal appraiser license under this Act and demonstrate experience as a real estate appraiser ~~for 2 of the 5 years immediately preceding application as required by the appraisal qualification board of the appraisal foundation;~~

Sec. 35. 32 MRSA §13979, sub-§2, ¶B, as amended by PL 1991, c. 2, §7, is further amended to read:

B. Satisfactorily complete ~~no fewer than 165 the minimum classroom hours required by the appraisal qualification board of the appraisal foundation in courses of study approved by the board that relate to real estate appraisal theory and practice. To meet the 165 classroom hour requirement, an applicant must successfully complete no fewer than 150 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board that relate specifically to the Uniform Standards of Professional Appraisal Practice.~~

(1) The courses of study required to satisfy these minimum classroom hours must be

approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

Sec. 36. 32 MRSA §13981, sub-§2, as enacted by PL 1989, c. 806, §3, is amended to read:

2. Continuing education. As a prerequisite to renewal of a license, applicants must have completed 20 clock hours of the minimum requirement for continuing education as set by the appraisal qualification board of the appraisal foundation within 2 years prior to the date of application for renewal in programs or courses approved by the board. For purposes of this section, the board may establish, by rule, a core educational requirement.

Sec. 37. Reporting date. The Board of Dental Examiners shall review the feasibility of independent practice for denturists and report its recommendations to the Joint Standing Committee on Business and Economic Development by February 1, 1996.

Sec. 38. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
State Board of Substance Abuse Counselors		
Personal Services	\$3,465	\$4,620
All Other	1,650	2,200
TOTAL	\$5,115	\$6,820
Provides additional allocations to cover the costs of paying per diem and expenses for board members.		

See title page for effective date.

CHAPTER 354

H.P. 862 - L.D. 1193

An Act to Expand Elevator and Tramway Inspection Services

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

Sec. 1. 26 MRSA §476, first ¶, as amended by PL 1977, c. 694, §456, is further amended to read:

The board shall formulate reasonable rules for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators and tramways in the State. The rules must include standards for the review and audit of inspections performed by elevator inspectors not employed by the State. The rules ~~shall~~ must be adopted pursuant to Title 5, section 8051 et seq., and ~~shall~~ must conform as near as practicable to the established standards as approved by the American National Standards Institute. Such rules ~~shall~~ may not become effective sooner than 90 days after the date they are adopted, except that rules applying to the construction of new elevators and tramways ~~shall~~ may not become effective sooner than 6 months after the date they are adopted.

Sec. 2. 26 MRSA §478, as enacted by PL 1977, c. 543, §4, is amended to read:

§478. Examination of elevator inspectors

Examination for ~~the state~~ elevator inspectors ~~shall~~ must be given by the supervising inspector or by 2 or more examiners ~~to be~~ appointed by the supervising inspector. The board shall set the standards necessary to sit for the examination. The examination fee is set by the board and may not exceed \$100. ~~Such~~ The examination must be written in part or in whole, and must be confined to questions, the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform grade throughout the State. In case an applicant fails to pass this examination, ~~he~~ the applicant may appeal to the board for a 2nd examination within 90 days of notification of ~~his~~ the applicant's failure to pass and ~~such~~ the 2nd examination ~~shall~~ must be given by the board or by examiners other than those by whom the first examination was given. Upon the result of this 2nd examination, the board shall determine whether or not the applicant is qualified.

The record of the applicant's examination, whether original or on appeal, ~~shall~~ must be accessible to ~~him~~ the applicant. The examinations must be kept on file in the office of the supervising inspector for a period of not less than 2 years.

Applications for examination and license must be made on forms furnished by the bureau.

An elevator inspector's license expires on the 3rd anniversary date of the original issue. The license fee must be set by the board and may not exceed \$300.

The license may be renewed for a period of 3 years without further examination if a renewal fee in an amount set by the board, not to exceed \$300, is paid and during that period the licensee has worked as an elevator inspector.

Sec. 3. 26 MRSA §479, sub-§5, ¶D is enacted to read:

D. Applications for examination and license must be on forms furnished by the bureau. The examination fee for a tramway inspector's license must be set by the board and may not exceed \$100.

Sec. 4. 26 MRSA §480, as amended by PL 1977, c. 694, §457, is further amended to read:

§480. Revocation of tramway or elevator inspector's license

The board may file a complaint with the Administrative Court pursuant to Title 5, section 10051 to revoke tramway or elevator inspection licenses or remove inspection endorsements from mechanics' licenses for the following causes:

1. Failure to submit true reports. For failure to submit true reports concerning the conditions of a tramway or elevator, or for conduct ~~deemed determined~~ by the board to be contrary to the best interests of tramway or elevator safety or the board; or

2. Physical infirmities. When physical infirmities develop to a point ~~where~~ at which it appears that an inspector can no longer perform ~~his~~ the required duties in a thorough and safe manner.

Sec. 5. 26 MRSA §485-A is enacted to read:

§485-A. Inspector endorsement to elevator mechanic's license

An elevator mechanic may inspect elevators as long as the mechanic has obtained an inspection endorsement to the mechanic's license. The board shall establish rules to qualify and examine mechanics to conduct elevator inspections. The board shall set an examination fee which may not exceed the inspector's examination fee and shall set endorsement and endorsement renewal fees which may not exceed 1/3 of the inspector's license and renewal fees.

Sec. 6. 26 MRSA §490-A, as amended by PL 1989, c. 590, §8, is further amended to read:

§490-A. Inspection of elevators and tramways

Each elevator or tramway proposed to be used within this State ~~shall~~ must be thoroughly inspected by either the supervising inspector, a state inspector or a licensed inspector, and if found to conform to the rules

of the board, the board shall issue to the owner or user an inspection certificate. Fees for inspection and certification of elevators and tramways ~~shall~~ must be set by the board pursuant to section 490-E, and ~~shall~~ must be paid by the owner or user of the elevator or tramway. The certificate ~~shall~~ must specify the maximum load to which the conveyance ~~shall~~ may be subjected, the date of its issuance and the date of its expiration. Elevator certificates ~~shall~~ must be posted in the elevator and the tramway certificate at a conspicuous place in the machine area.

A state inspector or licensed inspector shall inspect every elevator ~~once each year and a~~ on a schedule determined by the board. The schedule must be based on the class, size and usage of the elevator. A state inspector or licensed inspector shall inspect every tramway twice each year. One tramway inspection ~~shall~~ must be made when weather conditions permit a complete inspection of all stationary and moving parts. The 2nd tramway inspection ~~shall~~ must be made while the tramway is in operation.

The supervising inspector or state inspector may, when in ~~his~~ the inspector's opinion the conveyance ~~may~~ can not continue to be operated without menace to the public safety, temporarily suspend an inspection certificate in accordance with Title 5, section 10004 and post or direct the posting of a red card of condemnation at every entrance to the conveyance. The condemnation card ~~shall be~~ is a warning to the public and ~~shall~~ must be of such type and dimensions as the board ~~shall determine~~ determines. The suspension ~~shall continue~~ continues pending decision on any application with the Administrative Court for a further suspension.

The condemnation card may be removed only by the inspector posting it or by the supervising inspector. Any other person removing or defacing such card ~~shall be punished by~~ is subject to a fine of not more than ~~\$50~~ \$500.

If upon inspection an elevator or tramway is, in the opinion of the inspector, found to be in reasonably safe condition but not in full compliance with the rules of the board, the inspector shall certify to the supervising inspector ~~his~~ the inspector's findings and the supervising inspector may issue a special certificate, the same to be posted as required in this section. This certificate ~~shall~~ must set forth any special conditions under which the conveyance may be operated.

Licensed tramway and elevator inspectors shall submit inspection reports to the board on a form provided by the board for all inspections within 15 working days from the date of the inspection.

All ~~followup~~ follow-up inspections necessary to enforce compliance ~~shall~~ must be performed by either the supervising inspector or a state inspector. A fee as

set forth in section 490-E ~~shall~~ must be charged for those follow-up inspections.

Sec. 7. 26 MRSA §490-E, as amended by PL 1989, c. 590, §10, is further amended to read:

§490-E. Inspection fees

The initial inspection of elevators ~~shall~~ must be made by the supervising inspector or a state inspector and the fee for the initial inspection of each new or altered elevator ~~shall~~ must be set by the board, not to exceed \$100, plus expenses.

The initial inspection of tramways ~~shall~~ must be made by the supervising inspector, a state inspector or a licensed inspector and the fee for the initial inspection of each new or altered tramway ~~shall~~ must be set by the board, not to exceed \$100, plus expenses.

The fee for each required inspection of elevators ~~shall~~ must be set by the board, not to exceed \$100, plus \$10 for each landing.

The annual fee for the required inspections of tramways ~~shall~~ must be set by the board.

The certificate fee ~~shall~~ must be set by the board, not to exceed \$100.

When a tramway or elevator inspection has been made by a licensed ~~tramway~~ inspector, the inspector shall submit the inspection fee to the board along with an inspection report.

All fees and sums received ~~shall~~ must be deposited with the Treasurer of State to be credited to the General Fund.

Sec. 8. 26 MRSA §490-F, as enacted by PL 1977, c. 543, §4, is amended to read:

§490-F. Reports by inspectors

The state inspectors or licensed ~~tramway~~ inspectors shall make a full report to the supervising inspector, giving all data required by the rules adopted by the board and shall report to the supervising inspector and to the owner or lessee all defects found and all noncompliances with such rules. ~~Where~~ When any serious infraction of the rules is found by a state inspector or licensed ~~tramway~~ inspector and ~~where~~ such that infraction is, in the opinion of the inspector, dangerous to life, limb or property, it ~~shall be~~ is the duty of ~~such~~ the inspector to report ~~such that~~ that infraction immediately to the supervising inspector.

See title page for effective date.

CHAPTER 355

S.P. 475 - L.D. 1271

An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering

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

Sec. 1. 32 MRSA §1251, sub-§§2 and 4 are amended to read:

2. Engineer-intern. The term "~~engineer-in-training~~ engineer-intern" ~~shall mean~~ means a person who has been certified as such by the board and whose name has been entered in the register of ~~engineer-in-training~~ engineer-interns.

4. Professional engineer. The term "professional engineer" ~~shall mean~~ means a person who, by reason of ~~his~~ a knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined.

Sec. 2. 32 MRSA §1255, sub-§1, as amended by PL 1991, c. 442, §2, is further amended to read:

1. Limited practice by nonresident. A person not a resident of and not having established a place of business in this State, practicing or offering to practice the profession of engineering when such practice does not exceed more than 30 consecutive days in any calendar year, ~~provided such~~ if the person is legally qualified by registration to practice the profession in that person's own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter. To practice under this section, the person must apply in writing and receive authorization from the chair of the board.

Sec. 3. 32 MRSA §1255, sub-§§2 and 3 are amended to read:

2. Nonresident becoming resident. A person not a resident of and ~~not~~ not having ~~no~~ no established a place of business in this State, or who has recently become a resident ~~thereof of this State~~, practicing or offering to practice ~~herein in the State~~ for more than 30 days in any calendar year the profession of engineering, ~~if he~~ shall have and having filed with the board an application for a certificate of registration and ~~shall have~~ having paid the fee required by this chapter. ~~Such~~ The exemption ~~shall continue~~ continues only for such time as the board requires for the consideration of the application for registration, ~~provided such a~~ if the

person is legally qualified to practice ~~said~~ the profession of engineering in ~~his own~~ the state or county of residence in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter.

3. Certain employees. An employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person exempted from registration by subsections 1 and 2; provided ~~his~~ that the practice does not include responsible charge or design or supervision by the employee or subordinate.

Sec. 4. 32 MRSA §1256, as amended by PL 1983, c. 413, §41, is further amended to read:

§1256. Violations; penalties; injunction

~~Any A~~ person who ~~shall practice~~ practices or ~~offer~~ offers to practice the profession of engineering in this State without being registered or exempted in accordance with this chapter, or ~~any~~ a person presenting or attempting to use ~~as his own~~ the certificate of registration or the seal of another, or ~~any~~ a person who ~~shall give any~~ gives a false or forged evidence of any kind to the board or to ~~any~~ a member ~~thereof~~ of the board in obtaining a certificate of registration, or ~~any~~ a person who ~~shall falsely impersonate~~ impersonates any other registrant of like or different name, or ~~any~~ a person who ~~shall attempt~~ attempts to use an expired or revoked certificate of registration, or ~~any~~ a person who ~~shall violate~~ violates any of the provisions of this chapter ~~shall be guilty of~~ commits a Class E crime.

The State may bring an action in Superior Court to enjoin ~~any~~ a person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

It ~~shall be~~ is the duty of all duly constituted officers of the law of this State or any political subdivision ~~thereof~~ of this State to enforce this chapter and to prosecute any persons violating ~~same~~ the provisions of this chapter. The Attorney General or ~~his~~ a designated assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out this chapter.

Sec. 5. 32 MRSA §1301, as amended by PL 1993, c. 600, Pt. A, §103, is further amended to read:

§1301. Appointment; term

The State Board of Registration for Professional Engineers, as established by Title 5, section 12004-A, subsection 16, administers this chapter. The board consists of ~~6~~ 7 members appointed by the Governor, of which ~~5~~ 6 must be professional engineers who have the qualifications required by section 1302 and one

must be a representative of the public. To the extent that qualified nominees are available, appointment of nonpublic members are made to ensure that a variety of engineering disciplines are represented. Nominees for appointment may be recommended to the Governor by representative engineering societies in the State.

Appointments are for 5-year terms. Appointments of members must comply with section 60.

Sec. 6. 32 MRSA §1302, as amended by PL 1975, c. 575, §17, is further amended to read:

§1302. Qualifications

Each member of the board ~~shall~~ must be a citizen of the United States and a resident of this State, and each engineer member ~~shall~~ must have been engaged in the practice of the profession of engineering for at least 12 years and ~~shall~~ must have been in responsible charge of ~~important~~ engineering work for at least 5 years. Responsible charge of engineering teaching may be construed as responsible charge of ~~important~~ engineering work.

Sec. 7. 32 MRSA §1306, sub-§3, as enacted by PL 1983, c. 413, §45, is 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.

The board ~~shall may~~ not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license 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 the denial of ~~his~~ the application, the reasons ~~therefor~~ for the denial and ~~his~~ the 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.

Sec. 8. 32 MRSA §1307 is amended to read:

§1307. Receipts and disbursements

The secretary of the board shall receive and account for all ~~moneys~~ money derived under this chapter and shall pay the ~~same~~ money, as provided by law, to the Treasurer of State, who shall keep ~~such~~

~~moneys the money~~ in a separate fund to be known as the "Professional Engineers' Fund." The secretary of the board ~~shall receive a salary is entitled to compensation~~ and allowance for clerical hire as ~~recommended~~ approved by the board, in addition to the expenses provided for in section 1303. The board may make other expenditures from this fund, upon itemized vouchers approved by the ~~chairman chair~~ of the board, ~~which that~~ in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

Sec. 9. 32 MRSA §1309, as amended by PL 1991, c. 442, §4, is further amended to read:

§1309. Roster of registered engineers

A roster showing the names of all active registered professional engineers and ~~engineers in training~~ newly certified engineer-interns is prepared by the secretary of the board during the first calendar quarter of each even-numbered year. A supplementary roster of newly registered professional engineers and newly certified ~~engineers in training~~ engineer-interns is prepared by the secretary of the board during the first calendar quarter of each odd-numbered year. The rosters must give the place of business of each listed registered engineer and the date of expiration of the certificate of each listed engineer in training. Copies of the roster and of the supplementary roster are mailed to each active engineer listed on the roster and furnished to the public upon request for such fees as the board may authorize in its rules.

Sec. 10. 32 MRSA §1351 is amended to read:

§1351. Registration required

In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering ~~shall be~~ is required to submit evidence ~~that he is qualified~~ of qualification to ~~so~~ practice the profession of engineering and ~~shall~~ must be registered as provided. It ~~shall be~~ is unlawful for any person to practice or to offer to practice the profession of engineering in the State or to use in connection with ~~his the person's~~ name or otherwise assume, use or advertise any title or description tending to convey the impression that ~~he the person~~ is a professional engineer, unless ~~such that~~ person has been duly registered or exempted under this chapter.

Sec. 11. 32 MRSA §1352, as amended by PL 1991, c. 442, §5, is further amended to read:

§1352. Qualifications

To be eligible for registration as a professional engineer, or certification as ~~a engineer in training~~ an engineer-intern, an applicant ~~shall~~ must submit 5 references with ~~his the~~ application for registration as a

professional engineer, 3 of ~~which the~~ references ~~shall~~ must be registered engineers having personal knowledge of ~~his the applicant's~~ engineering experience, or in the case of an application for certification as an ~~engineer in training~~ engineer-intern, by 3 character references. Each applicant shall demonstrate that ~~he the applicant~~ is trustworthy and competent to engage in the practice of engineering in such manner as to safeguard the interests of the public.

The following ~~shall be~~ is considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer or for certification as an ~~engineer in training~~ engineer-intern, respectively:

1. Professional engineer. As a professional engineer:

A. A person holding a certificate of registration to engage in the practice of engineering, on the basis of comparable written examinations, issued ~~to him~~ by a proper authority of a state, territory or possession of the United States, the District of Columbia, or of any foreign country, who, in the opinion of the board, meets the requirements of this chapter, based on verified evidence may, upon application, be registered without further examination.

A person holding a certificate of ~~qualification~~ record verification issued by the National Bureau of Engineering Registration Council of Examiners for Engineering and Surveying, whose qualifications meet the requirements of this chapter may, upon application, be registered without further examination;

B. A graduate of an engineering curriculum of 4 years or more approved by the board as being of satisfactory standing; and with a specific record of ~~an additional 4 years or more of~~ experience in engineering work of a grade and character ~~which indicates that indicate~~ to the board that the applicant may be competent to practice engineering, ~~shall may~~ be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practice of engineering. Upon passing ~~such the~~ examinations, the applicant ~~shall may~~ be granted a certificate of registration to practice engineering in this State, ~~provided he is otherwise qualified. if all other qualifications are met;~~

C. An applicant, having a specific record of a high school education and 12 years or more of progressive experience in engineering work of a character and grade ~~which indicates that indicate~~ to the board that the applicant may be competent to practice engineering, and who passes an 8-hour written examination in the fundamentals

of engineering designed to show knowledge and skill approximating that obtained through graduation in an approved 4-year engineering curriculum, and an 8-hour written examination in the principles and practice of engineering, ~~shall~~ may be granted a certificate of registration to practice engineering in this State, ~~provided he is otherwise qualified~~, if all other qualifications are met;

D. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or important engineering work, and of a grade and character ~~which indicates that indicate~~ to the board that the applicant may be competent to practice engineering, and who has passed an oral examination conducted by the State Board of Registration for Professional Engineers or by a board committee or an 8-hour written examination in the principles and practice of engineering, and is otherwise qualified, shall may be registered to practice engineering in this State. This paragraph is repealed December 31, 1996;

E. Engineering teaching in a college or university offering an approved engineering curriculum of 4 years or more may be considered as engineering experience;

F. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or engineering work and of a grade and character that indicate to the board that the applicant may be competent to practice engineering, and who has passed an 8-hour written examination in the principles and practice of engineering, and is otherwise qualified, may be registered to practice engineering in this State; and

G. An applicant with an experience record of at least 15 years of lawful practice in engineering work, of which at least 10 years have been in responsible jobs or engineering work and of a grade and character that indicate to the board that the applicant may be competent to practice engineering, who has a certificate of registration to engage in the practice of engineering, on the basis of experience or non-National Council of Examiners for Engineering and Surveying examination issued by a proper authority of a state, territory or possession of the United States, the District of Columbia or any foreign country, and who in the opinion of the board meets the requirements of this chapter based on verified evidence may be registered upon application by passing an oral examination conducted by the

State Board of Registration for Professional Engineers or by a board committee; and

2. Engineer-intern. As an ~~engineer-in-training; engineer-intern~~. The following ~~shall be~~ is considered as minimum evidence that the applicant is qualified for certification as an ~~engineer-in-training; engineer-intern~~.

A. A graduate of an approved engineering curriculum of 4 years or more who has passed the board's 8-hour written examination in the fundamentals of engineering ~~shall~~ may be certified or enrolled as an ~~engineer-in-training, if he is otherwise qualified~~ engineer-intern if all other qualifications have been met.

B. An applicant having a high school education and a specific record of 8 or more years of experience in engineering work of a grade and character satisfactory to the board, who passes the board's 8-hour written examination in the fundamentals of engineering ~~shall~~ may be certified or enrolled as an ~~engineer-in-training, if he is otherwise qualified~~ engineer-intern if all other qualifications have been met.

~~C. The certification or enrollment of an engineer-in-training shall be valid for a period of 12 years.~~

Any person having the necessary qualifications prescribed in this chapter to entitle ~~him~~ that person to registration ~~shall be~~ is eligible for ~~such~~ registration though ~~he~~ the person may not be practicing ~~his~~ the profession at the time of making ~~his~~ the application.

Sec. 12. 32 MRSA §1353, as amended by PL 1991, c. 442, §6, is further amended to read:

§1353. Application; fees

Application for registration as a professional engineer or certification as an ~~engineer-in-training; engineer-intern~~ is on a form prescribed and furnished by the board; contains statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience, and contains references as set forth in section 1352, none of whom may be members of the board. An application fee and an examination fee may be established by the board in amounts ~~which that~~ are reasonable and necessary for their respective purposes.

The registration fee for professional engineers ~~is~~ must be established by the board in an amount not to exceed ~~\$40~~ \$200.

The registration fee for ~~engineer-in-training; engineer-intern~~ certification or enrollment ~~is~~ must be

established by the board in an amount not to exceed 1/2 of the registration fee for professional engineers.

Sec. 13. 32 MRSA §1354, as amended by PL 1983, c. 468, §2, is further amended to read:

§1354. Examinations

Written examinations ~~shall must~~ be held at such times and places as the board ~~shall determine~~ determines. Examinations required on fundamental engineering subjects may be taken as provided in section 1352. The ~~final principles and practices of engineering~~ examinations may not be taken until the applicant has completed a period of engineering experience as set forth in section 1352.

The passing grade on any examination ~~shall be is~~ not less than 70% established by the board. ~~A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year, unless this waiting period is reduced or waived by the board.~~

Sec. 14. 32 MRSA §1356, as repealed and replaced by PL 1983, c. 413, §49, is amended to read:

§1356. Revocation and reissuance

The board may suspend or revoke the registration of an engineer or the certificate of an ~~engineer-in-training~~ engineer-intern pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court, pursuant to Title 4, chapter 25, may revoke, suspend or refuse to renew the registration of a registered professional engineer or the certificate of an ~~engineer-in-training~~ engineer-intern who is found guilty of:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as professional engineer or a certificate as an ~~engineer-in-training~~ engineer-intern;

2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a registered professional engineer or as an ~~engineer-in-training~~ engineer-intern; or

3. Violations. Violating any provision of this chapter or any rule of the board.

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any registered professional engineer or any ~~engineer-in-training~~ engineer-intern. These complaints ~~shall must~~ be in writing, sworn to by the person making them and filed with the secretary of the board.

The board, for reasons it may ~~deem~~ determine sufficient, may reissue a certificate of registration as a professional engineer or as an ~~engineer-in-training~~ engineer-intern to any person whose certificate has been revoked, provided that 4 or more members of the board vote in favor of that reissuance. A new certificate of registration as a professional engineer or as an ~~engineer-in-training~~ engineer-intern, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board; and a charge of \$3 ~~shall be made for that issuance~~ established by the board.

Sec. 15. 32 MRSA §1358 is amended to read:

§1358. Exemptions from expiration and renewal fees

~~Any~~ A person holding a valid certificate of registration under this chapter on the date of entering employment in the Armed Forces of the Government of the United States during a period of war or employment in any wartime service outside of the continental United States, governmental or otherwise, under the United States or any of its allied nations ~~shall be is~~ exempt, for the duration of such that employment, from the payment of all renewal fees, and ~~his~~ the registrant's certificate of registration ~~shall remain~~ remains in full force and effect until the next regular renewal date following the termination of such that employment.

Sec. 16. 32 MRSA §1360, as amended by PL 1983, c. 413, §52, is further amended to read:

§1360. Residents certified elsewhere

A person who is a resident of the State and has been certified in another state as an ~~engineer-in-training~~ engineer-intern may; be certified as an engineer-intern in this State upon payment of a fee of \$5, be certified as an engineer-in-training in Maine, provided that he submits evidence satisfactory to the board that he has been certified as an engineer-in-training in another state under qualifications equivalent to those specified in this chapter for that certification established by the board and upon submission of evidence satisfactory to the board that certification as an engineer-intern in another state was under qualifications equivalent to those specified in this chapter for that certification.

Sec. 17. 32 MRSA §1361 is enacted to read:

§1361. Retired status

A registrant who has terminated practice of engineering may apply to the board for retired status. Upon receiving an application for retired status, accompanied by the fee established by the board, the board shall issue a certificate of retired status to the

applicant and record the applicant's name in the roster as a retired registrant, along with the date of retired status.

A retired registrant may retain but not use the seal and may not practice engineering. The board shall reissue a certificate of registration to a retired registrant who pays all application fees, meets all current requirements for registration and demonstrates to the board's satisfaction that, for 2 years preceding the application for registration, the retired registrant met the requirements for maintaining professional competence established under the board rules.

Sec. 18. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
State Board of Registration for Professional Engineers		
All Other	\$750	\$1,000
Provides allocations for the additional costs of adding one member to the board.		

See title page for effective date.

CHAPTER 356

H.P. 1000 - L.D. 1411

An Act to Amend the Maine Bail Code

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

Sec. 1. 15 MRSA §1003, sub-§5-A is enacted to read:

5-A. Failure to appear. "Failure to appear" includes a failure to appear at the time or place required by a release order and the failure to surrender into custody at the time and place required by a release order or by the Maine Rules of Criminal Procedure, Rule 38(c).

Sec. 2. 15 MRSA §1003, sub-§§9 and 10, as enacted by PL 1987, c. 758, §20, are amended to read:

9. Post-conviction. "Post-conviction" means any point in a criminal proceeding after a verdict or finding of guilty or after the acceptance of a plea of guilty or nolo contendere.

10. Preconviction. "Preconviction" means any point in a criminal proceeding before a verdict in the context of a jury trial or finding of guilty in the context of a jury-waived trial or plea before the acceptance of a plea of guilty or nolo contendere.

Sec. 3. 15 MRSA §1023, sub-§2, as amended by PL 1993, c. 675, Pt. B, §12, is further amended to read:

2. Appointment. The Chief Judge of the District Court may appoint one or more residents of ~~each district~~ the State as bail commissioners. A bail commissioner serves at the pleasure of the Chief Judge of the District Court, but no term for which a bail commissioner is appointed may exceed 5 years. The Chief Judge of the District Court shall require bail commissioners to complete the necessary training requirements set out in this section. Bail commissioners have the powers of notaries public to administer oaths or affirmations in carrying out their duties.

Sec. 4. 15 MRSA §1025, as repealed and replaced by PL 1991, c. 824, Pt. A, §23, is amended to read:

§1025. Law enforcement officers

A law enforcement officer making a warrantless arrest under Title 17-A, section 15 may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in accordance with Title 12, section 675; Title 12, section 7053, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

Sec. 5. 15 MRSA §1026, sub-§7 is enacted to read:

7. Applicability of conditions of release. A condition of release takes effect and is fully enforceable as of the time the judicial officer sets the condition, unless the bail order expressly excludes it from immediate applicability.

Sec. 6. 15 MRSA §1027, sub-§§2 and 3, as enacted by PL 1987, c. 758, §20, are amended to read:

2. Harnish bail proceeding. A Harnish bail proceeding ~~shall~~ must be held within 5 court days of the State's request unless the court, for good cause shown and at the request of either the defendant or the

attorney for the State, grants a continuance. Evidence presented at a Harnish bail proceeding may include testimony, affidavits and other reliable hearsay evidence as permitted by the court. If, after the hearing, the court finds probable cause to believe that the defendant has committed a formerly capital offense, it shall issue an order under subsection 3. If, after the hearing, the court does not find probable cause to believe that the defendant's alleged criminal conduct was formerly a capital offense, it shall issue an order under section 1026 and may amend its bail order as provided under section 1026, subsection 3, paragraph C.

3. When conditional right has been extinguished at Harnish bail proceeding. The court's finding that probable cause exists to believe that the defendant committed a formerly capital offense extinguishes the defendant's right to have bail set. The court shall make a determination as to whether or not the setting of bail is appropriate as a matter of discretion. The court may set bail unless the State establishes by clear and convincing evidence that:

- A. There is a substantial risk that the capital defendant will not appear as required or will otherwise pose a substantial risk to the integrity of the judicial process; or
- B. There is a substantial risk that the capital defendant will pose a danger to another or to the community.

In exercising its discretion, the court shall consider the factors listed in section 1026 and any prior history of dangerousness. The court may amend any bail order as provided under section 1026, subsection 3, paragraph C. If the court has issued a bail order on the basis of its discretionary authority to set bail in a case involving a formerly capital offense, the court having jurisdiction of the case may modify or deny bail at any time upon motion by the attorney for the State or the defendant or upon its own initiative and upon a showing of changed circumstances or the discovery of new and significant information.

Sec. 7. 15 MRSA §1030, as amended by PL 1987, c. 870, §5, is further amended to read:

§1030. State's attorney present at certain proceedings; opportunity to present relevant information

Before making a determination as to whether or not to set bail for a defendant charged with murder or a Class A, Class B or Class C crime and before any bail order is reviewed under section 1028 or 1029, the judicial officer shall afford the attorney for the State or a law enforcement officer familiar with the charges the opportunity to present any information relevant to bail considerations. This opportunity shall be is in

addition to the availability of a Harnish bail proceeding as otherwise provided in this chapter.

An attorney for the State or a law enforcement officer familiar with the charges ~~shall~~ must be present in District Court at all proceedings governed by ~~Maine District Court Criminal Rules, Rule 5, and the~~ Maine Rules of Criminal Procedure, Rule 5, at which bail is being set, ~~except when the offense charged is a Class D or Class E crime.~~

Sec. 8. 15 MRSA §1051, sub-§1, as amended by PL 1987, c. 870, §6, is further amended to read:

1. Application to presiding judge or justice. ~~Except After post-conviction, except as provided in this section, after a verdict or finding of guilty, a~~ defendant may apply to the judge or justice who presided at the trial for bail pending imposition or execution of sentence or entry of judgment or appeal. If the trial judge or justice is not available, the defendant may apply for bail under this section to another judge or justice of the court in which the defendant was convicted. Post-conviction bail ~~shall~~ is not ~~be~~ available to a defendant convicted of:

- A. Murder;
- B. Any other formerly capital offense for which preconviction bail was denied ~~preconviction~~ under section 1027; or
- C. Any crime when the defendant's preconviction bail was revoked and denied under ~~section 1093~~ sections 1096 and 1097.

The judge or justice shall hold a hearing on the record on the bail application and shall state in writing or on the record the reasons for denying or granting bail. If bail is granted, the judge or justice shall also state, in writing or on the record, the reasons for the kind and amount of bail set, for any condition of release imposed and for the omission of any condition of release sought by the State.

The judge or justice may enter an order for bail pending appeal before a notice of appeal is filed, but conditioned upon its timely filing.

Every order for post-conviction release of a defendant ~~shall~~ must include a waiver of extradition by the defendant as well as a condition of bail that the defendant refrain from criminal conduct.

Sec. 9. 15 MRSA §1051, sub-§3, as enacted by PL 1987, c. 758, §20, is amended to read:

3. Conditions of release. Except as provided in subsection 4, the judge or justice may impose, in lieu of or in addition to an appearance or bail bond, any condition considered reasonably necessary to mini-

mize the risk of flight or danger that the defendant may fail to appear as required, may compromise the integrity of the judicial process or may constitute a danger to another person or the community.

Sec. 10. 15 MRSA §1051, sub-§7-A, as enacted by PL 1991, c. 393, §2, is repealed.

Sec. 11. 15 MRSA §1051, sub-§8, as enacted by PL 1987, c. 758, §20, is repealed.

Sec. 12. 15 MRSA §1051, sub-§9, as repealed and replaced by PL 1987, c. 870, §7, is repealed.

Sec. 13. 15 MRSA §1072, sub-§1, as amended by PL 1989, c. 147, §5, is further amended to read:

1. Preconviction. Each surety for a defendant admitted to preconviction bail is responsible for the appearance of the defendant at all times until a verdict or finding or plea of guilty or until the acceptance of a plea of guilty or nolo contendere, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.

~~In no case may a~~ A preconviction surety ~~be is not~~ responsible for the appearance of a defendant after conviction, unless the surety has agreed to act as postconviction surety.

Sec. 14. 15 MRSA §1073, as enacted by PL 1987, c. 758, §20, is amended to read:

§1073. Termination of surety or cash bail agreement

~~Any A~~ person who has agreed either to act as surety or to deposit cash bail for a defendant who has been admitted to preconviction bail may terminate the agreement by appearing before the clerk of the court having jurisdiction over the offense with which the defendant is charged and executing a statement under oath terminating the ~~surety~~ agreement. The statement ~~shall must~~ include a certification by the ~~surety~~ person that the ~~surety~~ person has notified the defendant or the defendant's attorney of the ~~surety's~~ person's intention to terminate the ~~surety~~ agreement. A person may not terminate a cash bail agreement unless the person has been designated as the owner of all of the cash as required by section 1074.

Upon execution of the statement terminating the ~~surety~~ agreement, the clerk shall bring the matter to the attention of a judge or justice of the court who, unless new and sufficient sureties have appeared or new and sufficient cash has been deposited, shall order the defendant committed for failure to furnish bail and shall issue a warrant for the defendant's arrest.

The judge or justice may absolve the ~~surety~~ person of responsibility to pay all or part of the bond, ~~provided or may order the return of cash bail, except that no surety a person may not~~ be absolved of the responsibility to pay all or part of the bond, or receive any cash deposited as bail, if, prior to terminating the ~~surety~~ agreement, the defendant has failed to appear as required. Nothing in this section may be construed to relieve or release a ~~surety~~ person of the responsibility for the appearance of the defendant, notwithstanding the termination of the ~~surety~~ agreement, until the defendant is in the custody of the sheriff of the county in which the case is pending, new or substitute sureties have appeared, new cash bail has been deposited or the defendant has otherwise been admitted to bail.

A person who has agreed either to act as surety or to deposit cash bail for a defendant who has been admitted to post-conviction bail may terminate the ~~surety~~ agreement by following the procedure set forth in this section.

Sec. 15. 15 MRSA c. 105-A, sub-c. V is amended by repealing the chapter headnote and enacting the following in its place:

SUBCHAPTER V

ENFORCEMENT

ARTICLE 1

GENERAL PROVISIONS

Sec. 16. 15 MRSA §1091, as enacted by PL 1987, c. 758, §20, is amended to read:

§1091. Failure to appear; penalty

~~Any A~~ defendant ~~charged with an offense~~ who has been admitted to either preconviction or post-conviction bail and who, in fact, fails to appear as required is guilty of a Class E crime if the ~~offense charged underlying crime~~ was punishable by a maximum period of imprisonment of less than one year; or is guilty of a Class C crime if the ~~offense charged underlying crime~~ was punishable by a maximum period of imprisonment of one year or more. It is an affirmative defense that the failure to appear resulted from just cause.

Sec. 17. 15 MRSA §1092, as amended by PL 1987, c. 870, §9, is further amended to read:

§1092. Violation of condition of release

~~Any person charged with an offense A~~ defendant who has been ~~admitted to~~ granted preconviction or post-conviction bail and who, in fact, violates a condition of release is guilty of a Class E crime or is guilty of a Class C crime if the ~~offense charged~~

underlying crime was punishable by a maximum period of imprisonment of one year or more and the condition of release violated is one specified in section 1026, subsection 3, paragraph A, ~~subparagraphs~~ subparagraph (5), (8) or (13). It is an affirmative defense that the violation resulted from just cause.

Sec. 18. 15 MRSA §1093, as amended by PL 1991, c. 393, §3, is repealed.

Sec. 19. 15 MRSA c. 105-A, sub-c. V, art. 2 and 3 are enacted to read:

ARTICLE 2

REVOCATION OF PRECONVICTION BAIL

§1095. Proceedings for revocation of preconviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's preconviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant can not be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

2. Arrest. A law enforcement officer may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter. A defendant under arrest pursuant to subsection 1 or this subsection must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation

hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

§1096. Grounds for revocation of preconviction bail

An order of preconviction bail entered by a judge or justice may be revoked by the judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon a determination made after notice and opportunity for hearing that:

1. Probable cause. Probable cause exists to believe that the defendant has committed a new crime following the setting of preconviction bail; or

2. Clear and convincing evidence. Clear and convincing evidence exists that the defendant has failed to appear as required or has violated any other condition of the preconviction bail.

§1097. Disposition after revocation of preconviction bail

1. Setting of new bail. If, after considering the factors in subsection 2, the judge or justice finds that there are conditions of release that will reasonably ensure the defendant's appearance when required and will otherwise reasonably ensure the integrity of the judicial process, the judge or justice shall issue an order under section 1026.

2. Denial of bail. In deciding whether to hold the defendant without bail, the judge or justice shall consider whether there are conditions of release that reasonably ensure the defendant's appearance when required and otherwise reasonably ensure the integrity of the judicial process. In this weighing process, the commission of a new crime, in the event that it is not found to otherwise increase the risk posed by the defendant to the integrity of the judicial process, must be treated by the judge or justice as increasing the risk that the defendant will fail to appear when required. The judge or justice shall also consider whether there is an unreasonable risk that the defendant may fail to comply with any condition of release.

3. Appeal. A defendant in custody as a result of an order issued under this section by the District Court may appeal to the Superior Court and a defendant in custody as a result of an order issued under this section by the Superior Court may appeal to a single Justice of the Supreme Judicial Court. The appeal must be in accordance with the procedures set forth in section 1028, as far as applicable, except that the review is limited to a review of the record to determine whether the order was rationally supported by the evidence.

4. No new bail consideration when bail has been revoked and denied in District Court. When a District Court judge has, after revocation, ordered the defendant held without bail, the defendant is not entitled to have bail set when charges are brought by indictment for the same underlying conduct. If the defendant has not previously appealed the District Court bail revocation, the Superior Court may, upon request of the defendant, entertain the appeal at the defendant's arraignment.

ARTICLE 3

REVOCATION OF POST-CONVICTION BAIL

§1098. Proceedings for revocation of post-conviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's post-conviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of post-conviction bail or has been charged with a crime allegedly committed while released on post-conviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by the direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant can not be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

2. Arrest. A law enforcement officer may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter. A defendant under arrest pursuant to this subsection must be brought before a judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to

the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

§1099. Grounds for revocation of post-conviction bail

An order of post-conviction bail entered by a judge or justice may be revoked by the judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon determination made after notice and opportunity for hearing that:

1. Crime charged. The defendant has in fact been charged with a crime allegedly committed after post-conviction bail was set;

2. Failure to appear. The defendant has failed to appear as required or has violated a condition of post-conviction bail as demonstrated by a preponderance of the evidence; or

3. Appeal for purposes of delay. The defendant's appeal has been taken for the purpose of delay as demonstrated by a preponderance of the evidence.

§1099-A. Disposition after revocation of post-conviction bail

1. Held without bail. The judge or justice shall order the defendant held without bail unless the judge or justice finds that under the facts of the case it would be unreasonable to do so, in which event the judge or justice shall issue an order under section 1051.

2. Appeal. A defendant in custody as a result of an order issued under this section may appeal to a single Justice of the Supreme Judicial Court who shall review the revocation pursuant to the procedures set forth in section 1051, subsection 5.

Sec. 20. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 1993, c. 475, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household

members, as defined in Title 15, section 321;

(6) Theft as defined in section 357, when the value of the services is \$1,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, ~~subsections 2 and 9~~ subsection 2; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A; or

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

See title page for effective date.

CHAPTER 357

S.P. 472 - L.D. 1268

An Act Relating to Procedures before the Public Utilities Commission

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

Sec. 1. 35-A MRSA §1101, sub-§4 is enacted to read:

4. Exempt transactions. Transactions involving utility property that do not materially affect the ability of a utility to perform its duties to the public do not require commission authorization under this section. The commission may certify transactions as not requiring authorization, either by rule or order.

Sec. 2. 35-A MRSA §1304, sub-§6 is enacted to read:

6. Commission authorized to waive public hearing. Unless one or more parties request a public hearing, the commission may waive the requirement for a public hearing under any provision of this Title.

Sec. 3. 35-A MRSA §3133, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Commission approval required for purchases and conversions. ~~No~~ An electric utility may not purchase any generating capacity, transmission capacity or energy or carry out a fuel conversion as defined in section 3131, unless the commission has issued a certificate of public convenience and necessity approving the purchase or conversion or has waived the approval requirements pursuant to subsection 11.

Sec. 4. 35-A MRSA §3133, sub-§10-A, as enacted by PL 1993, c. 91, §5, is amended to read:

10-A. Renewal of contracts for purchase or conversion originally subject to commission approval. ~~This~~ The requirements of this section apply to any amendment, extension or renewal of any contract between the utility and other parties governing the terms of their participation in a purchase or conversion subject to this section, if the original contract was subject to approval by the commission. ~~The commission may waive the approval requirements of this section with respect to a particular amendment, extension or renewal or a group of amendments, extensions or renewals upon request by the utility. The commission may also waive the 2-month notice required in subsection 2. If the commission does not respond to a request for waiver within 30 days, the request is deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.~~

Sec. 5. 35-A MRSA §3133, sub-§11 is enacted to read:

11. Waiver of approval requirements. The commission may waive the notice and approval requirements of this section on its own motion or upon request of any party except that the commission may not waive the approval requirements if the purchase or fuel conversion involves generating capacity that exceeds either 5% of the installed capacity of the utility or 30 megawatts of capacity. The commission shall rule on a request for a waiver within 60 days. Prior to considering a waiver, the commission shall ensure that notice by mail has been sent, and an opportunity to be heard permitted, to persons who

commonly participate in commission proceedings and persons whose contracts the commission determines may be affected by the agreement. The commission may prescribe by rule the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.

Sec. 6. 35-A MRSA §3133-A, sub-§1, as amended by PL 1993, c. 119, §1, is further amended to read:

1. Certificate of public convenience and necessity. Except as provided in subsection 3, ~~no~~ an electric utility may not enter into any significant agreement or contract, as defined in subsection 2, unless the commission has issued a certificate of public convenience and necessity approving the proposed agreement or contract or has waived the approval requirements pursuant to subsection 6. The utility must file a notice with the commission no less than 2 months in advance of submitting its petition for a certificate of public convenience and necessity for the proposed agreement or contract. ~~The commission may waive the requirement that at least 2 months' advance notice be given. The commission shall rule on any request for waiver within 60 days.~~ The commission may require the petitioner to make available such additional information as it determines necessary. The petition must contain such information as the commission may by rule prescribe. The petition must be set down for public hearing. The commission shall issue its order within 12 months after the complete petition is filed. If there is then outstanding a long-range plan for the utility pursuant to section 3134 that includes the agreement or contract, the utility need not provide advance notice of its intent to file the petition and the commission shall issue its order within 9 months after the complete petition is filed.

In its order, the commission shall make specific findings with regard to the agreement or contract. If the commission finds that a need for it exists and it is reasonable and consistent with the public interest, the commission shall issue the certificate of public convenience and necessity.

The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance, the decision by the utility to enter into the agreement or contract was prudent.

Sec. 7. 35-A MRSA §3133-A, sub-§2, ¶A, as enacted by PL 1987, c. 387, §4, is amended to read:

A. "Significant agreement or contract" means a contract or other agreement enforceable as a contract ~~which~~ that binds the utility to a future course of action with respect to supplying, purchasing, dispatching or exchanging generating capacity, energy or transmission capacity or any

renewal, amendment or extension of any contract or agreement ~~which~~ that is for a period of longer than 3 years or more and involves one of the following, whichever is less:

- (1) ~~One thousand~~ More than 5,000 kilowatts ~~or more~~ of electrical generating capacity, or ~~10,000,000~~ 50,000,000 kilowatt hours or more of energy per year, flowing over a transmission line with a capacity greater than 100 kilovolts; ~~or~~
- (2) More than 10% of the generating capacity, transmission capacity or energy generation of the utility, ~~whichever is less;~~ or
- (3) More than 1.0% of the total annual kilowatt hour sales of the utility.

Sec. 8. 35-A MRSA §3133-A, sub-§5-A, as enacted by PL 1993, c. 91, §7, is amended to read:

5-A. Amendments, extensions and renewals. ~~This~~ The requirements of this section apply to any amendment, extension or renewal of any significant agreement or contract subject to this section, if the original contract was subject to approval by the commission. ~~The commission may waive the approval requirements of this section with respect to a particular agreement or group of agreements upon request by the utility. The commission may also waive the 2-month notice requirement in subsection 1. If the commission does not respond to a request for waiver within 30 days, the request is deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver in certain circumstances.~~

Sec. 9. 35-A MRSA §3133-A, sub-§6 is enacted to read:

6. Waiver of approval requirements. The commission may waive the notice and approval requirements of this section upon its own motion or upon the request of any party, except that the commission may not waive the approval requirements if the agreement involves generating capacity that exceeds the larger of 5% of the installed capacity of the utility or 50 megawatts of capacity. The commission shall rule on a request for a waiver within 60 days. Prior to considering a waiver, the commission shall ensure that notice by mail has been sent, and an opportunity to be heard permitted, to persons who commonly participate in commission proceedings and persons whose contracts the commission determines may be affected by the agreement. The commission may prescribe by rule the content of a request for waiver and procedures for expeditious processing of the request in certain circumstances.

Sec. 10. 35-A MRSA §3134-A, as enacted by PL 1987, c. 490, Pt. B, §5, is repealed.

See title page for effective date.

CHAPTER 358

H.P. 852 - L.D. 1183

An Act to Authorize the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund

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

Sec. 1. 5 MRSA §6211 is enacted to read:

§6211. Land for Maine's Future Board-sponsored credit card

1. Land for Maine's Future Board-sponsored credit card. The Land for Maine's Future Board may enter into an agreement with a financial institution, as defined in Title 9-B, section 131, subsection 17, or a credit union, as defined in Title 9-B, section 131, subsection 12, to issue a credit card for the benefit of the Land for Maine's Future Board.

2. Agreement. If the Land for Maine's Future Board enters into an agreement with a financial institution or credit union in accordance with subsection 1, the Land for Maine's Future Board shall negotiate the most favorable agreement for the Land for Maine's Future Board, considering such factors as:

A. The rate for the Land for Maine's Future Board's fee by a credit card issuer;

B. The ability of the financial institution to market the card successfully; and

C. Customer service offered by the financial institution.

3. Distribution of proceeds. Funds received by the Land for Maine's Future Board under the agreement with the financial institution or credit union must be deposited in the Land for Maine's Future Fund.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96	1996-97
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EXECUTIVE
DEPARTMENT

Land for Maine's Future
Fund

Capital Expenditures	\$50,000	\$75,000
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Provides funds for land acquisitions and capital improvements as defined by the laws governing the Land for Maine's Future Fund.

See title page for effective date.

CHAPTER 359

H.P. 822 - L.D. 1153

An Act to Revise the Somerset County Budget Committee

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

Sec. 1. 30-A MRSA §896, sub-§2, as enacted by PL 1993, c. 582, §1, is amended to read:

2. Legislative member. By September 15th each year, except beginning in 1996, by December 1st every other year, the Somerset County legislative delegation shall select 3 of the delegation's members to serve as nonvoting members on the budget committee.

See title page for effective date.

CHAPTER 360

H.P. 646 - L.D. 869

An Act to Revise Reapportionment Guidelines

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

Sec. 1. 21-A MRSA §1206, first ¶, as enacted by PL 1993, c. 628, §2, is amended to read:

~~The state legislative districts established in this chapter must be reapportioned pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A, and congressional Congressional districts must be reapportioned as follows.~~

Sec. 2. 21-A MRSA §1206-A is enacted to read:

§1206-A. Reapportionment of state legislative districts

~~The state legislative districts established in this chapter must be reapportioned pursuant to the~~

Constitution of Maine, Article IV, Part First, Section 2; Article IV, Part Second, Section 2; Article IV, Part Third, Section 1-A; and this section. When reapportioning districts, where possible, the Legislative Apportionment Commission shall attempt to form functionally contiguous and compact territories. For purposes of this section, a "functionally contiguous and compact territory" is one that facilitates representation by minimizing impediments to travel within the district. Impediments to travel include, but are not limited to, physical features such as mountains, rivers, oceans and discontinued roads or lack of roads. The commission shall recognize that all political subdivision boundaries are not of equal importance and give weight to the interests of local communities when making district boundary decisions.

When the Supreme Judicial Court is required to make the apportionment, it is bound by this section.

See title page for effective date.

CHAPTER 361

H.P. 978 - L.D. 1387

An Act to Amend the Underground Oil Storage Facilities and Groundwater Protection Laws

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

Sec. 1. 38 MRSA §562-A, sub-§2, as amended by PL 1993, c. 363, §3 and affected by §21, is further amended to read:

2. Applicant. "Applicant" means the owner or operator of an underground oil storage facility or an aboveground oil storage facility that ~~may have~~ has suffered a discharge of oil and who is seeking coverage of eligible clean-up costs and 3rd-party damage claims from the fund.

Sec. 2. 38 MRSA §562-A, sub-§7-A is enacted to read:

7-A. Eligible clean-up costs. "Eligible clean-up costs" means those direct expenses including expenses for site investigation that:

A. Are necessary to clean up discharges of oil to the satisfaction of the commissioner;

B. Are cost-effective and technologically feasible and reliable;

C. Effectively mitigate or minimize damages; and

D. Provide adequate protection of the public health and welfare and the environment.

"Eligible clean-up costs" does not include expenses for legal advice or services.

Sec. 3. 38 MRSA §562-A, sub-§15, as enacted by PL 1989, c. 865, §2, is amended to read:

15. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity.

Sec. 4. 38 MRSA §568-A, sub-§1, as amended by PL 1993, c. 363, §§8 and 9 and affected by §21, is further amended to read:

1. Eligibility for fund coverage. Eligibility for coverage by the fund of clean-up costs and eligible 3rd-party damage costs is governed by the following provisions.

A. The applicant must submit within 180 days of reporting the discharge a written request to the commissioner to be covered by the fund. The request must include:

(1) A description of the discharge and the locations threatened or affected by the discharge, to the extent known;

(2) An agreement that the applicant shall pay the deductible amount specified in subsection 2; ~~and~~

(3) ~~Documentation that the applicant is in substantial~~ For underground storage facilities, documentation regarding the applicant's compliance with the requirements of subsection 2, paragraph B-; and

(4) For aboveground facilities, documentation required by the Fund Insurance Review Board.

The commissioner with respect to a claim involving an underground oil storage facility, or the State Fire Marshal with respect to a claim involving an aboveground oil storage facility, may waive the 180-day filing requirement for applicants for coverage of clean-up costs for discharges discovered after April 1, 1990 when the applicant has cooperated in a timely manner with the department in cleaning up the discharge.

~~Within 15 working days of receipt of a request, the commissioner must determine whether the request is complete. If the commissioner determines that the request is incomplete, the com-~~

~~missioner shall, within the 15 working days inform the applicant of the additional information required to complete the request. Within 90 days of receipt of an applicant's completed request for coverage by the fund submitted pursuant to this paragraph the commissioner must issue an order approving or denying the applicant's request. Failure to issue an order within this period constitutes approval of the applicant's request for coverage by the fund.~~

~~When the commissioner determines that a site previously remediated to the commissioner's satisfaction requires further remediation, the owner or operator of the site may apply for coverage of eligible clean up costs and 3rd party damages claims from the fund, notwithstanding the person's failure to meet the 180 day deadline described in this paragraph.~~

~~B. An applicant is in substantial compliance when the commissioner finds, considering all the relevant circumstances, including but not limited to all reasons for noncompliance submitted by the applicant pursuant to paragraph A, that the following requirements are substantially met:~~

~~(1) The compliance schedule, in section 563 A, for nonconforming facilities except that those facilities or tanks required to be removed by October 1, 1989, have until October 1, 1990, to be removed before they are considered out of compliance;~~

~~(2) Any outstanding consent agreement or clean up order issued by the commissioner under section 568, subsection 3, regarding violations of this subchapter;~~

~~(3) Any outstanding court order or consent decree regarding violations of this subchapter;~~

~~(4) For motor fuel storage and marketing and retail facilities, the following requirements:~~

~~(a) Applicable design and installation requirements in effect at the time of the installation or retrofitting requirements for leak detection as covered by section 564, subsections 1 and 1 A;~~

~~(b) Section 564, subsection 1 B, overfill and spill prevention equipment, and any rules adopted pursuant to that subsection;~~

~~(c) Section 564, subsection 2 A, paragraphs B to I, not including para-~~

~~graph G, and any rules adopted pursuant to that subsection; and~~

~~(d) Payment of any fees required under section 569, subsection 4 A, paragraph C;~~

~~(5) For consumptive use heating oil facilities:~~

~~(a) Section 565, subsection 1, if applicable; and~~

~~(b) Section 565, subsection 2; and~~

~~(6) For waste oil, and heavy oil and airport hydrant facilities with discharges that are not contaminated with hazardous constituents, compliance with rules adopted by the board regarding:~~

~~(a) Design and installation requirements in effect at the time of the installation, if applicable;~~

~~(b) Retrofitting of leak detection and corrosion protection, if applicable;~~

~~(c) Overfill and spill prevention;~~

~~(d) Monitoring of cathodic protection systems;~~

~~(e) Testing requirements for tanks and piping on evidence of a leak;~~

~~(f) Maintenance of a leak detection system; and~~

~~(g) Reporting leaks.~~

~~The burden of proof is on the department to show a lack of substantial compliance. The commissioner shall make written findings of fact when making a determination under this paragraph. These findings are subject to appeal to the Fund Insurance Review Board as provided in subsection 3 A.~~

~~The requirements in subparagraphs (1) to (6) do not apply to owners or operators of aboveground oil storage facilities. The Fund Insurance Review Board shall develop, in consultation with the State Fire Marshal, the documentation requirements for claims submitted by owners of aboveground oil storage facilities.~~

~~A finding of lack of substantial compliance does not render an applicant ineligible for coverage by the fund for any future occurrence, if the applicant is in substantial compliance at the time of the future application.~~

B-1. An applicant is not eligible for coverage for any discharge discovered on or before April 1, 1990.

C. The facility for which the applicant is applying for coverage is not ~~An applicant is not eligible for coverage for any discharge from a facility owned or operated by the Federal Government.~~

D. In any one calendar year, an applicant may only apply for coverage of clean-up costs and 3rd-party damage claims that total less than \$2,000,000 aggregate per facility owner. This limit includes claims made in subsequent years on those discharges.

E. An applicant is not eligible for coverage under this section if the applicant has any one or combination of the following relationships with an entity that owns or operates an oil refinery:

- (1) Is owned directly by or directly owns that entity;
- (2) Is a franchisee of that entity;
- (3) Is a member of a partnership or limited partnership that includes that entity;
- (4) Is a subsidiary of that entity; or
- (5) Is a parent corporation of that entity.

An applicant is not subject to this exclusion from coverage if its sole relationship with the entity is a contractual agreement to purchase oil from the entity exclusively for retail sale or for the applicant's consumption.

F. Within 15 working days of receipt of a request under paragraph A, the commissioner in the case of an underground oil storage facility or the State Fire Marshal in the case of an above-ground oil storage facility shall determine whether the request is complete. Failure to inform the applicant of the determination of completeness within 15 working days constitutes acceptance as complete. If the application is not accepted, the commissioner or State Fire Marshal shall return the application to the applicant with the reasons for nonacceptance specified in writing. Within 90 days of receipt of an applicant's completed request for coverage by the fund submitted pursuant to this subsection, the commissioner or State Fire Marshal shall issue an order determining eligibility and, if the applicant is eligible, specifying the amount of the deductible under subsection 2. Failure to issue an order within this period constitutes a determination that the applicant is eligible, subject to the deductibles in subsection 2, paragraph A.

G. When the commissioner determines that a site previously remediated to the commissioner's satisfaction requires further remediation, the owner or operator of the site may apply for coverage of eligible clean-up costs and 3rd-party damage claims from the fund, notwithstanding the person's failure to meet the 180-day deadline described in paragraph A.

H. The Fund Insurance Review Board shall develop, in consultation with the State Fire Marshal, the documentation requirements for claims submitted under this section by owners of aboveground oil storage facilities.

Sec. 5. 38 MRSA §568-A, sub-§2, as amended by PL 1993, c. 732, Pt. A, §4, is repealed and the following enacted in its place:

2. Deductibles. Except as provided in subsection 2-A, applicants eligible for coverage by the fund under subsection 1 shall pay on a per occurrence basis the applicable standard deductible amount specified in paragraph A. In addition to the applicable standard deductible amount required under paragraph A, the applicant shall pay on a per occurrence basis one or more of the conditional deductible amounts specified in paragraphs B and C to the extent applicable.

A. Standard deductibles are as follows.

- (1) For expenses related to a leaking underground oil storage facility, the deductible amount is determined in accordance with the following schedule:

<u>Number of underground storage facilities owned by the facility owner</u>	<u>Deductible</u>
<u>1</u>	<u>\$2,500</u>
<u>2 to 5</u>	<u>5,000</u>
<u>6 to 10</u>	<u>10,000</u>
<u>11 to 20</u>	<u>25,000</u>
<u>21 to 30</u>	<u>40,000</u>
<u>over 30</u>	<u>62,500</u>

- (2) For expenses related to a leaking aboveground oil storage facility, the deductible amount is determined in accordance with the following schedule:

<u>Total aboveground oil storage capacity in gallons owned by the facility owner</u>	<u>Deductible</u>
<u>Less than 1,320</u>	<u>\$500</u>

<u>1,321 to 50,000</u>	<u>2,500</u>
<u>50,001 to 250,000</u>	<u>5,000</u>
<u>250,001 to 500,000</u>	<u>10,000</u>
<u>500,001 to 1,000,000</u>	<u>25,000</u>
<u>1,000,001 to 1,500,000</u>	<u>40,000</u>
<u>greater than 1,500,000</u>	<u>62,500</u>

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

B. Conditional deductibles for underground facilities and tanks are as follows.

(1) For nonconforming facilities and tanks, the deductible is \$10,000 for failure to meet the compliance schedule in section 563-A, except that those facilities or tanks required to be removed by October 1, 1989 have until October 1, 1990 to be removed before they are considered out of compliance.

(2) For failure to pay registration fees under section 563, subsection 4, the deductible is the total of all past due fees.

(3) For motor fuel storage and marketing and retail facilities, the deductibles are:

(a) Five thousand dollars for failure to comply with applicable design and installation requirements in effect at the time of the installation or retrofitting requirements for leak detection pursuant to section 564, subsections 1 and 1-A;

(b) Five thousand dollars for failure to comply with section 564, subsection 1-B and any rules adopted pursuant to that subsection;

(c) Five thousand dollars for failure to comply with section 564, subsection 2-A, paragraphs B to F and I, and any rules adopted pursuant to that subsection; and

(d) Ten thousand dollars for failure to comply with section 564, subsection 2-A, paragraph H, and any rules adopted pursuant to that subsection.

(4) For consumptive use heating oil facilities with an aggregate storage capacity of less than 2,000 gallons, the deductibles are:

(a) Two thousand dollars for failure to comply with section 565, subsection 1, if applicable;

(b) Two thousand dollars for failure to comply with section 565, subsection 2, regarding monitoring; and

(c) Two thousand dollars for failure to comply with section 565, subsection 2, regarding any requirement to report evidence of a possible leak or discharge.

(5) For consumptive use heating oil facilities with an aggregate storage capacity of 2,000 gallons or greater, the deductibles are:

(a) Five thousand dollars for failure to comply with section 565, subsection 1, if applicable;

(b) Five thousand dollars for failure to comply with section 565, subsection 2, regarding monitoring; and

(c) Ten thousand dollars for failure to comply with section 565, subsection 2, regarding any requirement to report evidence of a possible leak or discharge.

(6) For waste oil and heavy oil and airport hydrant facilities with discharges that are not contaminated with hazardous constituents, the deductibles for failure to comply with rules adopted by the board are:

(a) Five thousand dollars for rules regarding design and installation requirements in effect at the time of the installation;

(b) Five thousand dollars for rules regarding retrofitting of leak detection and corrosion protection, if applicable;

(c) Five thousand dollars for rules regarding overfill and spill prevention;

(d) Five thousand dollars for rules regarding the monitoring of cathodic protection systems;

(e) Five thousand dollars for rules regarding testing requirements for tanks and piping on evidence of a leak;

(f) Five thousand dollars for rules regarding maintenance of a leak detection system; and

(g) Ten thousand dollars for rules regarding the reporting of leaks.

C. Conditional deductibles for aboveground facilities and tanks are as follows.

(1) For aboveground tanks subject to the jurisdiction of the State Fire Marshal pursuant to 16-219 CMR, chapter 317, the deductibles are:

(a) Five thousand dollars for failure to obtain a construction permit from the Office of the State Fire Marshal, when required under Title 25, section 2441 and 16-219 CMR, chapter 317;

(b) Five thousand dollars for failure to design and install piping in accordance with section 570-K and rules adopted by the department;

(c) Five thousand dollars for failure to comply with an existing consent decree, court order or outstanding deficiency statement regarding violations at the aboveground facility;

(d) Five thousand dollars for failure to implement a certified spill prevention control and countermeasure plan, if required;

(e) Five thousand dollars for failure to install any required spill control measures, such as dikes;

(f) Five thousand dollars for failure to install any required overfill equipment;

(g) Five thousand dollars if the tank is not approved for aboveground use; and

(h) Ten thousand dollars for failure to report any leaks at the facility as required by law.

(2) For aboveground tanks subject to the jurisdiction of the Oil and Solid Fuel Board, the deductibles are:

(a) One hundred and fifty dollars for failure to install the facility in accordance with rules adopted by the Oil and Solid Fuel Board and in effect at the time of installation;

(b) Two hundred and fifty dollars for failure to conform an upgraded facility to the requirements provided in rules of the Oil and Solid Fuel Board;

(c) Two hundred and fifty dollars for failure to make a good faith effort to properly maintain the facility; and

(d) Five hundred dollars for failure to notify the department of a spill.

The commissioner shall make written findings of fact when making a determination of deductible amounts under this subsection. The commissioner's findings may be appealed to the Fund Insurance Review Board, as provided in subsection 3-A. On appeal, the burden of proof is on the commissioner as to which deductibles apply.

After determining the deductible amount to be paid by the applicant, the commissioner shall pay from the fund any additional eligible clean-up costs and 3rd-party damage claims up to \$1,000,000 associated with activities under section 569-A, subsection 8, paragraphs B, D and J. The commissioner shall pay the expenses directly, unless the applicant chooses to pay the expenses and seek reimbursement from the fund. The commissioner may pay from the fund any eligible costs above \$1,000,000, but the commissioner shall recover these expenditures from the responsible party pursuant to section 569-A.

An applicant found ineligible for fund coverage for failure to achieve substantial compliance under former subsection 1, paragraph B or failure to apply within 180 days of reporting the discharge may, on or before July 1, 1996, make a new application for fund coverage of any discharge discovered after April 1, 1990, if the applicant agrees to pay all applicable deductible amounts in this subsection and the commissioner waives the 180-day filing requirement pursuant to subsection 1.

Sec. 6. 38 MRSA §568-A, sub-§2-A, as enacted by PL 1993, c. 732, Pt. A, §5, is repealed and the following enacted in its place:

2-A. Limit on deductible. The applicant shall pay the total deductible amount or the total eligible clean-up costs and 3rd-party damages, whichever is less.

Sec. 7. 38 MRSA §568-A, sub-§3-A, as enacted by PL 1993, c. 363, §11 and affected by §21, is amended to read:

3-A. Appeals to review board. An applicant aggrieved by an insurance claims-related decision of the commissioner, including but not limited to

decisions on eligibility for coverage, eligibility of costs and waiver and amount of deductible, may appeal that decision to the Fund Insurance Review Board. The public members of the review board shall hear and render a decision on the appeal. Except as provided in review board rules, the appeal must be filed within 30 days after the applicant receives the commissioner's decision on the matter. The appeals panel must hear an appeal at its next meeting following receipt of the appeal, unless the appeals panel and the aggrieved applicant agree to hear the appeal at a different time. If the appeals panel overturns the commissioner's decision, reasonable costs, including reasonable attorney fees, incurred by the aggrieved applicant in pursuing the appeal to the review board must be paid from the fund. Reasonable attorney fees include only those fees incurred from the time of a claims-related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter VII. The review board may adopt rules determining the timing of filing appeals on questions of eligibility of costs for payment by the fund.

See title page for effective date.

CHAPTER 362

S.P. 519 - L.D. 1401

An Act Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives

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

Whereas, the development of housing and services for elderly and disabled adults is proceeding at a fast pace and requires standards and consumer protections; and

Whereas, the development of housing and services for elderly and disabled adults requires a revised and stable regulatory scheme for developers; and

Whereas, emergency legislation is necessary to address these situations as quickly as possible; 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. 22 MRSA §2053, sub-§2-C is enacted to read:

2-C. Congregate housing facility. "Congregate housing facility" means "congregate housing" as defined in section 5152, that has been certified pursuant to section 5154 and has a legally binding contractual arrangement for the provision of health care services with a licensed home health care provider as defined in section 303.

Sec. 2. 22 MRSA §2053, sub-§5, as amended by PL 1993, c. 390, §7, is further amended to read:

5. Participating health care facility. "Participating health care facility" means a health care or congregate housing facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.

Sec. 3. 22 MRSA §5155 is enacted to read:

§5155. Fire safety inspection

1. Inspection required. Certification may not be issued by the department under this chapter to a provider until the department has received from the State Fire Marshal a written statement indicating that the congregate housing facility has complied with applicable fire safety provisions specified in this section. Each facility after receiving its initial inspection and approval from the State Fire Marshal's Office must be reinspected every 2 years in connection with the recertification of the congregate housing facility under the provisions of this chapter.

2. Fees. The department shall establish a fee schedule and pay reasonable fees to the State Fire Marshal for each inspection.

3. Fire safety standards. The applicability of the particular chapter of the National Fire Protection Association Life Safety Code 101, 1994 edition, is determined based upon the following facility sizes.

A. A small facility is a facility occupied by not more than 6 residents.

B. A medium facility is a facility occupied by more than 6 but fewer than 17 residents.

C. A large facility is a facility occupied by more than 17 residents.

4. Small facility. A small facility must meet the rooming and lodging requirements of Chapter 20 of

the National Fire Protection Association Life Safety Code 101, 1994 edition, except that the facility is not required to have sprinkler systems pursuant to Title 25, section 2452.

5. Medium facility. A medium facility must meet the residential board and care requirements of Chapter 22 of the National Fire Protection Association Life Safety Code 101, 1994 edition.

6. Large facility. A large facility must meet the requirements of Chapter 12 (Health Care) for Limited Care Facilities of the National Fire Protection Association Life Safety Code 101, 1994 edition except that buildings that are 2 stories or less may qualify as a type V (III) under that chapter. An existing large facility must meet the requirements of Chapter 22 concerning residential board and care for a large facility of the National Fire Protection Association Life Safety Code 101, 1994 edition or must be evaluated under the fire safety evaluation system for residential boarding care facilities.

7. Repeal. This section is repealed October 1, 1996.

Sec. 4. Assisted Living Task Force. The Assisted Living Task Force, referred to in this section as the "task force," is established to study state laws and regulations and alternatives for the development of services and housing for elderly and disabled adults.

1. Membership. The task force consists of 16 members appointed as follows:

- A. The State Fire Marshal, or the designee of the State Fire Marshal;
- B. The Commissioner of Human Services, or a designee of the commissioner;
- C. A member of the State Board of Nursing, appointed by the board;
- D. One operator of a residential care facility and one operator of a congregate housing facility, each appointed by the President of the Senate. One operator of a residential care facility and one operator of a congregate housing facility, each appointed by the Speaker of the House of Representatives;
- E. One provider of home health care services not owned or operated by a congregate housing or residential care facility, nominated by the Home Care Alliance of Maine and appointed by the President of the Senate. One provider of home health care services that is owned by the owner of a congregate housing or residential care

facility, appointed by the Speaker of the House of Representatives;

F. Two persons who are presently residents of congregate housing or residential care facilities or representatives of those individuals, appointed by the Governor;

G. Two persons from statewide organizations representing the general interests of elder residents of the State, appointed by the Governor;

H. One person representing the long-term care ombudsman program, appointed by the Governor;

I. One member of the Senate serving on the Joint Standing Committee on Human Resources, appointed by the President of the Senate; and

J. One member of the House of Representatives serving on the Joint Standing Committee on Human Resources, appointed by the Speaker of the House of Representatives.

2. Appointments. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the chair of the Legislative Council shall call and convene the first meeting of the task force no later than August 1, 1995. The task force shall select a chair from among its members.

3. Duties. The task force shall perform the following tasks:

- A. Review and evaluate state law and regulations governing the provision of housing and supportive services for adults in settings outside of nursing facilities, including congregate housing, assisted living and residential care facilities. Attention must be given to emerging models for delivering housing and supportive services to older and disabled adults. The task force shall consider the goals of consumer choice and independence, cost-effectiveness, flexibility, protection of consumer rights and personal and community safety;
- B. Review and evaluate the development of the provision of supportive housing and services for adults nationwide;
- C. Review and incorporate in its recommendations proposed laws and regulations that range from less restrictive to more restrictive as necessary to provide adequate information and to protect the public, the residents of the housing and

the recipients of the services. The proposed laws and regulations must recognize the differences among consumers, housing situations and services provided and distinguish among them in the level of regulation required;

D. Prior to making its recommendations the task force shall consult with consumers, advocates for consumers, providers and other interested parties, including the Maine State Housing Authority and the Maine Health and Higher Educational Facilities Authority;

E. Review and evaluate the existing rules of practice of the State Board of Nursing and the home health care rules currently in effect as adopted by the Department of Human Services for the purpose of providing flexibility, cost effectiveness and consumer protection. The task force shall make recommendations for revisions to these rules; and

F. Review and evaluate the 1994 edition of the National Fire Protection Association Life Safety Code 101 and make recommendations concerning the applicability of certain provisions to the different types of housing facilities.

4. Meetings. The task force may meet as often as necessary but shall meet at least once per month.

5. Staff assistance. The task force may request staffing and clerical assistance from the Legislative Council.

6. Volunteerism. The task force members serve on a volunteer basis and are not entitled to reimbursement or pay of any type.

7. Report. The task force shall submit its report with any accompanying legislation to the Second Regular Session of the 117th Legislature by February 15, 1996.

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

Effective June 28, 1995.

CHAPTER 363

H.P. 147 - L.D. 195

An Act to Protect the Rights of Maine State Retirement System Employees

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

Whereas, the employment status and rights of employees of the Maine State Retirement System who were transferred to the Maine State Retirement System as a public instrumentality under the provisions of Public Law 1993, chapter 410, Part L, section 47, are due to change as of the end of the transfer period on June 30, 1995; and

Whereas, an extension of certain rights beyond the transfer period meets the needs and interests of these employees; and

Whereas, the obligation of the Maine State Retirement System to fund for the actuarial liabilities associated with these employees as state employees and as employees of the system as a public instrumentality needs to be addressed; and

Whereas, the clarification set out in this legislation must be effective upon the expiration of the transfer period of June 30, 1995; 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. 5 MRSA §18253, sub-§1, ¶D, as enacted by PL 1993, c. 410, Pt. L, §43, is amended to read:

D. For the purposes of this subsection, an employee of the Maine State Retirement System who is a member on January 1, 1994 is considered to be reemployed with a new employer. If an employee returns to state service ~~within 2 years of January 1, 1994~~ during the period that begins on July 1, 1995 and ends 180 days after the date upon which the initial collective bargaining agreement between the Maine State Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, all funds transferred to the account of the Maine State Retirement System as the new employer on behalf of the employee from the State's account must be returned to the State's account. For the purpose of service, breaks in service and benefit accruals, the employee must be treated as if the employee had remained in state service throughout the period in question. For purposes of this paragraph, "becomes effective" means that the collective

bargaining agreement has been signed and ratified by both parties and approved by the Legislature as provided by section 17103, subsection 14.

Sec. 2. PL 1993, c. 410, Pt. L, §47, sub-§5-A is enacted to read:

5-A. Transferred employees' rights with respect to return to state service after transfer period ends. Beginning July 1, 1995 and continuing until 180 days after the date upon which the initial collective bargaining agreement between the Maine State Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, those employees of the system on the effective date of this subsection who were employed at the system on July 1, 1993 and were transferred under the provisions of subsection 5 are entitled to apply and be considered for positions in state service as if they were state employees and they retain all applicable seniority rights and privileges and all other rights and privileges with respect to seeking and returning to employment in state service. For purposes of this subsection, "becomes effective" means that the collective bargaining agreement has been signed and ratified by both parties and approved by the Legislature as provided by the Maine Revised Statutes, Title 5, section 17103, subsection 14. Upon reemployment with the State, these employees must be treated as if they had remained in state service from June 30, 1993 to the date of reemployment. The period from June 30, 1993 to the date of reemployment does not constitute a break in service and counts as state service for purposes of seniority. Membership in the Maine State Retirement System for employees who return to state service in accordance with this section is governed by Title 5, section 18253, subsection 1, paragraph D.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1995.

Effective July 1, 1995.

CHAPTER 364

S.P. 501 - L.D. 1360

An Act Concerning Judicial Endorsement for Persons Transported and Held for Evaluation and Treatment

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

Sec. 1. 34-B MRSA §3863, sub-§3, ¶C, as amended by PL 1995, c. 62, §3, is further amended to read:

C. Notwithstanding paragraph B, subparagraphs (1) and (2), a person sought to be admitted informally under section 3831 or involuntarily under this section may be transported to a hospital and held for evaluation and treatment at a hospital pending judicial endorsement of the application and certificate if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m. ~~This paragraph is repealed October 1, 1997.~~

See title page for effective date.

CHAPTER 365

H.P. 1036 - L.D. 1455

An Act Requiring Mobile Home Park Operators to Notify Lienholders Prior to Eviction

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

Sec. 1. 10 MRSA §9093, sub-§4 is enacted to read:

4. Rental payments. A mobile home park owner or operator may establish a park rule to require that all rental payments and other fees due to the mobile home park owner or operator be paid in full before the home is removed from the park, sold or occupied by a new tenant or owner. If the owner or occupant is a lienholder who has informed the mobile home park owner or operator of its lien on the home pursuant to section 9097, subsection 2-A, the terms of that subsection apply.

Sec. 2. 10 MRSA §9097, sub-§2-A is enacted to read:

2-A. Notice to lienholders. At least 20 days prior to the termination of a tenancy in a mobile home park, the mobile home park owner or operator shall give written notice to any holder of a lien on the mobile home, provided that the lienholder previously gave the mobile home park owner or operator written notice of the lien. The written notice to the lienholder must specify the amount of any unpaid rent, fees or assessments owed by the tenant to the mobile home park owner or operator. The total amount may not exceed the rent and other recurring monthly charges applicable to all lots, including but not limited to water, sewer and trash collection charges, due for the 3 months immediately prior to the notice. Failure to notify a lienholder who met the notification requirements prohibits eviction of the tenant pursuant to section 9093 but does not constitute a basis for liability of the mobile home park owner or operator to the lienholder.

If the lienholder pays the total amount specified in the notice plus rent and other charges that come due subsequent to the notice, the lienholder may:

A. Foreclose on the mobile home; and

B. Assume the tenant's right to sell the mobile home in the mobile home park, provided that the lienholder continues to satisfy the obligations of tenancy. The sale is subject to the laws and rules governing the sale of mobile homes located in a mobile home park, including, but not limited to, section 9094.

See title page for effective date.

CHAPTER 366

H.P. 1066 - L.D. 1501

An Act to Include Child Care Centers in the Property Tax Exemptions and to Amend the Review Schedule for Property Tax Exemptions

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

Sec. 1. 36 MRSA §652, sub-§1, ¶A, as amended by PL 1993, c. 286, §1 and affected by §2, is further amended to read:

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State, and none of these may be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

(1) Any such institution that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine is entitled to an exemption not to exceed \$50,000 of current just value only when the total amount of any stipends or charges that it makes or takes during any tax year, as defined by section 502, for its services, benefits or advantages divided by the total number of persons receiving such services, benefits or advantages during the same tax year does not result in an average rate in excess of \$30 per week when said weekly rate is computed by dividing the average yearly charge per person by the total number of weeks in a tax year during which such institution is in fact conducted or operated principally for the benefit of

persons who are not residents of Maine. No such institution that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine and makes charges that result in an average weekly rate per person, as computed under this subparagraph, in excess of \$30 may be entitled to tax exemption. This subparagraph does not apply to institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research.

For the purposes of this paragraph, "benevolent and charitable institutions" include, but are not limited to, nonprofit nursing homes and nonprofit boarding homes and boarding care facilities licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or its successor ~~and~~ nonprofit community mental health service facilities licensed by the Commissioner of Mental Health and Mental Retardation, pursuant to Title 34-B, chapter 3 and nonprofit child care centers incorporated by this State as benevolent and charitable institutions. For the purposes of this paragraph, "nonprofit" means a facility exempt from taxation under Section 501(c)(3) of the Code;

See title page for effective date.

CHAPTER 367

H.P. 1064 - L.D. 1499

An Act to Extend the Deadline for a Maine State Police Officer to Choose a Certain Retirement Option

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

Whereas, Public Law 1993, chapter 626 provides an early retirement option to state police officers, provided the officers notify the Maine State Retirement System of their intent to exercise the option and pay the actuarial cost of the new benefit; and

Whereas, state police officers exercising the option must notify the Maine State Retirement System of their decision to do so by July 1, 1995; and

Whereas, the Maine State Retirement System is directed to develop a methodology for calculating the actuarial costs of exercising the option in order to make that information available to state police officers contemplating exercising the option; and

Whereas, completion of the calculations and dissemination of the required information to all state police officers will not be completed before expiration of the July 1, 1995 notification deadline; and

Whereas, legislation is necessary to extend the notification deadline so that state police officers have complete information available to them before making their decision; 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. 5 MRSA §17852, sub-§4, as amended by PL 1993, c. 626, §1, is further amended by amending the last paragraph to read:

This paragraph takes effect July 1, 1995. Election to retire under this paragraph is a one-time irrevocable election. A person first hired as a ~~State Police~~ state police officer after July 1, 1995 must make the election no later than 30 days after the date of first employment. A person already employed as a ~~State Police~~ state police officer on July 1, 1995 must make the election no later than ~~90 days after July 1, 1995~~ January 1, 1997.

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

Effective June 28, 1995.

CHAPTER 368

H.P. 516 - L.D. 706

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997

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.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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. Appropriations and allocations.

In order to provide for necessary expenditures of State Government and other purposes for the fiscal years ending June 30, 1996 and June 30, 1997, the following sums as designated in the following tabulations are appropriated or allocated out of any money not otherwise appropriated or allocated.

Sec. A-2. Allotments required. Upon receipt of allotments duly approved by the Governor based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures of these funds, together with expenditures for other purposes necessary to the conduct of State Government, on the basis of these allotments and not otherwise. Allotments for Personal Services and Capital Expenditures, and amounts for All Other departmental expenses may not exceed the amounts shown in the budget document or as they may be revised by the joint standing committee of the Legislature having jurisdiction over these appropriations and allocations, unless recommended by the State Budget Officer and approved by the Governor in accordance with established law.

Sec. A-3. Personal Services funding. The amounts provided for Personal Services in appropriated and allocated accounts are subject to the provision that the total number of positions and the costs of those positions in any account may not vary during any fiscal year from either the positions included in

computing the total dollars appropriated or allocated for Personal Services or in the specific cost of each position upon which the appropriations and allocations are based. The State Budget Officer shall take the action necessary to ensure compliance with this section except as provided for in section 6 of this Part and as follows.

An appointing authority shall comply with the Civil Service Law, rules and regulations and collective bargaining agreements pertaining to the hiring, promoting, demoting and bumping of state employees. The Legislature shall act upon any recommendation for additional appropriations or allocations in order to fund additional requirements created by complying with this paragraph.

Savings accruing from unused funding of employee benefits may not be used to increase services provided by employees. Accrued salary savings generated from vacant positions within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs within the account where the savings exist. Costs related to acting-capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department or agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account.

The amounts appropriated or allocated for Personal Services include funds for the State's share of state employees' retirement. The State Controller shall transfer the State's share to the Maine State Retirement System as soon as practicable after each payroll is paid.

Sec. A-4. Workers' compensation positions. Limited-period positions may be established for former regular employees of the State who are presently receiving workers' compensation payments from the State when those positions enable those employees to return to productive employment with the State. The positions may be established, providing funds are available, only until those employees can be returned to regular positions.

Notwithstanding any other restriction on funds appropriated or allocated, the State Budget Officer may, after determining that funds are available, either approve the use of the funds or recommend appropriate action to the Governor when the Governor's approval is required.

Available funds may include amounts appropriated or allocated for Personal Services, including funds in any salary account or special account for state employee salary increases, All Other, Capital Expenditures and unallocated.

Sec. A-5. Personal Services policy and review. The Bureau of the Budget, during this biennium, shall continually review with all departments the status of their workforce levels and staffing patterns for the purpose of determining whether funds and positions are being utilized and managed in the most economical and efficient manner to accomplish the intent of the Legislature. Permanent positions for which funds are appropriated or allocated must be classified positions unless specifically designated otherwise by the Legislature. It is the responsibility of the Director of Human Resources to ensure that classified and unclassified positions are assigned to the proper pay grade and it is the responsibility of the State Budget Officer to ensure that the positions are within authorized headcount and funds.

Sec. A-6. Personal Services flexibility. Any classification or reclassification of a position and any allocation or reallocation of a position within the compensation plan made by the Director of Human Resources pursuant to the Civil Service Law and rules become effective on the first day of the fiscal year following approval by the State Budget Officer and the appropriation or allocation of funds for those programs, except that the State Budget Officer may, if the officer determines that sufficient funds exist, authorize an effective date prior to the first day of the ensuing fiscal year. Copies of all actions and certifications must be furnished to the Director of the Office of Fiscal and Program Review.

Sec. A-7. Number of necessary employees. The Governor and the State Budget Officer, when next preparing budget proposals for the Legislature, may at their discretion adjust the figures in parentheses, representing numbers of positions, to reflect the number of positions that in their opinion are necessary to the proper operation of each department, institution or agency.

Sec. A-8. New or expanded programs. A department may not establish new programs or expand existing programs beyond the scope of those programs already established, recognized and approved by the Legislature until the program and the method of financing are submitted to the Bureau of the Budget for evaluation and recommendation to the Legislature and until the funds are made available for those programs by the Legislature.

Sec. A-9. Seasonal or temporary employees. All appointing authorities are required by chapter 12, section 4C8(c) of the Civil Service Rules, as

amended on June 17, 1991, to inform all seasonal or temporary employees of the approximate date of termination of employment at the time of hire. The notice must be given to all employees who are appointed to time-limited positions or appointments.

Sec. A-10. Federally funded programs. It is the intent of the Legislature that, if federal funds are not available as anticipated for programs in this Act, there is no obligation to provide state funds in excess of those listed in this Act. Positions entirely or partially funded by federal or nonstate sources of funds are considered limited-period positions.

Sec. A-11. Travel limitations. It is the intent of the Legislature that out-of-state travel be limited. Any state employee who travels out of state on state business, such as law enforcement, collecting, bidding, industrial development or loans, may continue to do so. The Legislature directs that department heads limit the cost of all travel when it is not absolutely needed. A state employee may not be reimbursed for noon meals, unless the expense is incurred while traveling on state business and lodging is required. Any state employee who attends a seminar or other program that includes the cost of a noon meal as part of the tuition or registration fee is not required to reimburse the State for the meal.

Sec. A-12. Equipment to be reviewed. The Commissioner of Administrative and Financial Services may choose a designee to conduct a thorough review of all types of equipment, including automobiles, pickups and vans, owned, leased or otherwise available to the departments and agencies of the State, regardless of the source of supporting funds, and make recommendations via the budgetary process for combining their use, providing centralized facilities or eliminating existing equipment and facilities as believed to be in the most economical and efficient interests of the State. The Commissioner of Administrative and Financial Services may also develop and institute review and control mechanisms considered necessary to ensure that capital equipment purchases authorized by the Legislature are consistent with the intent for which funds were recommended and made available.

Sec. A-13. Motor vehicle replacement policy. The Director of the Bureau of General Services is directed to require that requisitions for replacement motor vehicles include the age and total mileage of the motor vehicle being replaced. For the purposes of this section, motor vehicles are defined as passenger cars and panel and pickup trucks, excluding those vehicles authorized and assigned for pursuit purposes. Under no circumstances are any state vehicles to be used for commuting purposes. It is the intent of the Legislature that motor vehicles be in service for at least 5 years or 75,000 miles before they

are replaced. This policy must also be adopted by the State Budget Officer when next preparing a budget document. Exceptions to the established replacement policy require the prior approval of the Commissioner of Administrative and Financial Services. The Commissioner of Administrative and Financial Services may also set appropriate standards with regard to motor vehicle type, size and equipment and direct that all motor vehicles be purchased in accordance with a commodity calendar established by the Director of the Bureau of General Services.

Sec. A-14. Significant action recommended by the State Budget Officer. The Bureau of the Budget shall inform the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, through the Office of Fiscal and Program Review, of significant action recommended by the bureau in the performance of the budget responsibilities assigned.

Sec. A-15. State Cost Allocation Program. The State Cost Allocation Program shall annually identify the kind and cost of central services furnished to each state agency from General Fund appropriations. The non-General Fund portion of each agency must be assessed for these services as determined by the State Cost Allocation Program procedures to the extent that payments are not expressly prohibited by state or federal law or by the terms of a gift or donation made to the State from private sources. These payments must be credited to the General Fund as undedicated revenue. The State Budget Officer may adjust this assessment to any individual account.

Non-General Fund resources that contribute to funding costs related to general departmentwide functions, such as accounting, personnel administration, maintenance of property records and general purchasing, that have been made available to an account by legislative action may be consolidated into one or more administrative accounts, unless that a consolidation is expressly prohibited by state or federal law. All resources and costs affected by that consolidation must be properly identified and included in the budget process in accordance with the Maine Revised Statutes, Title 5, chapter 149. When the Legislature is not in session and upon recommendation of the State Budget Officer, the Governor may approve necessary adjustments to these consolidations for a period not to exceed the end of the fiscal year. The Director of Fiscal and Program Review must be notified of any such action. The unencumbered balance of each administrative account established pursuant to this section must be carried forward at the end of each fiscal year and the budgeted transfers to the administrative account for the ensuing year must be proportionally reduced by the amount of that carried balance.

Sec. A-16. Unified state budget. The Governor, when submitting the budget to the Legislature, shall submit the budget document and the General Fund and Highway Fund bills in a manner that will identify the gross amount of resources for each program. The gross unified budget bills and budget document encompass resources from all funds, including, but not limited to: General Fund, Highway Fund, federal funds, Federal Block Grant Fund and Other Special Revenue funds. Separate gross unified budget bills must be submitted for the General Fund and the Highway Fund.

Sec. A-17. Line category amounts of General Fund and Highway Fund. The amounts included in the unified state budget by line category are the amounts included immediately under the appropriations and allocations section of the individual pages in the budget document for the General Fund and the Highway Fund. These amounts, as adjusted by the Legislature, must be used when preparing work programs by fund for each fiscal year of the biennium.

Sec. A-18. Multiple accounts certification. If any amounts identified to a fund in the source of funds section are to be distributed to more than one account within that fund, the department or agency head responsible for those funds shall certify to the State Budget Officer the amounts included in each account by line category and certify that the sum of the accounts by fund, by line category, equals the approved totals of the program within the Act.

Sec. A-19. Year-end closing. The State Controller may close the books as soon as practicable after the close of the fiscal years ending June 30, 1996 and June 30, 1997. Any bills presented after those dates may be paid from appropriations or allocations for the ensuing year on recommendation of the State Controller if within the amounts of approved allotments.

Sec. A-20. Appropriation and allocation balances at year-end. At the end of each fiscal year, all unencumbered appropriation and allocation balances lapse into the fund or the account balance and are not available unless authorized by law. At the end of each fiscal year, all encumbered balances may not be carried more than once.

Sec. A-21. Reorganization of departments. A department or agency may not transfer Positions, Personal Services, All Other or Capital Expenditures funding between accounts when the expenditures of the fund will allow an action to take place that will cause an increased appropriation or allocation request in the Part I current services budget for any account. Any such reorganization must be

submitted in the Part II new or expanded services budget or separate legislation.

Sec. A-22. Appropriation or allocation of funds. Any funds appearing in this Act that are specifically appropriated or allocated in another Act are included in this Act for informational purposes only, as are enterprise accounts exclusive of the state Alcoholic Beverage Fund and the State Lottery Fund, trust fund accounts and agency fund accounts. Governmental funds not specifically appropriated or allocated in another Act are appropriated or allocated in accordance with section 1 of this Part.

Sec. A-23. Other appropriation and allocation measures. It is intended that the language in this Act, except for section 22 of this Part, applies to all other appropriation and allocation measures enacted by the Legislature.

Sec. A-24. Allotments in excess of legislatively authorized allocations. Allotments in Other Special Revenue and internal service fund accounts may exceed current year allocations and the unused balance of allocations authorized to carry forward by law under the following conditions provided that Other Special Revenue and internal service fund accounts are expended in accordance with the statutes that establish them and for no other purpose:

1. Sufficient cash is available from Other Special Revenue, the internal service fund or the unencumbered balance authorized to carry forward by law;
2. Allotment is required to provide for the costs of approved collective bargaining agreements;
3. Failure to allot these available funds could have a significant detrimental impact on current programs;
4. Allotment of these available funds is recommended by the State Budget Officer and approved by the Governor by financial order as an allotment increase in the annual work program;
5. Allotment of these available funds is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; and
6. Allotment of these funds does not take effect until 30 days after approval by the Governor.

In case of extraordinary emergency situations, the 30-day waiting period beyond approval by the Governor may be waived by vote of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs upon written

recommendation of the State Budget Officer. Dedicated revenue and internal service fund accounts authorized by law to carry unused allocations forward will not be subject to the above provided that the request for allotment increase is within the legislatively authorized allocations as defined in this section. It is the intent of the Legislature that authority for unused allocations to carry forward in Other Special Revenue and internal service fund accounts be limited to only specific, extraordinary circumstances.

Sec. A-25. Allocations. The following allocations and appropriations are made:

	1995-96	1996-97
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
Office of the Commissioner - Administrative and Financial Services		
* General Fund		
Positions - Legislative Count	(4.0)	(4.0)
Personal Services	\$279,370	\$276,674
All Other	20,437	20,695
Capital Expenditures	6,000	
Fund Total	305,807	297,369
BUREAU OF ACCOUNTS AND CONTROL		
Accounts and Control - Bureau of		
* General Fund		
Positions - Legislative Count	(33.0)	(33.0)
Personal Services	1,400,964	1,391,572
All Other	327,725	337,217
Fund Total	1,728,689	1,728,789
Accounts and Control - Bureau of - Systems Project		
* General Fund		
All Other	3,111,055	3,156,245
Fund Total	3,111,055	3,156,245
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS		
Alcoholic Beverages - General Operation		
Other Participating Funds		
* Alcoholic Beverage Fund		
Positions - Legislative Count	(130.5)	(130.5)
Positions - Other Count	(7.5)	(7.5)
Personal Services	5,203,901	5,201,274
All Other	3,001,650	3,083,542
Fund Total	8,205,551	8,284,816

Lottery Operations		
Other Participating Funds		
* State Lottery Fund		
Positions - Legislative Count	(29.0)	(29.0)
Personal Services	1,199,845	1,200,411
All Other	1,517,600	1,580,316
Fund Total	2,717,445	2,780,727
BUREAU OF THE BUDGET		
Budget - Bureau of the		
* General Fund		
Positions - Legislative Count	(13.0)	(13.0)
Personal Services	766,009	769,480
All Other	44,737	60,868
Capital Expenditures	3,400	
Fund Total	814,146	830,348
CENTRAL MOTOR POOL		
Central Motor Pool		
Other Participating Funds		
* Central Motor Pool		
Positions - Other Count	(13.0)	(13.0)
Personal Services	458,658	462,589
All Other	2,268,787	2,335,790
Fund Total	2,727,445	2,798,379
STATE CLAIMS COMMISSION		
Claims Board		
Other Participating Funds		
* Highway Fund		
Positions - Legislative Count	(2.0)	(2.0)
Personal Services	97,482	95,299
All Other	38,238	38,592
Fund Total	135,720	133,891
DIVISION OF DATA PROCESSING		
Data Processing Services		
* General Fund		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	58,711	60,426
All Other	1,866	1,906
Fund Total	60,577	62,332
Other Participating Funds		
* Data Processing Fund		
Positions - Other Count	(157.0)	(157.0)
Personal Services	7,449,287	7,456,291
All Other	10,110,473	10,398,450
Fund Total	17,559,760	17,854,741
SUMMARY - DATA PROCESSING SERVICES		
Positions - Legislative Count	(1.0)	(1.0)

Positions - Other Count	(157.0)	(157.0)	SUMMARY - FINANCIAL AND PERSONNEL SERVICES - DIVISION OF		
Personal Services	7,507,998	7,516,717			
All Other	10,112,339	10,400,356			
Program Total	17,620,337	17,917,073			
BUREAU OF STATE			Positions - Legislative Count	(10.0)	(10.0)
EMPLOYEE HEALTH			Positions - Other Count	(22.0)	(22.0)
Employee Health Services			Personal Services	1,382,399	1,372,692
			All Other	104,470	106,860
			Capital Expenditures	21,000	15,000
Other Participating Funds			Program Total	1,507,869	1,494,552
* Other Special Revenue Funds			BUREAU OF GENERAL SERVICES		
Positions - Other Count	(9.0)	(9.0)	Buildings and Grounds Operations		
Personal Services	490,126	484,026	* General Fund		
All Other	460,178	480,829	Positions - Legislative Count	(110.0)	(110.0)
Fund Total	950,304	964,855	Personal Services	3,563,414	3,556,034
STATE EMPLOYEE HEALTH COMMISSION			All Other	3,338,146	3,529,360
Accident - Sickness - Health Insurance			Capital Expenditures	113,050	
Other Participating Funds			Fund Total	7,014,610	7,085,394
* Other Special Revenue Funds			Other Participating Funds		
Positions - Other Count	(10.0)	(10.0)	* Other Special Revenue Funds		
Personal Services	411,707	411,524	All Other	119,723	123,214
All Other	508,027	529,539	Fund Total	119,723	123,214
Fund Total	919,734	941,063	* Real Property Lease Internal Service Fund		
BUREAU OF EMPLOYEE RELATIONS			Positions - Other Count	(1.0)	(1.0)
Employee Relations - Office of			Personal Services	29,135	29,648
* General Fund			All Other	1,600,000	1,600,000
Positions - Legislative Count	(7.0)	(7.0)	Fund Total	1,629,135	1,629,648
Personal Services	441,740	442,168	SUMMARY - BUILDINGS AND GROUNDS OPERATIONS		
All Other	66,813	67,998	Positions - Legislative Count	(110.0)	(110.0)
Capital Expenditures	10,000		Positions - Other Count	(1.0)	(1.0)
Fund Total	518,553	510,166	Personal Services	3,592,549	3,585,682
DIVISION OF FINANCIAL AND PERSONNEL SERVICES			All Other	5,057,869	5,252,574
Financial and Personnel Services - Division of			Capital Expenditures	113,050	
* General Fund			Program Total	8,763,468	8,838,256
Positions - Legislative Count	(10.0)	(10.0)	Central Services - Purchases		
Personal Services	501,696	493,497	Other Participating Funds		
All Other	43,791	44,749	* Postal, Printing and Supply Fund		
Capital Expenditures	6,000		Positions - Other Count	(71.0)	(71.0)
Fund Total	551,487	538,246	Personal Services	2,401,873	2,402,127
Other Participating Funds			All Other	1,193,665	1,221,217
* Other Special Revenue Funds			Fund Total	3,595,538	3,623,344
Positions - Other Count	(22.0)	(22.0)	Lewiston Office Complex - Bureau of Public Improvements		
Personal Services	880,703	879,195	Other Participating Funds		
All Other	60,679	62,111	* Other Special Revenue Funds		
Capital Expenditures	15,000	15,000			
Fund Total	956,382	956,306			

Positions - Other Count	(1.0)	(1.0)
Personal Services	31,066	30,697
All Other	127,709	133,630
Capital Expenditures	450,000	465,000
Fund Total	608,775	629,327
Motor Vehicle Building Maintenance		
Other Participating Funds		
* Highway Fund		
Positions - Legislative Count	(3.0)	(3.0)
Personal Services	94,843	97,552
All Other	183,288	187,915
Fund Total	278,131	285,467
Public Improvements - Planning - Construction - Administration		
* General Fund		
Positions - Legislative Count	(13.0)	(13.0)
Personal Services	770,190	757,554
All Other	31,181	31,995
Fund Total	801,371	789,549
Public Improvements - Division of Safety and Environmental Services		
* General Fund		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	49,775	48,892
All Other	15,334	16,117
Fund Total	65,109	65,009
Purchases - Division of		
* General Fund		
Positions - Legislative Count	(8.0)	(8.0)
Personal Services	308,176	304,888
All Other	26,174	26,876
Fund Total	334,350	331,764
State Police Headquarters Building Maintenance		
* General Fund		
Personal Services	72,286	72,121
All Other	59,688	60,937
Fund Total	131,974	133,058
Other Participating Funds		
* Highway Fund		
Positions - Legislative Count	(5.0)	(5.0)
Personal Services	72,285	72,121
All Other	59,687	60,937
Fund Total	131,972	133,058

SUMMARY - STATE POLICE HEADQUARTERS BUILDING MAINTENANCE		
Positions - Legislative Count	(5.0)	(5.0)
Personal Services	144,571	144,242
All Other	119,375	121,874
Program Total	263,946	266,116
Transportation Building Maintenance		
Other Participating Funds		
* Highway Fund		
Positions - Legislative Count	(14.0)	(14.0)
Personal Services	424,246	425,164
All Other	548,629	560,978
Fund Total	972,875	986,142
BUREAU OF HUMAN RESOURCES		
Administration - Human Resources		
* General Fund		
Positions - Legislative Count	(33.0)	(33.0)
Personal Services	1,541,816	1,520,942
All Other	217,226	222,978
Capital Expenditures	5,937	5,937
Fund Total	1,764,979	1,749,857
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(2.0)	(2.0)
Personal Services	81,476	81,676
All Other	169,601	171,215
Capital Expenditures	4,200	4,200
Fund Total	255,277	257,091
SUMMARY - ADMINISTRATION - HUMAN RESOURCES		
Positions - Legislative Count	(33.0)	(33.0)
Positions - Other Count	(2.0)	(2.0)
Personal Services	1,623,292	1,602,618
All Other	386,827	394,193
Capital Expenditures	10,137	10,137
Program Total	2,020,256	2,006,948
BUREAU OF INFORMATION SERVICES		
Information Services		
Other Participating Funds		
* Office of Information Services Fund		
Positions - Other Count	(11.0)	(11.0)
Personal Services	683,449	672,524
All Other	473,474	495,173
Fund Total	1,156,923	1,167,697

* Telecommunication Fund

Other Participating Funds

* Telecommunication Fund
Fund

Positions - Legislative Count	(33.5)	(33.5)
Personal Services	1,427,779	1,444,379
All Other	2,072,986	1,759,422
Fund Total	3,500,765	3,203,801

DIVISION OF RISK
MANAGEMENT

Risk Management - Claims

Other Participating Funds

* Risk Management Fund

Positions - Other Count	(5.0)	(5.0)
Personal Services	242,211	242,284
All Other	4,044,241	4,045,002
Fund Total	4,286,452	4,287,286

BUREAU OF TAXATION
County Tax Reimbursement

Other Participating Funds

* Other Special Revenue Funds

All Other	645,000	660,000
Fund Total	645,000	660,000

Elderly Householders' Tax
Refund

* General Fund

All Other	6,517,495	6,835,191
Fund Total	6,517,495	6,835,191

Elderly Tax Deferral Program

* General Fund

All Other	113,000	110,000
Fund Total	113,000	110,000

Maine Residents Property Tax
Program

* General Fund

All Other	6,237,871	6,547,289
Fund Total	6,237,871	6,547,289

Taxation - Bureau of

* General Fund

Positions - Legislative Count	(300.5)	(300.5)
Positions - Other Count	(12.5)	(12.5)
Personal Services	13,123,228	13,135,760
All Other	6,968,822	7,101,720
Capital Expenditures	366,700	370,700
Fund Total	20,458,750	20,608,180

Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(1.0)	(1.0)
Personal Services	44,716	45,944
All Other	14,965	15,352

Fund Total	59,681	61,296
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SUMMARY - TAXATION -
BUREAU OF

Positions - Legislative Count	(300.5)	(300.5)
Positions - Other Count	(13.5)	(13.5)
Personal Services	13,167,944	13,181,704
All Other	6,983,787	7,117,072
Capital Expenditures	366,700	370,700

Program Total	20,518,431	20,669,476
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Tree Growth Tax Reimbursement

* General Fund

All Other	4,635,000	4,865,000
Fund Total	4,635,000	4,865,000

Unorganized Territory Education
and Services Fund - Finance

Other Participating Funds

* Other Special Revenue Funds

All Other	5,234,466	5,496,189
Fund Total	5,234,466	5,496,189

Veterans Tax Reimbursement

* General Fund

All Other	775,000	798,000
Fund Total	775,000	798,000

SUMMARY - DEPARTMENT
OF ADMINISTRATIVE AND
FINANCIAL SERVICES

* General Fund

Positions - Legislative Count	(533.5)	(533.5)
Positions - Other Count	(12.5)	(12.5)
Personal Services	22,877,375	22,830,008
All Other	32,551,361	33,835,141
Capital Expenditures	511,087	376,637

Umbrella Fund Total	55,939,823	57,041,786
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* Highway Fund

Positions - Legislative Count	(24.0)	(24.0)
Personal Services	688,856	690,136
All Other	829,842	848,422

Umbrella Fund Total	1,518,698	1,538,558
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* Federal Expenditures Fund

Positions - Other Count	(1.0)	(1.0)
Personal Services	44,716	45,944
All Other	14,965	15,352

Umbrella Fund Total	59,681	61,296	All Other	3,001,650	3,083,542
* Other Special Revenue Funds			Umbrella Fund Total	8,205,551	8,284,816
Positions - Other Count	(44.0)	(44.0)	* State Lottery Fund		
Personal Services	1,895,078	1,887,118	Positions - Legislative Count	(29.0)	(29.0)
All Other	7,325,383	7,656,727	Personal Services	1,199,845	1,200,411
Capital Expenditures	469,200	484,200	All Other	1,517,600	1,580,316
Umbrella Fund Total	9,689,661	10,028,045	Umbrella Fund Total	2,717,445	2,780,727
* Postal, Printing and Supply Fund			SUMMARY - DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
Positions - Other Count	(71.0)	(71.0)	Positions - Legislative Count	(750.5)	(750.5)
Personal Services	2,401,873	2,402,127	Positions - Other Count	(323.0)	(323.0)
All Other	1,193,665	1,221,217	Personal Services	44,602,163	44,564,733
Umbrella Fund Total	3,595,538	3,623,344	All Other	67,004,427	68,874,554
* Telecommunication Fund			Capital Expenditures	980,287	860,837
Positions - Legislative Count	(33.5)	(33.5)	Umbrella Grand Total	112,586,877	114,300,124
Personal Services	1,427,779	1,444,379	MAINE ADVOCACY SERVICES		
All Other	2,072,986	1,759,422	Maine Advocacy Services		
Umbrella Fund Total	3,500,765	3,203,801	* General Fund		
* Office of Information Services Fund			All Other	45,000	45,000
Positions - Other Count	(11.0)	(11.0)	Fund Total	45,000	45,000
Personal Services	683,449	672,524	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
All Other	473,474	495,173	ADMINISTRATIVE SERVICES		
Umbrella Fund Total	1,156,923	1,167,697	DIVISION (AGRICULTURE)		
* Risk Management Fund			Administration - Agriculture		
Positions - Other Count	(5.0)	(5.0)	* General Fund		
Personal Services	242,211	242,284	Positions - Legislative Count	(15.5)	(15.5)
All Other	4,044,241	4,045,002	Personal Services	822,868	817,699
Umbrella Fund Total	4,286,452	4,287,286	All Other	249,398	259,364
* Data Processing Fund			Capital Expenditures	23,740	23,740
Positions - Other Count	(157.0)	(157.0)	Fund Total	1,096,006	1,100,803
Personal Services	7,449,287	7,456,291	Other Participating Funds		
All Other	10,110,473	10,398,450	* Federal Expenditures Fund		
Umbrella Fund Total	17,559,760	17,854,741	Positions - Other Count	(2.5)	(2.5)
* Central Motor Pool			Personal Services	102,962	102,381
Positions - Other Count	(13.0)	(13.0)	All Other	74,373	71,227
Personal Services	458,658	462,589	Fund Total	177,335	173,608
All Other	2,268,787	2,335,790	* Other Special Revenue Funds		
Umbrella Fund Total	2,727,445	2,798,379	Positions - Other Count	(0.5)	(0.5)
* Real Property Lease Internal Service Fund			Personal Services	15,875	15,720
Positions - Other Count	(1.0)	(1.0)	All Other	450,504	500,518
Personal Services	29,135	29,648	Fund Total	466,379	516,238
All Other	1,600,000	1,600,000	SUMMARY - ADMINISTRATION - AGRICULTURE		
Umbrella Fund Total	1,629,135	1,629,648			
* Alcoholic Beverage Fund					
Positions - Legislative Count	(130.5)	(130.5)			
Positions - Other Count	(7.5)	(7.5)			
Personal Services	5,203,901	5,201,274			

Positions - Legislative Count	(15.5)	(15.5)
Positions - Other Count	(3.0)	(3.0)
Personal Services	941,705	935,800
All Other	774,275	831,109
Capital Expenditures	23,740	23,740
Program Total	1,739,720	1,790,649
Aroostook Water and Soil Management Fund		
Other Participating Funds		
* Federal Expenditures Fund		
All Other	542,818	545,741
Fund Total	542,818	545,741
* Other Special Revenue Funds		
All Other	10,262	10,262
Fund Total	10,262	10,262
SUMMARY - AROOSTOOK WATER AND SOIL MANAGEMENT FUND		
All Other	553,080	556,003
Program Total	553,080	556,003
MAINE DAIRY AND NUTRITION COUNCIL Dairy and Nutrition Council		
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(3.5)	(3.5)
Personal Services	140,251	138,555
All Other	102,401	105,623
Fund Total	242,652	244,178
MAINE DAIRY PROMOTIONS BOARD		
Dairy Promotions Board		
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(2.0)	(2.0)
Personal Services	71,464	70,706
All Other	611,481	625,667
Capital Expenditures	4,250	4,500
Fund Total	687,195	700,873
STATE HARNESS RACING COMMISSION Harness Racing Commission		
* General Fund		
Positions - Legislative Count	(5.0)	(5.0)
Positions - Other Count	(3.0)	(3.0)
Personal Services	353,450	350,356
All Other	491,659	508,579

Fund Total	845,109	858,935
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(1.0)	(1.0)
Personal Services	53,917	53,168
All Other	2,897,173	3,295,293
Fund Total	2,951,090	3,348,461
SUMMARY - HARNESS RACING COMMISSION		
Positions - Legislative Count	(5.0)	(5.0)
Positions - Other Count	(4.0)	(4.0)
Personal Services	407,367	403,524
All Other	3,388,832	3,803,872
Program Total	3,796,199	4,207,396
MAINE POTATO BOARD Potato Board		
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(6.0)	(6.0)
Personal Services	272,072	279,921
All Other	864,771	884,366
Fund Total	1,136,843	1,164,287
BUREAU OF AGRICULTURAL MARKETING Marketing Services - Agriculture		
* General Fund		
Positions - Legislative Count	(13.0)	(13.0)
Positions - Other Count	(2.0)	(2.0)
Personal Services	669,581	664,194
All Other	134,981	138,896
Fund Total	804,562	803,090
Other Participating Funds		
* Federal Expenditures Fund		
Positions - Other Count	(21.0)	(21.0)
Personal Services	823,033	835,287
All Other	198,311	205,172
Fund Total	1,021,344	1,040,459
* Other Special Revenue Funds		
Positions - Other Count	(49.5)	(49.5)
Personal Services	1,380,101	1,406,906
All Other	442,510	454,783
Fund Total	1,822,611	1,861,689
SUMMARY - MARKETING SERVICES - AGRICULTURE		
Positions - Legislative Count	(13.0)	(13.0)
Positions - Other Count	(72.5)	(72.5)
Personal Services	2,872,715	2,906,387
All Other	775,802	798,851

Program Total	3,648,517	3,705,238	Seed Potato Board		
POTATO MARKETING IMPROVEMENT			* General Fund		
Other Participating Funds			Personal Services	95	95
* Potato Marketing Improvement Fund			All Other	163,083	163,083
Positions - Other Count	(2.0)	(2.0)	Fund Total	163,178	163,178
Personal Services	85,519	85,764	Other Participating Funds		
All Other	107,336	108,698	* Seed Potato Board Fund		
Fund Total	192,855	194,462	Positions - Other Count	(18.5)	(18.5)
Potato Quality Control - Reducing Inspection Costs			Personal Services	909,381	932,329
* General Fund			All Other	484,138	504,190
All Other	195,652	195,652	Fund Total	1,393,519	1,436,519
Fund Total	195,652	195,652	SUMMARY - SEED POTATO BOARD		
MAINE MILK COMMISSION Milk Commission			Positions - Other Count	(18.5)	(18.5)
Other Participating Funds			Personal Services	909,476	932,424
* Other Special Revenue Funds			All Other	647,221	667,273
Positions - Other Count	(4.5)	(4.5)	Program Total	1,556,697	1,599,697
Personal Services	191,674	192,475	BUREAU OF AGRICULTURAL PRODUCTION		
All Other	7,225,676	7,442,788	Agricultural Production		
Fund Total	7,417,350	7,635,263	* General Fund		
BOARD OF PESTICIDES CONTROL			Positions - Legislative Count	(14.5)	(14.5)
Pesticides Control - Board of			Personal Services	744,529	737,135
Other Participating Funds			All Other	235,533	249,215
* Federal Expenditures Fund			Capital Expenditures	19,000	3,000
Positions - Other Count	(9.0)	(9.0)	Fund Total	999,062	989,350
Personal Services	351,108	356,192	Other Participating Funds		
All Other	274,641	282,554	* Federal Expenditures Fund		
Capital Expenditures	1,250		Positions - Other Count	(1.5)	(1.5)
Fund Total	625,749	639,996	Personal Services	146,816	154,459
* Other Special Revenue Funds			All Other	146,513	149,582
Positions - Other Count	(16.0)	(16.0)	Capital Expenditures	20,000	20,000
Personal Services	738,301	734,893	Fund Total	313,329	324,041
All Other	368,491	377,957	* Other Special Revenue Funds		
Capital Expenditures	4,500	11,000	Positions - Other Count	(20.5)	(20.5)
Fund Total	1,111,292	1,123,850	Personal Services	902,439	912,197
SUMMARY - PESTICIDES CONTROL - BOARD OF			All Other	362,217	372,436
Positions - Other Count	(25.0)	(25.0)	Capital Expenditures	26,500	15,000
Personal Services	1,089,409	1,091,085	Fund Total	1,291,156	1,299,633
All Other	643,132	660,511	SUMMARY - AGRICULTURAL PRODUCTION		
Capital Expenditures	4,500	12,250	Positions - Legislative Count	(14.5)	(14.5)
Program Total	1,737,041	1,763,846	Positions - Other Count	(22.0)	(22.0)
SEED POTATO BOARD			Personal Services	1,793,784	1,803,791
			All Other	744,263	771,233
			Capital Expenditures	65,500	38,000
			Program Total	2,603,547	2,613,024

BUREAU OF PUBLIC SERVICES

Public Services - Agriculture

* General Fund

Positions - Legislative Count	(29.0)	(29.0)
Personal Services	1,227,837	1,221,964
All Other	137,671	141,282
Capital Expenditures	179,900	14,850

Fund Total	1,545,408	1,378,096
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Other Participating Funds

* Highway Fund

Personal Services	39,484	41,458
All Other	8,216	8,299

Fund Total	47,700	49,757
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* Federal Expenditures Fund

All Other	36,391	37,335
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Fund Total	36,391	37,335
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* Other Special Revenue Funds

Positions - Other Count	(4.0)	(4.0)
Personal Services	197,961	201,007
All Other	225,662	241,070

Fund Total	423,623	442,077
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SUMMARY - PUBLIC SERVICES - AGRICULTURE

Positions - Legislative Count	(29.0)	(29.0)
Positions - Other Count	(4.0)	(4.0)
Personal Services	1,465,282	1,464,429
All Other	407,940	427,986
Capital Expenditures	179,900	14,850

Program Total	2,053,122	1,907,265
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Consumer Services - Agriculture

Other Participating Funds

* Other Special Revenue Funds

All Other	46,092	46,092
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Fund Total	46,092	46,092
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BUREAU OF AGRICULTURAL AND RURAL RESOURCES

Agricultural and Rural Resource Development

* General Fund

Positions - Legislative Count	(0.5)	(0.5)
Personal Services	25,764	25,497
All Other	3,181	3,264

Fund Total	28,945	28,761
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Other Participating Funds

* Other Special Revenue Funds

All Other	1,032	1,063
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Fund Total

1,032

1,063

SUMMARY - AGRICULTURAL AND RURAL RESOURCE DEVELOPMENT

Positions - Legislative Count	(0.5)	(0.5)
Personal Services	25,764	25,497
All Other	4,213	4,327

Program Total	29,977	29,824
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STATE SOIL AND WATER CONSERVATION COMMISSION
Soil and Water Conservation Commission

* General Fund

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	57,779	57,028
All Other	100,403	101,326

Fund Total	158,182	158,354
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SUMMARY - DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

* General Fund

Positions - Legislative Count	(78.5)	(78.5)
Positions - Other Count	(5.0)	(5.0)
Personal Services	3,901,903	3,873,968
All Other	1,711,561	1,760,661
Capital Expenditures	222,640	41,590

Umbrella Fund Total	5,836,104	5,676,219
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Other Participating Funds

* Highway Fund

Personal Services	39,484	41,458
All Other	8,216	8,299

Umbrella Fund Total	47,700	49,757
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* Federal Expenditures Fund

Positions - Other Count	(34.0)	(34.0)
Personal Services	1,423,919	1,448,319
All Other	1,273,047	1,291,611
Capital Expenditures	20,000	21,250

Umbrella Fund Total	2,716,966	2,761,180
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* Other Special Revenue Funds

Positions - Other Count	(107.5)	(107.5)
Personal Services	3,964,055	4,005,548
All Other	13,608,272	14,357,918
Capital Expenditures	35,250	30,500

Umbrella Fund Total	17,607,577	18,393,966
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* Potato Marketing Improvement Fund

Positions - Other Count	(2.0)	(2.0)
Personal Services	85,519	85,764
All Other	107,336	108,698

Umbrella Fund Total	192,855	194,462	SUMMARY - ARTS - SPONSORED PROGRAM		
* Seed Potato Board Fund			Positions - Other Count	(3.0)	(3.0)
Positions - Other Count	(18.5)	(18.5)	Personal Services	157,893	156,178
Personal Services	909,381	932,329	All Other	326,276	330,492
All Other	484,138	504,190			
Umbrella Fund Total	1,393,519	1,436,519	Program Total	484,169	486,670
SUMMARY - DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES			SUMMARY - MAINE ARTS COMMISSION		
Positions - Legislative Count	(78.5)	(78.5)	* General Fund		
Positions - Other Count	(167.0)	(167.0)	Positions - Legislative Count	(6.0)	(6.0)
Personal Services	10,324,261	10,387,386	Personal Services	326,182	320,636
All Other	17,192,570	18,031,377	All Other	212,057	215,501
Capital Expenditures	277,890	93,340	Umbrella Fund Total	538,239	536,137
Umbrella Grand Total	27,794,721	28,512,103	Other Participating Funds		
MAINE ARTS COMMISSION			* Federal Expenditures Fund		
Arts - Administration			Positions - Other Count	(3.0)	(3.0)
* General Fund			Personal Services	157,893	156,178
Positions - Legislative Count	(6.0)	(6.0)	All Other	644,616	652,074
Personal Services	326,182	320,636	Umbrella Fund Total	802,509	808,252
All Other	32,382	33,575	* Other Special Revenue Funds		
Fund Total	358,564	354,211	All Other	8,070	8,121
Arts - Arts Discipline Grants			Umbrella Fund Total	8,070	8,121
Other Participating Funds			SUMMARY - MAINE ARTS COMMISSION		
* Federal Expenditures Fund			Positions - Legislative Count	(6.0)	(6.0)
All Other	202,172	204,610	Positions - Other Count	(3.0)	(3.0)
Fund Total	202,172	204,610	Personal Services	484,075	476,814
Arts - General Grants Program			All Other	864,743	875,696
Other Participating Funds			Umbrella Grand Total	1,348,818	1,352,510
* Federal Expenditures Fund			ATLANTIC SEA RUN SALMON COMMISSION		
All Other	303,913	307,019	Atlantic Sea Run Salmon Commission		
Fund Total	303,913	307,019	* General Fund		
Arts - Sponsored Program			Positions - Legislative Count	(2.0)	(2.0)
* General Fund			Personal Services	95,284	94,972
All Other	179,675	181,926	All Other	14,356	14,758
Fund Total	179,675	181,926	Fund Total	109,640	109,730
Other Participating Funds			Other Participating Funds		
* Federal Expenditures Fund			* Federal Expenditures Fund		
Positions - Other Count	(3.0)	(3.0)	Positions - Other Count	(7.0)	(7.0)
Personal Services	157,893	156,178	Personal Services	330,641	330,916
All Other	138,531	140,445	All Other	94,181	95,699
Fund Total	296,424	296,623	Fund Total	424,822	426,615
* Other Special Revenue Funds			* Other Special Revenue Funds		
All Other	8,070	8,121	Positions - Other Count	(1.0)	(1.0)
Fund Total	8,070	8,121	Personal Services	18,587	18,120
			All Other	4,786	5,253

Fund Total	23,373	23,373	* General Fund		
			Positions - Legislative Count	(58.0)	(58.0)
			Personal Services	2,400,592	2,456,905
SUMMARY - ATLANTIC SEA RUN SALMON COMMISSION					
Positions - Legislative Count	(2.0)	(2.0)	Fund Total	2,400,592	2,456,905
Positions - Other Count	(8.0)	(8.0)	Other Participating Funds		
Personal Services	444,512	444,008	* Highway Fund		
All Other	113,323	115,710	Personal Services	1,292,627	1,322,948
			All Other	41,364	42,334
Program Total	557,835	559,718	Fund Total	1,333,991	1,365,282
ATLANTIC STATES MARINE FISHERIES COMMISSION			* Federal Expenditures Fund		
Atlantic States Marine Fisheries Commission			All Other	126,454	133,157
* General Fund			Fund Total	126,454	133,157
All Other	30,956	23,061	SUMMARY - DISTRICT ATTORNEYS SALARIES		
Fund Total	30,956	23,061	Positions - Legislative Count	(58.0)	(58.0)
DEPARTMENT OF THE ATTORNEY GENERAL			Personal Services	3,693,219	3,779,853
Administration - Attorney General			All Other	167,818	175,491
* General Fund			Program Total	3,861,037	3,955,344
Positions - Legislative Count	(58.5)	(58.5)	Human Services Division		
Personal Services	3,463,927	3,521,592	* General Fund		
All Other	376,283	385,855	Positions - Legislative Count	(10.0)	(10.0)
Capital Expenditures	31,699		Personal Services	570,772	583,459
Fund Total	3,840,210	3,939,146	All Other	26,021	26,738
Other Participating Funds			Fund Total	596,793	610,197
* Federal Expenditures Fund			Other Participating Funds		
Positions - Other Count	(26.0)	(26.0)	* Federal Expenditures Fund		
Personal Services	1,307,993	1,328,953	Positions - Other Count	(16.5)	(16.5)
All Other	159,249	162,402	Personal Services	775,438	793,094
Capital Expenditures	2,286	12,603	All Other	221,188	225,772
Fund Total	1,469,528	1,503,958	Fund Total	996,626	1,018,866
* Other Special Revenue Funds			* Other Special Revenue Funds		
Positions - Other Count	(37.0)	(37.0)	Positions - Other Count	(3.0)	(3.0)
Personal Services	1,998,226	2,046,200	Personal Services	180,174	183,121
All Other	299,645	308,064	All Other	9,346	9,547
Capital Expenditures	16,456		Fund Total	189,520	192,668
Fund Total	2,297,871	2,370,720	* Federal Block Grant Fund		
SUMMARY - ADMINISTRATION - ATTORNEY GENERAL			Positions - Legislative Count	(9.0)	(9.0)
Positions - Legislative Count	(58.5)	(58.5)	Personal Services	463,343	472,149
Positions - Other Count	(63.0)	(63.0)	All Other	19,974	20,307
Personal Services	6,770,146	6,896,745	Fund Total	483,317	492,456
All Other	835,177	856,321	SUMMARY - HUMAN SERVICES DIVISION		
Capital Expenditures	2,286	60,758	Positions - Legislative Count	(19.0)	(19.0)
Program Total	7,607,609	7,813,824	Positions - Other Count	(19.5)	(19.5)
District Attorneys Salaries			Personal Services	1,989,727	2,031,823
			All Other	276,529	282,364

Program Total	2,266,256	2,314,187	Personal Services	463,343	472,149
			All Other	19,974	20,307
OFFICE OF CHIEF MEDICAL EXAMINER FOR THE STATE			Umbrella Fund Total	483,317	492,456
Chief Medical Examiner - Office of			SUMMARY - DEPARTMENT OF THE ATTORNEY GENERAL		
* General Fund			Positions - Legislative Count	(142.5)	(142.5)
Positions - Legislative Count	(7.0)	(7.0)	Positions - Other Count	(84.0)	(84.0)
Personal Services	455,113	453,500	Personal Services	12,965,753	13,219,970
All Other	271,278	280,735	All Other	1,898,528	1,951,319
Capital Expenditures	3,000		Capital Expenditures	5,286	63,302
Fund Total	729,391	734,235	Umbrella Grand Total	14,869,567	15,234,591
VICTIMS' COMPENSATION BOARD			DEPARTMENT OF AUDIT		
Victims' Compensation Board			DEPARTMENTAL BUREAU (AUDIT)		
Other Participating Funds			Audit - Departmental Bureau		
* Other Special Revenue Funds			* General Fund		
Positions - Other Count	(1.5)	(1.5)	Positions - Legislative Count	(24.0)	(24.0)
Personal Services	57,548	58,049	Personal Services	1,290,970	1,278,910
All Other	347,726	356,408	All Other	52,719	49,038
Capital Expenditures		2,544	Capital Expenditures	8,100	9,900
Fund Total	405,274	417,001	Fund Total	1,351,789	1,337,848
SUMMARY - DEPARTMENT OF THE ATTORNEY GENERAL			Other Participating Funds		
* General Fund			* Other Special Revenue Funds		
Positions - Legislative Count	(133.5)	(133.5)	All Other	5,625	5,625
Personal Services	6,890,404	7,015,456	Fund Total	5,625	5,625
All Other	673,582	693,328	SUMMARY - AUDIT - DEPARTMENTAL BUREAU		
Capital Expenditures	3,000	31,699	Positions - Legislative Count	(24.0)	(24.0)
Umbrella Fund Total	7,566,986	7,740,483	Personal Services	1,290,970	1,278,910
Other Participating Funds			All Other	58,344	54,663
* Highway Fund			Capital Expenditures	8,100	9,900
Personal Services	1,292,627	1,322,948	Program Total	1,357,414	1,343,473
All Other	41,364	42,334	MUNICIPAL BUREAU (AUDIT)		
Umbrella Fund Total	1,333,991	1,365,282	Audit - Municipal Bureau		
* Federal Expenditures Fund			Other Participating Funds		
Positions - Other Count	(42.5)	(42.5)	* Other Special Revenue Funds		
Personal Services	2,083,431	2,122,047	Positions - Other Count	(18.0)	(18.0)
All Other	506,891	521,331	Personal Services	797,751	809,001
Capital Expenditures	2,286	12,603	All Other	187,869	190,998
Umbrella Fund Total	2,592,608	2,655,981	Capital Expenditures	4,950	
* Other Special Revenue Funds			Fund Total	990,570	999,999
Positions - Other Count	(41.5)	(41.5)	UNORGANIZED TERRITORY (AUDIT)		
Personal Services	2,235,948	2,287,370	Audit - Unorganized Territory		
All Other	656,717	674,019	Other Participating Funds		
Capital Expenditures		19,000	* Other Special Revenue Funds		
Umbrella Fund Total	2,892,665	2,980,389	Positions - Other Count	(2.0)	(2.0)
* Federal Block Grant Fund			Personal Services	97,030	95,740
Positions - Legislative Count	(9.0)	(9.0)			

All Other	24,648	25,282
Fund Total	121,678	121,022

SUMMARY - DEPARTMENT
OF AUDIT

* General Fund		
Positions - Legislative Count	(24.0)	(24.0)
Personal Services	1,290,970	1,278,910
All Other	52,719	49,038
Capital Expenditures	8,100	9,900
Umbrella Fund Total	1,351,789	1,337,848

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(20.0)	(20.0)
Personal Services	894,781	904,741
All Other	218,142	221,905
Capital Expenditures	4,950	
Umbrella Fund Total	1,117,873	1,126,646

SUMMARY - DEPARTMENT
OF AUDIT

Positions - Legislative Count	(24.0)	(24.0)
Positions - Other Count	(20.0)	(20.0)
Personal Services	2,185,751	2,183,651
All Other	270,861	270,943
Capital Expenditures	13,050	9,900
Umbrella Grand Total	2,469,662	2,464,494

BAXTER STATE PARK
AUTHORITY

Baxter State Park Authority

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(33.0)	(33.0)
Personal Services	1,156,405	1,136,018
All Other	693,527	717,676
Capital Expenditures	124,100	117,200
Fund Total	1,974,032	1,970,894

MAINE BLUEBERRY
COMMISSION

Blueberry Commission

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(1.0)	(1.0)
Personal Services	71,024	75,102
All Other	558,976	584,898
Fund Total	630,000	660,000

BOARD OF THE MAINE
CHILDREN'S TRUST
INCORPORATEDMaine Children's Trust
Incorporated

Other Participating Funds		
* Other Special Revenue Funds		
All Other	400,000	400,000

Fund Total

DEPARTMENT OF
CONSERVATION

Forest Recreation Resource Fund

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(1.0)	(1.0)
Personal Services	45,651	46,654
All Other	5,912	5,930
Fund Total	51,563	52,584

ADMINISTRATIVE SERVICES
DIVISION (CONSERVATION)
Administrative Services -
Conservation

* General Fund		
Positions - Legislative Count	(16.0)	(16.0)
Personal Services	849,634	840,921
All Other	61,219	62,840
Fund Total	910,853	903,761

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(3.5)	(3.5)
Personal Services	151,658	154,417
All Other	251,071	262,990
Fund Total	402,729	417,407

* Other Special Revenue Funds

Positions - Other Count	(6.5)	(6.5)
Personal Services	247,144	246,753
All Other	71,615	76,345
Capital Expenditures	4,000	4,000
Fund Total	322,759	327,098

SUMMARY -
ADMINISTRATIVE SERVICES
- CONSERVATION

Positions - Legislative Count	(16.0)	(16.0)
Positions - Other Count	(10.0)	(10.0)
Personal Services	1,248,436	1,242,091
All Other	383,905	402,175
Capital Expenditures	4,000	4,000
Program Total	1,636,341	1,648,266

COASTAL ISLAND REGISTRY
Coastal Island Registry

Other Participating Funds

* Other Special Revenue Funds		
All Other	104	107
Fund Total	104	107

DIVISION OF ENGINEERING AND REALTY			All Other	126,721	129,944
Engineering and Realty			Capital Expenditures	2,400	2,400
			Fund Total	827,602	828,407
* General Fund			Other Participating Funds		
Positions - Legislative Count	(1.0)	(1.0)	* Federal Expenditures Fund		
Personal Services	58,209	59,836	Positions - Other Count	(2.0)	(2.0)
All Other	5,587	5,739	Personal Services	90,370	91,330
Fund Total	63,796	65,575	All Other	777,754	805,836
DIVISION OF FOREST FIRE CONTROL			Capital Expenditures	2,400	2,400
Forest Fire Control - Municipal Assistance Grants			Fund Total	870,524	899,566
* General Fund			SUMMARY - FOREST MANAGEMENT, UTILIZATION AND MARKETING		
All Other	52,530	54,106	Positions - Legislative Count	(15.0)	(15.0)
Fund Total	52,530	54,106	Positions - Other Count	(2.0)	(2.0)
Forest Fire Control - Division of			Personal Services	788,851	787,393
* General Fund			All Other	904,475	935,780
Positions - Legislative Count	(108.5)	(108.5)	Capital Expenditures	4,800	4,800
Positions - Other Count	(14.5)	(14.5)	Program Total	1,698,126	1,727,973
Personal Services	5,540,373	5,508,761	Forest Planning, Evaluation and Research		
All Other	2,291,769	2,425,584	Other Participating Funds		
Capital Expenditures	240,117	207,080	* Federal Expenditures Fund		
Fund Total	8,072,259	8,141,425	Positions - Other Count	(0.5)	(0.5)
Other Participating Funds			Personal Services	14,757	15,247
* Federal Expenditures Fund			All Other	5,651	5,904
Positions - Other Count	(2.5)	(2.5)	Fund Total	20,408	21,151
Personal Services	107,345	106,903	BUREAU OF FORESTRY (AKA MAINE FOREST SERVICE)		
All Other	64,035	65,910	Administration - Forestry		
Fund Total	171,380	172,813	* General Fund		
* Other Special Revenue Funds			Positions - Legislative Count	(2.0)	(2.0)
All Other	51,615	51,615	Personal Services	131,573	130,091
Capital Expenditures	100,000	100,000	All Other	35,659	36,666
Fund Total	151,615	151,615	Capital Expenditures	2,400	2,400
SUMMARY - FOREST FIRE CONTROL - DIVISION OF			Fund Total	169,632	169,157
Positions - Legislative Count	(108.5)	(108.5)	Other Participating Funds		
Positions - Other Count	(17.0)	(17.0)	* Federal Expenditures Fund		
Personal Services	5,647,718	5,615,664	Positions - Other Count	(2.0)	(2.0)
All Other	2,407,419	2,543,109	Personal Services	76,888	76,083
Capital Expenditures	340,117	307,080	All Other	20,620	21,183
Program Total	8,395,254	8,465,853	Fund Total	97,508	97,266
DIVISION OF FOREST MANAGEMENT AND UTILIZATION			SUMMARY - ADMINISTRATION - FORESTRY		
Forest Management, Utilization and Marketing			Positions - Legislative Count	(2.0)	(2.0)
* General Fund			Positions - Other Count	(2.0)	(2.0)
Positions - Legislative Count	(15.0)	(15.0)	Personal Services	208,461	206,174
Personal Services	698,481	696,063	All Other	56,279	57,849

Capital Expenditures	2,400	2,400	SUMMARY - INSECT AND DISEASE MANAGEMENT		
Program Total	267,140	266,423			
MAINE GEOLOGICAL SURVEY			Positions - Legislative Count	(14.0)	(14.0)
Geological Survey			Positions - Other Count	(2.0)	(2.0)
* General Fund			Personal Services	800,085	793,329
Positions - Legislative Count	(15.0)	(15.0)	All Other	201,216	206,735
Personal Services	811,419	799,136	Capital Expenditures	5,900	6,075
All Other	188,109	194,555	Program Total	1,007,201	1,006,139
Fund Total	999,528	993,691	MAINE LAND USE REGULATION COMMISSION		
Other Participating Funds			Land Use Regulation Commission		
* Federal Expenditures Fund			* General Fund		
All Other	164,780	169,509	Positions - Legislative Count	(29.0)	(29.0)
Fund Total	164,780	169,509	Personal Services	1,381,898	1,380,980
SUMMARY - GEOLOGICAL SURVEY			All Other	330,063	341,381
Positions - Legislative Count	(15.0)	(15.0)	Capital Expenditures	18,094	18,094
Personal Services	811,419	799,136	Fund Total	1,730,055	1,740,455
All Other	352,889	364,064	Other Participating Funds		
Program Total	1,164,308	1,163,200	* Other Special Revenue Funds		
Mining Operations			Positions - Other Count	(0.5)	(0.5)
Other Participating Funds			Personal Services	20,163	20,779
* Other Special Revenue Funds			All Other	3,112	3,154
Positions - Other Count	(1.0)	(1.0)	Fund Total	23,275	23,933
Personal Services	33,914	34,957	SUMMARY - LAND USE REGULATION COMMISSION		
All Other	53,020	54,296	Positions - Legislative Count	(29.0)	(29.0)
Fund Total	86,934	89,253	Positions - Other Count	(0.5)	(0.5)
INSECT AND DISEASE MANAGEMENT			Personal Services	1,402,061	1,401,759
Insect and Disease Management			All Other	333,175	344,535
* General Fund			Capital Expenditures	18,094	18,094
Positions - Legislative Count	(14.0)	(14.0)	Program Total	1,753,330	1,764,388
Personal Services	646,317	640,677	BUREAU OF PARKS AND RECREATION		
All Other	80,116	82,456	Boating Facilities Fund		
Capital Expenditures	2,400	2,400	Other Participating Funds		
Fund Total	728,833	725,533	* Other Special Revenue Funds		
Other Participating Funds			Positions - Other Count	(22.0)	(22.0)
* Federal Expenditures Fund			Personal Services	952,652	947,423
Positions - Other Count	(2.0)	(2.0)	All Other	294,517	314,282
Personal Services	153,768	152,652	Capital Expenditures	157,050	141,545
All Other	118,102	121,216	Fund Total	1,404,219	1,403,250
Capital Expenditures	3,500	3,675	Off-road Recreational Vehicles Program		
Fund Total	275,370	277,543	Other Participating Funds		
* Other Special Revenue Funds			* Other Special Revenue Funds		
All Other	2,998	3,063	Positions - Other Count	(7.0)	(7.0)
Fund Total	2,998	3,063	Personal Services	265,772	266,791
			All Other	977,484	972,018
			Capital Expenditures		4,000
			Fund Total	1,243,256	1,242,809

Parks - General Operations

* General Fund

Positions - Legislative Count	(49.0)	(49.0)
Positions - Other Count	(97.5)	(97.5)
Personal Services	4,918,606	4,798,814
All Other	289,690	297,357
Capital Expenditures	260,400	263,800
Fund Total	5,468,696	5,359,971

Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(1.5)	(1.5)
Personal Services	67,396	66,150
All Other	713,581	713,559
Capital Expenditures	150,000	150,000
Fund Total	930,977	929,709

* Other Special Revenue Funds

Positions - Other Count	(3.5)	(3.5)
Personal Services	99,195	97,617
All Other	78,418	78,359
Capital Expenditures	253,000	250,000
Fund Total	430,613	425,976

SUMMARY - PARKS -
GENERAL OPERATIONS

Positions - Legislative Count	(49.0)	(49.0)
Positions - Other Count	(102.5)	(102.5)
Personal Services	5,085,197	4,962,581
All Other	1,081,689	1,089,275
Capital Expenditures	663,400	663,800
Program Total	6,830,286	6,715,656

Maine State Parks Program

Other Participating Funds

* Other Special Revenue Funds

All Other	322,706	322,706
Fund Total	322,706	322,706

DIVISION OF POLICY,
PLANNING AND
INFORMATION
Policy, Planning and Information

* General Fund

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	314,322	314,164
All Other	116,420	119,681
Capital Expenditures	4,800	4,800
Fund Total	435,542	438,645

Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(1.0)	(1.0)
Personal Services	44,407	45,736
All Other	13,455	13,844

Fund Total

57,862

59,580

SUMMARY - POLICY,
PLANNING AND
INFORMATION

Positions - Legislative Count	(6.0)	(6.0)
Positions - Other Count	(1.0)	(1.0)
Personal Services	358,729	359,900
All Other	129,875	133,525
Capital Expenditures	4,800	4,800

Program Total

493,404

498,225

BUREAU OF PUBLIC LANDS
Land Management and Planning

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(39.0)	(39.0)
Personal Services	1,636,006	1,625,484
All Other	747,402	768,357
Capital Expenditures	870,982	897,112

Fund Total

3,254,390

3,290,953

SUMMARY - DEPARTMENT
OF CONSERVATION

* General Fund

Positions - Legislative Count	(255.5)	(255.5)
Positions - Other Count	(112.0)	(112.0)
Personal Services	15,350,832	15,169,443
All Other	3,577,883	3,750,309
Capital Expenditures	530,611	500,974

Umbrella Fund Total

19,459,326

19,420,726

Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(15.0)	(15.0)
Personal Services	706,589	708,518
All Other	2,129,049	2,179,951
Capital Expenditures	155,900	156,075

Umbrella Fund Total

2,991,538

3,044,544

* Other Special Revenue Funds

Positions - Other Count	(80.5)	(80.5)
Personal Services	3,300,497	3,286,458
All Other	2,608,903	2,650,232
Capital Expenditures	1,385,032	1,396,657

Umbrella Fund Total

7,294,432

7,333,347

SUMMARY - DEPARTMENT
OF CONSERVATION

Positions - Legislative Count	(255.5)	(255.5)
Positions - Other Count	(207.5)	(207.5)
Personal Services	19,357,918	19,164,419
All Other	8,315,835	8,580,492
Capital Expenditures	2,071,543	2,053,706

Umbrella Grand Total

29,745,296

29,798,617

**DEPARTMENT OF
CORRECTIONS**

Administration - Corrections

* General Fund		
Positions - Legislative Count	(26.0)	(26.0)
Personal Services	1,406,665	1,391,582
All Other	283,925	289,827
Capital Expenditures	15,782	
Fund Total	1,706,372	1,681,409
Other Participating Funds		
* Other Special Revenue Funds		
All Other	5,591	5,887
Fund Total	5,591	5,887

**SUMMARY -
ADMINISTRATION -
CORRECTIONS**

Positions - Legislative Count	(26.0)	(26.0)
Personal Services	1,406,665	1,391,582
All Other	289,516	295,714
Capital Expenditures	15,782	
Program Total	1,711,963	1,687,296
Community Based Corrections		
* General Fund		
All Other	7,138,200	7,138,200
Fund Total	7,138,200	7,138,200

Correctional Program
Improvement

* General Fund		
All Other	215,286	226,695
Fund Total	215,286	226,695

Correctional Services

* General Fund		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	31,219	30,915
All Other	603,999	605,562
Fund Total	635,218	636,477

Other Participating Funds

* Federal Expenditures Fund		
All Other	94,710	99,730
Fund Total	94,710	99,730

* Other Special Revenue Funds

Positions - Other Count	(1.0)	(1.0)
Personal Services	26,851	27,374
All Other	55,099	58,020
Fund Total	81,950	85,394

**SUMMARY - CORRECTIONAL
SERVICES**

Positions - Legislative Count	(1.0)	(1.0)
Positions - Other Count	(1.0)	(1.0)
Personal Services	58,070	58,289
All Other	753,808	763,312
Program Total	811,878	821,601

Fuel - Corrections

* General Fund		
All Other	671,091	691,224
Fund Total	671,091	691,224

Justice - Planning, Projects and
Statistics

* General Fund		
Personal Services	13,525	13,290
All Other	7,483	7,592
Fund Total	21,008	20,882

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(2.0)	(2.0)
Personal Services	83,900	84,420
All Other	566,100	565,580
Fund Total	650,000	650,000

**SUMMARY - JUSTICE -
PLANNING, PROJECTS AND
STATISTICS**

Positions - Other Count	(2.0)	(2.0)
Personal Services	97,425	97,710
All Other	573,583	573,172
Program Total	671,008	670,882

**OFFICE OF ADVOCACY
(CORRECTIONS)**
Office of Advocacy

* General Fund		
Positions - Legislative Count	(3.0)	(3.0)
Personal Services	132,859	133,010
All Other	1,826	1,868
Fund Total	134,685	134,878

**CHARLESTON
CORRECTIONAL FACILITY**
Bangor Pre-Release Center

* General Fund		
Positions - Legislative Count	(14.0)	(14.0)
Personal Services	570,306	573,549
All Other	120,511	125,005
Capital Expenditures	4,600	
Fund Total	695,417	698,554

Charleston Correctional Facility

* General Fund		
Positions - Legislative Count	(94.0)	(94.0)
Personal Services	3,766,759	3,794,995
All Other	687,489	705,830
Capital Expenditures	15,246	50,400
Fund Total	4,469,494	4,551,225

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(2.0)	(2.0)
Personal Services	65,361	66,032
All Other	125,078	131,349
Capital Expenditures	3,435	3,435
Fund Total	193,874	200,816

* Other Special Revenue Funds

Personal Services	18,000	18,000
All Other	6,154	6,341
Capital Expenditures	8,000	8,000
Fund Total	32,154	32,341

SUMMARY - CHARLESTON
CORRECTIONAL FACILITY

Positions - Legislative Count	(94.0)	(94.0)
Positions - Other Count	(2.0)	(2.0)
Personal Services	3,850,120	3,879,027
All Other	818,721	843,520
Capital Expenditures	26,681	61,835
Program Total	4,695,522	4,784,382

Food - Charleston Correctional
Facility

* General Fund		
All Other	177,207	180,928
Fund Total	177,207	180,928

MAINE CORRECTIONAL
CENTER

Central Maine Pre-release Center

* General Fund		
Positions - Legislative Count	(18.0)	(18.0)
Personal Services	725,098	720,219
All Other	90,517	93,409
Capital Expenditures	8,600	5,900
Fund Total	824,215	819,528

Correctional Center

* General Fund		
Positions - Legislative Count	(270.0)	(270.0)
Personal Services	10,605,732	10,649,015
All Other	3,337,499	3,414,762
Capital Expenditures	22,807	7,600
Fund Total	13,966,038	14,071,377

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(9.0)	(9.0)
Personal Services	432,350	436,574
All Other	57,952	57,978
Fund Total	490,302	494,552

* Other Special Revenue Funds

All Other	2,000	2,000
Fund Total	2,000	2,000

SUMMARY - CORRECTIONAL
CENTER

Positions - Legislative Count	(270.0)	(270.0)
Positions - Other Count	(9.0)	(9.0)
Personal Services	11,038,082	11,085,589
All Other	3,397,451	3,474,740
Capital Expenditures	22,807	7,600
Program Total	14,458,340	14,567,929

Correctional Center - Farm
Program

Other Participating Funds

* Other Special Revenue Funds		
All Other	38,475	28,104
Capital Expenditures	9,800	25,000
Fund Total	48,275	53,104

Food - Maine Correctional Center

* General Fund		
All Other	550,829	562,397
Fund Total	550,829	562,397

Vocational Training and
Industries Program

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(1.0)	(1.0)
Personal Services	36,478	37,744
All Other	221,011	227,997
Capital Expenditures	23,000	16,000
Fund Total	280,489	281,741

DOWNEAST CORRECTIONAL
FACILITY

Downeast Correctional Facility

* General Fund		
Positions - Legislative Count	(67.0)	(67.0)
Personal Services	2,696,704	2,703,034
All Other	473,638	483,934
Capital Expenditures	33,900	40,263
Fund Total	3,204,242	3,227,231

Other Participating Funds

* Federal Expenditures Fund		
All Other	81,055	81,055
Capital Expenditures	2,000	2,000
Fund Total	<u>83,055</u>	<u>83,055</u>
* Other Special Revenue Funds		
All Other	5,000	5,000
Fund Total	<u>5,000</u>	<u>5,000</u>
SUMMARY - DOWNEAST CORRECTIONAL FACILITY		
Positions - Legislative Count	(67.0)	(67.0)
Personal Services	2,696,704	2,703,034
All Other	559,693	569,989
Capital Expenditures	35,900	42,263
Program Total	<u>3,292,297</u>	<u>3,315,286</u>
Food - Downeast Correctional Facility		
* General Fund		
All Other	140,178	143,122
Fund Total	<u>140,178</u>	<u>143,122</u>
BUREAU OF JUVENILE CORRECTIONS		
Bureau of Juvenile Corrections		
* General Fund		
Positions - Legislative Count	(2.0)	(2.0)
Personal Services	90,494	88,757
All Other	1,445	1,477
Fund Total	<u>91,939</u>	<u>90,234</u>
STATE PAROLE BOARD		
Parole Board		
* General Fund		
Personal Services	1,650	1,650
All Other	4,517	4,643
Fund Total	<u>6,167</u>	<u>6,293</u>
STATE PRISON		
Food - State Prison		
* General Fund		
All Other	784,610	801,086
Fund Total	<u>784,610</u>	<u>801,086</u>
State Prison		
* General Fund		
Positions - Legislative Count	(335.5)	(335.5)
Personal Services	13,656,630	13,706,227
All Other	2,724,145	2,829,071
Capital Expenditures	175,728	69,800
Fund Total	<u>16,556,503</u>	<u>16,605,098</u>

Other Participating Funds		
* Federal Expenditures Fund		
Positions - Other Count	(4.0)	(4.0)
Personal Services	183,034	188,416
All Other	6,478	6,516
Fund Total	<u>189,512</u>	<u>194,932</u>
* Other Special Revenue Funds		
All Other	15,500	18,500
Fund Total	<u>15,500</u>	<u>18,500</u>
* Prison Industries Fund		
Positions - Other Count	(6.0)	(6.0)
Personal Services	222,360	223,292
All Other	343,078	355,745
Capital Expenditures	50,000	50,000
Fund Total	<u>615,438</u>	<u>629,037</u>
SUMMARY - STATE PRISON		
Positions - Legislative Count	(335.5)	(335.5)
Positions - Other Count	(10.0)	(10.0)
Personal Services	14,062,024	14,117,935
All Other	3,089,201	3,209,832
Capital Expenditures	225,728	119,800
Program Total	<u>17,376,953</u>	<u>17,447,567</u>
State Prison - Farm Program		
* General Fund		
Positions - Legislative Count	(2.0)	(2.0)
Personal Services	77,548	77,601
All Other	29,619	30,558
Capital Expenditures	24,000	14,000
Fund Total	<u>131,167</u>	<u>122,159</u>
Other Participating Funds		
* Other Special Revenue Funds		
All Other	22,500	24,500
Fund Total	<u>22,500</u>	<u>24,500</u>
SUMMARY - STATE PRISON - FARM PROGRAM		
Positions - Legislative Count	(2.0)	(2.0)
Personal Services	77,548	77,601
All Other	52,119	55,058
Capital Expenditures	24,000	14,000
Program Total	<u>153,667</u>	<u>146,659</u>
Warren Correctional Facility		
* General Fund		
Positions - Legislative Count	(83.0)	(83.0)
Personal Services	3,375,355	3,398,775
All Other	1,069,154	1,098,019
Fund Total	<u>4,444,509</u>	<u>4,496,794</u>

DIVISION OF PROBATION
AND PAROLE

Probation and Parole

* General Fund		
Positions - Legislative Count	(126.0)	(126.0)
Personal Services	6,263,050	6,202,914
All Other	808,796	829,012
Fund Total	7,071,846	7,031,926

Other Participating Funds

* Federal Expenditures Fund		
All Other	168,467	177,396
Fund Total	168,467	177,396

* Other Special Revenue Funds

All Other	10,000	10,000
Fund Total	10,000	10,000

SUMMARY - PROBATION
AND PAROLE

Positions - Legislative Count	(126.0)	(126.0)
Personal Services	6,263,050	6,202,914
All Other	987,263	1,016,408
Program Total	7,250,313	7,219,322

MAINE YOUTH CENTER

Food - Maine Youth Center

* General Fund		
All Other	284,975	290,959
Fund Total	284,975	290,959

Youth Center - Maine

* General Fund		
Positions - Legislative Count	(203.0)	(203.0)
Personal Services	8,859,675	8,797,131
All Other	1,098,431	1,135,943
Capital Expenditures	88,800	47,800
Fund Total	10,046,906	9,980,874

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(10.5)	(10.5)
Personal Services	455,694	459,235
All Other	36,339	35,897
Fund Total	492,033	495,132

* Other Special Revenue Funds

All Other	10,500	10,500
Fund Total	10,500	10,500

* Federal Block Grant Fund

All Other	7,000	7,000
Fund Total	7,000	7,000

SUMMARY - YOUTH CENTER
- MAINE

Positions - Legislative Count	(203.0)	(203.0)
Positions - Other Count	(10.5)	(10.5)
Personal Services	9,315,369	9,256,366
All Other	1,152,270	1,189,340
Capital Expenditures	88,800	47,800
Program Total	10,556,439	10,493,506

SUMMARY - DEPARTMENT
OF CORRECTIONS

* General Fund		
Positions - Legislative Count	(1,244.5)	(1,244.5)
Personal Services	52,273,269	52,282,664
All Other	21,305,370	21,691,123
Capital Expenditures	389,463	235,763
Umbrella Fund Total	73,968,102	74,209,550

Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(27.5)	(27.5)
Personal Services	1,220,339	1,234,677
All Other	1,136,179	1,155,501
Capital Expenditures	5,435	5,435
Umbrella Fund Total	2,361,953	2,395,613

* Other Special Revenue Funds

Positions - Other Count	(2.0)	(2.0)
Personal Services	81,329	83,118
All Other	391,830	396,849
Capital Expenditures	40,800	49,000
Umbrella Fund Total	513,959	528,967

* Federal Block Grant Fund

All Other	7,000	7,000
Umbrella Fund Total	7,000	7,000

* Prison Industries Fund

Positions - Other Count	(6.0)	(6.0)
Personal Services	222,360	223,292
All Other	343,078	355,745
Capital Expenditures	50,000	50,000
Umbrella Fund Total	615,438	629,037

SUMMARY - DEPARTMENT
OF CORRECTIONS

Positions - Legislative Count	(1,244.5)	(1,244.5)
Positions - Other Count	(35.5)	(35.5)
Personal Services	53,797,297	53,823,751
All Other	23,183,457	23,606,218
Capital Expenditures	485,698	340,198
Umbrella Grand Total	77,466,452	77,770,167

MAINE CRIMINAL JUSTICE
COMMISSION

Maine Criminal Justice Commission			* General Fund		
			Positions - Legislative Count	(1.0)	(1.0)
* General Fund			Personal Services	50,730	52,222
All Other	20,000	20,000			
			Fund Total	50,730	52,222
Fund Total	20,000	20,000	Hazard Mitigation Program		
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES			Other Participating Funds		
ADMINISTRATIVE SERVICES			* Federal Expenditures Fund		
DIVISION (DEFENSE AND VETERAN SERVICES)			Positions - Other Count	(15.0)	(15.0)
Administration - Defense and Veteran Services			Personal Services	575,947	593,497
			All Other	119,413	122,965
			Fund Total	695,360	716,462
* General Fund			Population Protection Planning		
Positions - Legislative Count	(4.5)	(4.5)	Other Participating Funds		
Personal Services	271,317	270,618	* Federal Expenditures Fund		
			Positions - Other Count	(4.0)	(4.0)
Fund Total	271,317	270,618	Personal Services	151,894	153,891
MAINE EMERGENCY MANAGEMENT AGENCY			All Other	49,113	50,179
Administration - Maine Emergency Management Agency			Fund Total	201,007	204,070
* General Fund			Radiological Account		
Positions - Legislative Count	(9.0)	(9.0)	Other Participating Funds		
Personal Services	213,585	212,045	* Federal Expenditures Fund		
All Other	35,446	36,385	Positions - Other Count	(2.0)	(2.0)
Capital Expenditures	297,000	0	Personal Services	74,507	75,394
			All Other	17,288	17,596
Fund Total	546,031	248,430	Fund Total	91,795	92,990
Other Participating Funds			MILITARY BUREAU		
* Federal Expenditures Fund			Military Training and Operations		
Positions - Other Count	(3.0)	(3.0)	* General Fund		
Personal Services	333,144	333,298	Positions - Legislative Count	(39.0)	(39.0)
All Other	4,799,161	4,821,791	Personal Services	1,473,906	1,466,535
Capital Expenditures	297,000	0	All Other	557,456	572,393
Fund Total	5,429,305	5,155,089	Fund Total	2,031,362	2,038,928
* Other Special Revenue Funds			Other Participating Funds		
Positions - Other Count	(2.0)	(2.0)	* Federal Expenditures Fund		
Personal Services	80,344	79,980	Positions - Other Count	(70.0)	(70.0)
All Other	299,663	301,587	Personal Services	3,412,117	3,408,928
Fund Total	380,007	381,567	All Other	2,102,014	2,164,125
SUMMARY - ADMINISTRATION - MAINE EMERGENCY MANAGEMENT AGENCY			Capital Expenditures	6,500	6,000
Positions - Legislative Count	(9.0)	(9.0)	Fund Total	5,520,631	5,579,053
Positions - Other Count	(5.0)	(5.0)	* Other Special Revenue Funds		
Personal Services	627,073	625,323	All Other	221,589	233,333
All Other	5,134,270	5,159,763	Fund Total	221,589	233,333
Capital Expenditures	594,000		SUMMARY - MILITARY TRAINING AND OPERATIONS		
Program Total	6,355,343	5,785,086	Positions - Legislative Count	(39.0)	(39.0)
Dam Safety Program			Positions - Other Count	(70.0)	(70.0)
			Personal Services	4,886,023	4,875,463

All Other	2,881,059	2,969,851			
Capital Expenditures	6,500	6,000			
Program Total	7,773,582	7,851,314	Umbrella Fund Total	3,837,822	3,554,050
DIVISION OF VETERANS' SERVICES			Other Participating Funds		
Veterans' Memorial Cemetery			* Federal Expenditures Fund		
* General Fund			Positions - Other Count	(95.5)	(95.5)
Positions - Legislative Count	(6.0)	(6.0)	Personal Services	4,586,699	4,604,911
Personal Services	205,557	208,587	All Other	7,159,487	7,251,827
All Other	22,600	23,362	Capital Expenditures	303,500	6,000
Fund Total	228,157	231,949	Umbrella Fund Total	12,049,686	11,862,738
Other Participating Funds			* Other Special Revenue Funds		
* Federal Expenditures Fund			Positions - Other Count	(2.0)	(2.0)
Positions - Other Count	(1.5)	(1.5)	Personal Services	80,344	79,980
Personal Services	39,090	39,903	All Other	536,252	549,920
All Other	72,498	75,171	Umbrella Fund Total	616,596	629,900
Fund Total	111,588	115,074	SUMMARY - DEPARTMENT OF DEFENSE AND VETERANS' SERVICES		
* Other Special Revenue Funds			Positions - Legislative Count	(76.5)	(76.5)
All Other	15,000	15,000	Positions - Other Count	(97.5)	(97.5)
Fund Total	15,000	15,000	Personal Services	7,531,192	7,544,140
SUMMARY - VETERANS' MEMORIAL CEMETERY			All Other	8,372,412	8,496,548
Positions - Legislative Count	(6.0)	(6.0)	Capital Expenditures	600,500	6,000
Positions - Other Count	(1.5)	(1.5)	Umbrella Grand Total	16,504,104	16,046,688
Personal Services	244,647	248,490	DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT		
All Other	110,098	113,533	Administration - Economic and Community Development		
Program Total	354,745	362,023	* General Fund		
Veterans' Services			Positions - Legislative Count	(11.0)	(11.0)
* General Fund			Personal Services	539,324	533,538
Positions - Legislative Count	(16.0)	(16.0)	All Other	371,587	380,835
Personal Services	606,632	605,599	Capital Expenditures	20,000	20,000
All Other	61,171	62,661	Fund Total	930,911	934,373
Fund Total	667,803	668,260	Other Participating Funds		
Special Veterans' Services			* Federal Expenditures Fund		
* General Fund			Positions - Other Count	(3.0)	(3.0)
Positions - Legislative Count	(1.0)	(1.0)	Personal Services	153,583	153,412
Personal Services	42,422	43,643	All Other	102,792	107,088
Fund Total	42,422	43,643	Fund Total	256,375	260,500
SUMMARY - DEPARTMENT OF DEFENSE AND VETERANS' SERVICES			* Other Special Revenue Funds		
* General Fund			All Other	100,000	100,000
Positions - Legislative Count	(76.5)	(76.5)	Fund Total	100,000	100,000
Personal Services	2,864,149	2,859,249	SUMMARY - ADMINISTRATION - ECONOMIC AND COMMUNITY DEVELOPMENT		
All Other	676,673	694,801	Positions - Legislative Count	(11.0)	(11.0)
Capital Expenditures	297,000		Positions - Other Count	(3.0)	(3.0)

Personal Services	692,907	686,950		
All Other	574,379	587,923	Fund Total	153,366
Capital Expenditures	20,000	20,000		158,026
Program Total	1,287,286	1,294,873	SUMMARY - OFFICE OF COMMUNITY DEVELOPMENT	
Maine Economic Growth Council			Positions - Legislative Count	(8.0)
* General Fund			Positions - Other Count	(14.0)
All Other	210,600	221,760	Personal Services	1,035,623
Fund Total	210,600	221,760	All Other	1,710,936
			Capital Expenditures	9,000
Pulp and Paper Environmental Investment Fund			Program Total	2,755,559
* General Fund			Community Development Block Grant Program	2,774,406
All Other	2,000,000	6,000,000	* General Fund	
Fund Total	2,000,000	6,000,000	Positions - Legislative Count	(3.0)
OFFICE OF BUSINESS DEVELOPMENT			Personal Services	177,276
Business Development			All Other	62,133
* General Fund			Fund Total	239,409
Positions - Legislative Count	(11.0)	(11.0)	Other Participating Funds	
Personal Services	572,612	573,770	* Other Special Revenue Funds	
All Other	800,455	829,319	All Other	28,530
Fund Total	1,373,067	1,403,089	Fund Total	28,530
Regional Development			* Federal Block Grant Fund	
* General Fund			Positions - Legislative Count	(8.0)
All Other	150,000	150,000	Personal Services	387,534
Fund Total	150,000	150,000	All Other	16,095,522
OFFICE OF COMMUNITY DEVELOPMENT			Fund Total	16,483,056
Office of Community Development			SUMMARY - COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM	
* General Fund			Positions - Legislative Count	(11.0)
Positions - Legislative Count	(8.0)	(8.0)	Personal Services	564,810
Personal Services	386,739	389,966	All Other	16,186,185
All Other	1,002,918	1,011,512	Program Total	16,750,995
Fund Total	1,389,657	1,401,478	Economic Opportunity Program	
Other Participating Funds			Other Participating Funds	
* Federal Expenditures Fund			* Other Special Revenue Funds	
Positions - Other Count	(11.5)	(11.5)	All Other	500,000
Personal Services	536,769	537,833	Fund Total	500,000
All Other	671,767	673,069	Energy Conservation Division	
Capital Expenditures	4,000	4,000	Other Participating Funds	
Fund Total	1,212,536	1,214,902	* Other Special Revenue Funds	
* Other Special Revenue Funds			Personal Services	175,098
Positions - Other Count	(2.5)	(2.5)	All Other	4,902
Personal Services	112,115	115,306	Fund Total	180,000
All Other	36,251	37,720	Energy Resources - Office of	
Capital Expenditures	5,000	5,000	* General Fund	

Positions - Legislative Count	(1.0)	(1.0)	MAINE SMALL BUSINESS COMMISSION		
Personal Services	51,156	52,751	Maine Small Business Commission		
All Other	26,735	27,387			
Fund Total	77,891	80,138			
Other Participating Funds			* General Fund		
* Federal Expenditures Fund			All Other	618,545	651,290
Positions - Other Count	(10.0)	(10.0)	Fund Total	618,545	651,290
Personal Services	404,999	403,963	OFFICE OF TOURISM		
All Other	150,953	154,842	Maine State Film Commission		
Fund Total	555,952	558,805			
* Other Special Revenue Funds			* General Fund		
All Other	31,505	32,837	Positions - Legislative Count	(2.0)	(2.0)
Fund Total	31,505	32,837	Personal Services	97,690	97,478
			All Other	21,505	22,152
			Fund Total	119,195	119,630
SUMMARY - ENERGY RESOURCES - OFFICE OF			Other Participating Funds		
Positions - Legislative Count	(1.0)	(1.0)	* Other Special Revenue Funds		
Positions - Other Count	(10.0)	(10.0)	All Other	3,137	
Personal Services	456,155	456,714	Fund Total	3,137	
All Other	209,193	215,066	SUMMARY - MAINE STATE FILM COMMISSION		
Program Total	665,348	671,780	Positions - Legislative Count	(2.0)	(2.0)
ECONOMIC CONVERSION DIVISION			Personal Services	97,690	97,478
Economic Conversion Division			All Other	24,642	22,152
* General Fund			Program Total	122,332	119,630
Positions - Legislative Count	(1.0)	(1.0)	Office of Tourism		
Personal Services	43,702	44,609	* General Fund		
All Other	119,194	119,933	Positions - Legislative Count	(6.0)	(6.0)
Fund Total	162,896	164,542	Personal Services	318,867	316,029
Other Participating Funds			All Other	1,599,177	1,669,461
* Federal Expenditures Fund			Fund Total	1,918,044	1,985,490
All Other	113,185	119,183	Other Participating Funds		
Fund Total	113,185	119,183	* Other Special Revenue Funds		
SUMMARY - ECONOMIC CONVERSION DIVISION			All Other	125,000	125,000
Positions - Legislative Count	(1.0)	(1.0)	Fund Total	125,000	125,000
Personal Services	43,702	44,609	SUMMARY - OFFICE OF TOURISM		
All Other	232,379	239,116	Positions - Legislative Count	(6.0)	(6.0)
Program Total	276,081	283,725	Personal Services	318,867	316,029
INTERNATIONAL COMMERCE DIVISION			All Other	1,724,177	1,794,461
International Commerce			Program Total	2,043,044	2,110,490
* General Fund			SUMMARY - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT		
Positions - Legislative Count	(2.0)	(2.0)	* General Fund		
Personal Services	99,363	100,058	Positions - Legislative Count	(45.0)	(45.0)
All Other	227,500	235,700	Personal Services	2,286,729	2,282,774
Fund Total	326,863	335,758	All Other	7,210,349	11,383,260

Capital Expenditures	20,000	20,000	Positions - Other Count	(5.5)	(5.5)
			Personal Services	244,503	244,079
Umbrella Fund Total	9,517,078	13,686,034	All Other	124,684	127,434
Other Participating Funds			Capital Expenditures	3,200	3,200
* Federal Expenditures Fund			Fund Total	372,387	374,713
Positions - Other Count	(24.5)	(24.5)	SUMMARY -		
Personal Services	1,095,351	1,095,208	ADMINISTRATIVE SERVICES		
All Other	1,038,697	1,054,182	UNIT		
Capital Expenditures	4,000	4,000			
Umbrella Fund Total	2,138,048	2,153,390	Positions - Legislative Count	(4.0)	(4.0)
* Other Special Revenue Funds			Positions - Other Count	(5.5)	(5.5)
Positions - Other Count	(2.5)	(2.5)	Personal Services	445,787	441,172
Personal Services	287,213	288,458	All Other	168,473	172,518
All Other	829,325	841,580	Capital Expenditures	3,200	3,200
Capital Expenditures	5,000	5,000	Program Total	617,460	616,890
Umbrella Fund Total	1,121,538	1,135,038	DIVISION OF ADULT		
* Federal Block Grant Fund			EDUCATION		
Positions - Legislative Count	(8.0)	(8.0)	Division of Adult Education		
Personal Services	387,534	390,648	* General Fund		
All Other	16,095,522	16,096,590	Positions - Legislative Count	(5.0)	(5.0)
Umbrella Fund Total	16,483,056	16,487,238	Personal Services	252,142	247,137
SUMMARY - DEPARTMENT			All Other	4,031,597	4,153,502
OF ECONOMIC AND			Fund Total	4,283,739	4,400,639
COMMUNITY			Other Participating Funds		
DEVELOPMENT			* Federal Expenditure Fund		
Positions - Legislative Count	(53.0)	(53.0)	Positions - Other Count	(2.0)	(2.0)
Positions - Other Count	(27.0)	(27.0)	Personal Services	91,645	89,995
Personal Services	4,056,827	4,057,088	All Other	1,859,581	1,859,901
All Other	25,173,893	29,375,612	Capital Expenditures	4,000	4,000
Capital Expenditures	29,000	29,000	Fund Total	1,955,226	1,953,896
Umbrella Grand Total	29,259,720	33,461,700	SUMMARY - DIVISION OF		
STATE BOARD OF			ADULT EDUCATION		
EDUCATION			Positions - Legislative Count	(5.0)	(5.0)
State Board of Education			Positions - Other Count	(2.0)	(2.0)
* General Fund			Personal Services	343,787	337,132
Personal Services	23,760	23,760	All Other	5,891,178	6,013,403
All Other	323,155	335,683	Capital Expenditures	4,000	4,000
Fund Total	346,915	359,443	Program Total	6,238,965	6,354,535
DEPARTMENT OF			DIVISION OF APPLIED		
EDUCATION			TECHNOLOGY		
Division of Administrative			Division of Applied Technology		
Services			* General Fund		
Administrative Services Unit			Positions - Legislative Count	(3.5)	(3.5)
* General Fund			Personal Services	191,069	188,210
Positions - Legislative Count	(4.0)	(4.0)	All Other	41,293	42,244
Personal Services	201,284	197,093	Fund Total	232,362	230,454
All Other	43,789	45,084	Other Participating Funds		
Fund Total	245,073	242,177	* Federal Expenditure Fund		
Other Participating Funds			Positions - Other Count	(12.5)	(12.5)
* Federal Expenditure Fund			Personal Services	560,724	557,573
			All Other	5,313,413	5,317,772

Capital Expenditures	10,150	10,150	Positions - Other Count	(26.5)	(26.5)
Fund Total	5,884,287	5,885,495	Personal Services	1,629,245	1,622,786
* Other Special Revenue Funds			All Other	3,372,424	3,419,825
All Other	25,000	25,000	Capital Expenditures	91,700	91,700
Fund Total	25,000	25,000	Program Total	5,093,369	5,134,311
SUMMARY - DIVISION OF APPLIED TECHNOLOGY			DIVISION OF CERTIFICATION AND PLACEMENT Certification, Placement and Teacher Education		
Positions - Legislative Count	(3.5)	(3.5)	* General Fund		
Positions - Other Count	(12.5)	(12.5)	Positions - Legislative Count	(9.0)	(9.0)
Personal Services	751,793	745,783	Personal Services	428,994	428,379
All Other	5,379,706	5,385,016	All Other	57,204	58,919
Capital Expenditures	10,150	10,150	Fund Total	486,198	487,298
Program Total	6,141,649	6,140,949	OFFICE OF THE COMMISSIONER Administrative Office of the Commissioner		
Jobs for Maine's Graduates			* General Fund		
* General Fund			Positions - Legislative Count	(6.0)	(6.0)
All Other	903,153	935,667	Personal Services	420,442	412,994
Fund Total	903,153	935,667	All Other	53,247	54,652
School to Work Transition			Fund Total	473,689	467,646
Other Participating Funds			Magnet Schools		
* Federal Expenditure Fund			* General Fund		
All Other	2,000,000	2,000,000	All Other	1,200,450	2,475,000
Fund Total	2,000,000	2,000,000	Fund Total	1,200,450	2,475,000
DIVISION FOR THE BLIND AND VISUALLY IMPAIRED Blind and Visually Impaired - Division for the			DIVISION OF FINANCE Division of Finance		
* General Fund			* General Fund		
Positions - Legislative Count	(11.0)	(11.0)	Positions - Legislative Count	(13.0)	(13.0)
Personal Services	503,297	495,782	Personal Services	544,820	540,126
All Other	1,595,021	1,597,925	All Other	44,355	45,190
Fund Total	2,098,318	2,093,707	Fund Total	589,175	585,316
Other Participating Funds			Other Participating Funds		
* Federal Expenditure Fund			* Federal Expenditure Fund		
Positions - Other Count	(26.5)	(26.5)	Positions - Other Count	(3.0)	(3.0)
Personal Services	1,125,948	1,127,004	Personal Services	94,488	96,349
All Other	1,577,736	1,616,367	All Other	6,168	6,312
Capital Expenditures	61,000	61,000	Fund Total	100,656	102,661
Fund Total	2,764,684	2,804,371	* Other Special Revenue Funds		
* Other Special Revenue Funds			All Other	259,614	269,872
All Other	199,667	205,533	Fund Total	259,614	269,872
Capital Expenditures	30,700	30,700	SUMMARY - DIVISION OF FINANCE		
Fund Total	230,367	236,233	Positions - Legislative Count	(13.0)	(13.0)
SUMMARY - BLIND AND VISUALLY IMPAIRED - DIVISION FOR THE			Positions - Other Count	(3.0)	(3.0)
Positions - Legislative Count	(11.0)	(11.0)			

Personal Services	639,308	636,475	* Federal Expenditure Fund		
All Other	310,137	321,374	Positions - Other Count	(3.0)	(3.0)
			Personal Services	145,300	145,100
Program Total	949,445	957,849	All Other	616,278	620,790
TEACHER RETIREMENT			Fund Total	761,578	765,890
* General Fund			* Other Special Revenue Funds		
All Other	126,845,000	135,761,000	Positions - Other Count	(7.0)	(7.0)
			Personal Services	360,743	358,302
Fund Total	126,845,000	135,761,000	Fund Total	360,743	358,302
GOVERNOR BAXTER SCHOOL FOR THE DEAF Governor Baxter School for the Deaf			SUMMARY - DIVISION OF HIGHER EDUCATION		
* General Fund			Positions - Legislative Count	(3.0)	(3.0)
Positions - Legislative Count	(40.0)	(40.0)	Positions - Other Count	(10.0)	(10.0)
Positions - Other Count	(59.0)	(59.0)	Personal Services	673,533	668,237
Personal Services	4,072,872	4,040,730	All Other	770,982	783,681
All Other	862,007	895,109	Program Total	1,444,515	1,451,918
Fund Total	4,934,879	4,935,839	(OFFICE OF) STATE HISTORIAN Historian - Office of State		
Other Participating Funds			* General Fund		
* Federal Expenditure Fund			All Other	491	496
Positions - Other Count	(1.0)	(1.0)	Fund Total	491	496
Personal Services	35,270	35,973	DIVISION OF INSTRUCTION Educational Restructuring and Improvements		
All Other	44,713	46,242	* General Fund		
Fund Total	79,983	82,215	All Other	2,142,450	2,219,578
* Other Special Revenue Funds			Fund Total	2,142,450	2,219,578
All Other	53,513	53,513	Division of Instruction		
Fund Total	53,513	53,513	* General Fund		
* Federal Block Grant Fund			Positions - Legislative Count	(15.0)	(15.0)
All Other	2,150	2,150	Personal Services	781,791	768,283
Fund Total	2,150	2,150	All Other	1,921,410	1,987,325
SUMMARY - GOVERNOR BAXTER SCHOOL FOR THE DEAF			Fund Total	2,703,201	2,755,608
Positions - Legislative Count	(40.0)	(40.0)	Other Participating Funds		
Positions - Other Count	(60.0)	(60.0)	* Federal Expenditure Fund		
Personal Services	4,108,142	4,076,703	Positions - Other Count	(9.0)	(9.0)
All Other	962,383	997,014	Personal Services	406,357	403,069
Program Total	5,070,525	5,073,717	All Other	1,885,503	1,626,580
DIVISION OF HIGHER EDUCATION Division of Higher Education			Fund Total	2,291,860	2,029,649
* General Fund			* Other Special Revenue Funds		
Positions - Legislative Count	(3.0)	(3.0)	Positions - Other Count	(2.0)	(2.0)
Personal Services	167,490	164,835	Personal Services	81,478	80,678
All Other	154,704	162,891	All Other	55,304	57,508
Fund Total	322,194	327,726	Fund Total	136,782	138,186
Other Participating Funds			* Federal Block Grant Fund		

Positions - Legislative Count	(2.0)	(2.0)			
Personal Services	112,451	110,380	Fund Total	5,000	5,000
All Other	10,060	9,841	Special Education - State Agency Client		
Fund Total	122,511	120,221	Other Participating Funds		
SUMMARY - DIVISION OF INSTRUCTION			* Other Special Revenue Funds		
Positions - Legislative Count	(17.0)	(17.0)	All Other	350,000	350,000
Positions - Other Count	(11.0)	(11.0)	Fund Total	350,000	350,000
Personal Services	1,382,077	1,362,410	OFFICE OF REHABILITATION SERVICES		
All Other	3,872,277	3,681,254	Rehabilitation Services		
Program Total	5,254,354	5,043,664	* General Fund		
DIVISION OF MANAGEMENT INFORMATION			Positions - Legislative Count	(21.0)	(21.0)
Block Grants to Municipalities			Personal Services	857,585	856,462
* General Fund			All Other	5,358,387	5,386,361
All Other	400,000	400,000	Fund Total	6,215,972	6,242,823
Fund Total	400,000	400,000	Other Participating Funds		
General Purpose Aid For Local Schools			* Federal Expenditure Fund		
* General Fund			Positions - Other Count	(115.5)	(115.5)
All Other	548,005,702	575,405,987	Personal Services	4,860,359	4,835,297
Fund Total	548,005,702	575,405,987	All Other	9,223,948	9,449,995
Division Of Management Information			Capital Expenditures	65,000	65,000
* General Fund			Fund Total	14,149,307	14,350,292
Positions - Legislative Count	(13.0)	(13.0)	* Other Special Revenue Funds		
Personal Services	612,575	604,095	All Other	158,382	161,476
All Other	268,577	275,265	Fund Total	158,382	161,476
Capital Expenditures	4,500	4,600	SUMMARY - REHABILITATION SERVICES		
Fund Total	885,652	883,960	Positions - Legislative Count	(21.0)	(21.0)
Other Participating Funds			Positions - Other Count	(115.5)	(115.5)
* Federal Expenditure Fund			Personal Services	5,717,944	5,691,759
All Other	20,660	20,660	All Other	14,740,717	14,997,832
Fund Total	20,660	20,660	Capital Expenditures	65,000	65,000
SUMMARY - DIVISION OF MANAGEMENT INFORMATION			Program Total	20,523,661	20,754,591
Positions - Legislative Count	(13.0)	(13.0)	DIVISION OF SCHOOL BUSINESS SERVICES		
Personal Services	612,575	604,095	Division of School Business Services		
All Other	289,237	295,925	* General Fund		
Capital Expenditures	4,500	4,600	Positions - Legislative Count	(9.0)	(9.0)
Program Total	906,312	904,620	Personal Services	422,732	418,963
REIMBURSEMENT FOR STATE MANDATES			All Other	1,267,990	1,269,690
* General Fund			Fund Total	1,690,722	1,688,653
All Other	5,000	5,000	Other Participating Funds		
			* Federal Expenditure Fund		
			Positions - Other Count	(11.0)	(11.0)
			Personal Services	424,470	424,155
			All Other	19,724,843	20,236,898
			Capital Expenditures	8,400	15,500

Fund Total	20,157,713	20,676,553	SUMMARY - DIVISION OF SPECIAL SERVICES		
* Other Special Revenue Funds			Positions - Legislative Count	(3.0)	(3.0)
All Other	4,762	5,015	Positions - Other Count	(35.0)	(35.0)
Fund Total	4,762	5,015	Personal Services	1,725,464	1,725,015
SUMMARY - DIVISION OF SCHOOL BUSINESS SERVICES			All Other	40,916,310	40,977,793
Positions - Legislative Count	(9.0)	(9.0)	Capital Expenditures	2,850	2,850
Positions - Other Count	(11.0)	(11.0)	Program Total	42,644,624	42,705,658
Personal Services	847,202	843,118	SUPPORT SERVICES UNIT		
All Other	20,997,595	21,511,603	Support Services Unit		
Capital Expenditures	8,400	15,500	* General Fund		
Program Total	21,853,197	22,370,221	Positions - Legislative Count	(6.0)	(6.0)
DIVISION OF SPECIAL SERVICES			Personal Services	222,521	221,366
Preschool Handicapped			All Other	16,869	17,365
* General Fund			Fund Total	239,390	238,731
Positions - Legislative Count	(1.0)	(1.0)	Other Participating Funds		
Personal Services	58,032	57,208	* Federal Block Grant Fund		
All Other	2,282,207	2,350,627	Positions - Legislative Count	(5.0)	(5.0)
Fund Total	2,340,239	2,407,835	Personal Services	273,307	268,100
Other Participating Funds			All Other	2,316,540	2,320,605
* Federal Expenditure Fund			Capital Expenditures	30,000	30,000
Positions - Other Count	(2.0)	(2.0)	Fund Total	2,619,847	2,618,705
Personal Services	65,450	65,037	SUMMARY - SUPPORT SERVICES UNIT		
All Other	3,431,692	3,431,984	Positions - Legislative Count	(11.0)	(11.0)
Fund Total	3,497,142	3,497,021	Personal Services	495,828	489,466
SUMMARY - PRESCHOOL HANDICAPPED			All Other	2,333,409	2,337,970
Positions - Legislative Count	(1.0)	(1.0)	Capital Expenditures	30,000	30,000
Positions - Other Count	(2.0)	(2.0)	Program Total	2,859,237	2,857,436
Personal Services	123,482	122,245	EDUCATION IN UNORGANIZED TERRITORY		
All Other	5,713,899	5,782,611	Education in Unorganized Territory		
Program Total	5,837,381	5,904,856	* General Fund		
Division of Special Services			Positions - Legislative Count	(13.0)	(13.0)
* General Fund			Positions - Other Count	(66.0)	(66.0)
Positions - Legislative Count	(3.0)	(3.0)	Personal Services	2,812,379	2,831,223
Personal Services	141,327	138,610	All Other	6,592,770	6,795,121
All Other	222,010	231,628	Capital Expenditures	198,198	165,302
Fund Total	363,337	370,238	Fund Total	9,603,347	9,791,646
Other Participating Funds			Other Participating Funds		
* Federal Expenditure Fund			* Federal Expenditure Fund		
Positions - Other Count	(35.0)	(35.0)	Positions - Other Count	(8.5)	(8.5)
Personal Services	1,584,137	1,586,405	Personal Services	246,025	251,646
All Other	40,694,300	40,746,165	All Other	8,119	8,305
Capital Expenditures	2,850	2,850	Fund Total	254,144	259,951
Fund Total	42,281,287	42,335,420	* Other Special Revenue Funds		
			All Other	7,170	7,393
			Fund Total	7,170	7,393

* Federal Block Grant Fund		
All Other	7,780	7,780
Fund Total	7,780	7,780

SUMMARY - EDUCATION IN
UNORGANIZED TERRITORY

Positions - Legislative Count	(13.0)	(13.0)
Positions - Other Count	(74.5)	(74.5)
Personal Services	3,058,404	3,082,869
All Other	6,615,839	6,818,599
Capital Expenditures	198,198	165,302
Program Total	9,872,441	10,066,770

SUMMARY - DEPARTMENT OF
EDUCATION

* General Fund		
Positions - Legislative Count	(175.5)	(175.5)
Positions - Other Count	(125.0)	(125.0)
Personal Services	12,691,352	12,611,496
All Other	704,315,683	742,571,626
Capital Expenditures	202,698	169,902
Umbrella Fund Total	717,209,733	755,353,024

Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(234.5)	(234.5)
Personal Services	9,884,676	9,861,682
All Other	86,531,638	87,115,405
Capital Expenditures	154,600	161,700
Umbrella Fund Total	96,570,914	97,138,787

* Other Special Revenue Funds		
Positions - Other Count	(9.0)	(9.0)
Personal Services	442,221	438,980
All Other	1,113,412	1,135,310
Capital Expenditures	30,700	30,700
Umbrella Fund Total	1,586,333	1,604,990

* Federal Block Grant Fund		
Positions - Legislative Count	(7.0)	(7.0)
Personal Services	385,758	378,480
All Other	2,336,530	2,340,376
Capital Expenditures	30,000	30,000
Umbrella Fund Total	2,752,288	2,748,856

SUMMARY - DEPARTMENT
OF EDUCATION

Positions - Legislative Count	(182.5)	(182.5)
Positions - Other Count	(368.5)	(368.5)
Personal Services	23,404,007	23,290,638
All Other	794,297,263	833,162,717
Capital Expenditures	417,998	392,302
Umbrella Grand Total	818,119,268	856,845,657

DEPARTMENT OF
ENVIRONMENTAL
PROTECTIONMaine Environmental Protection
Fund

* General Fund		
Personal Services	150,500	
All Other	33,500	
Fund Total	184,000	

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(77.0)	(77.0)
Personal Services	3,337,102	3,377,851
All Other	1,266,712	1,324,873
Capital Expenditures	252,500	252,500
Fund Total	4,856,314	4,955,224

SUMMARY - MAINE
ENVIRONMENTAL
PROTECTION FUND

Positions - Other Count	(77.0)	(77.0)
Personal Services	3,487,602	3,377,851
All Other	1,300,212	1,324,873
Capital Expenditures	252,500	252,500
Program Total	5,040,314	4,955,224

BUREAU OF
ADMINISTRATION
Administration - Environmental
Protection

* General Fund		
Positions - Legislative Count	(7.0)	(7.0)
Personal Services	506,174	500,490
All Other	94,644	97,794
Fund Total	600,818	598,284

Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(15.0)	(15.0)
Personal Services	647,905	646,857
All Other	223,200	227,454
Capital Expenditures	83,648	44,291
Fund Total	954,753	918,602

* Other Special Revenue Funds		
Positions - Other Count	(22.5)	(22.5)
Personal Services	1,003,394	994,223
All Other	646,319	678,888
Capital Expenditures	85,000	130,000
Fund Total	1,734,713	1,803,111

SUMMARY -
ADMINISTRATION -
ENVIRONMENTAL
PROTECTION

Positions - Legislative Count	(7.0)	(7.0)			
Positions - Other Count	(37.5)	(37.5)			
Personal Services	2,157,473	2,141,570	Fund Total	16,167	17,025
All Other	964,163	1,004,136	Land Quality Control		
Capital Expenditures	168,648	174,291	* General Fund		
Program Total	3,290,284	3,319,997	Positions - Legislative Count	(30.0)	(30.0)
BUREAU OF AIR QUALITY CONTROL			Personal Services	1,504,616	1,497,220
Air Quality Control			All Other	221,357	228,510
* General Fund			Fund Total	1,725,973	1,725,730
Positions - Legislative Count	(8.0)	(8.0)	Other Participating Funds		
Personal Services	441,862	436,831	* Federal Expenditure Fund		
All Other	42,318	43,557	Positions - Other Count	(12.0)	(12.0)
Fund Total	484,180	480,388	Personal Services	557,574	562,211
Other Participating Funds			All Other	231,592	240,385
* Federal Expenditure Fund			Fund Total	789,166	802,596
Positions - Other Count	(33.5)	(33.5)	* Other Special Revenue Funds		
Personal Services	1,537,569	1,538,006	Positions - Other Count	(3.0)	(3.0)
All Other	261,388	267,794	Personal Services	128,772	132,610
Capital Expenditures	102,000	115,000	All Other	16,329	16,988
Fund Total	1,900,957	1,920,800	Fund Total	145,101	149,598
* Other Special Revenue Funds			SUMMARY - LAND QUALITY CONTROL		
Positions - Other Count	(4.0)	(4.0)	Positions - Legislative Count	(30.0)	(30.0)
Personal Services	171,385	176,480	Positions - Other Count	(15.0)	(15.0)
All Other	21,337	21,505	Personal Services	2,190,962	2,192,041
Fund Total	192,722	197,985	All Other	469,278	485,883
SUMMARY - AIR QUALITY CONTROL			Program Total	2,660,240	2,677,924
Positions - Legislative Count	(8.0)	(8.0)	BUREAU OF OIL AND HAZARDOUS MATERIALS CONTROL		
Positions - Other Count	(37.5)	(37.5)	Emergency Response		
Personal Services	2,150,816	2,151,317	* General Fund		
All Other	325,043	332,856	Positions - Legislative Count	(10.0)	(10.0)
Capital Expenditures	102,000	115,000	Personal Services	542,216	539,940
Program Total	2,577,859	2,599,173	All Other	13,283	13,776
BOARD OF ENVIRONMENTAL PROTECTION			Fund Total	555,499	553,716
Board of Environmental Protection Fund			Other Participating Funds		
Other Participating Funds			* Federal Expenditure Fund		
* Other Special Revenue Funds			Positions - Other Count	(47.5)	(47.5)
Positions - Other Count	(2.0)	(2.0)	Personal Services	2,311,463	2,333,941
Personal Services	116,766	119,499	All Other	1,628,632	1,704,430
All Other	70,224	72,401	Capital Expenditures	10,000	12,000
Fund Total	186,990	191,900	Fund Total	3,950,095	4,050,371
BUREAU OF LAND QUALITY CONTROL			* Other Special Revenue Funds		
Dam Registration			Positions - Other Count	(91.5)	(91.5)
Other Participating Funds			Personal Services	4,604,815	4,601,325
* Other Special Revenue Funds			All Other	19,005,853	19,492,874
All Other	16,167	17,025	Capital Expenditures	199,500	382,400
			Fund Total	23,810,168	24,476,599

SUMMARY - EMERGENCY
RESPONSE

			Fund Total	217,721	225,661
Positions - Legislative Count	(10.0)	(10.0)	BUREAU OF WATER		
Positions - Other Count	(139.0)	(139.0)	QUALITY CONTROL		
Personal Services	7,458,494	7,475,206	Lake Environmental Protection		
All Other	20,647,768	21,211,080	Fund		
Capital Expenditures	209,500	394,400	Other Participating Funds		
Program Total	28,315,762	29,080,686	* Other Special Revenue Funds		
			All Other	25,800	27,167
Advisory Commission on			Fund Total	25,800	27,167
Radioactive Waste					
Other Participating Funds			Lake Restoration and Protection		
* Other Special Revenue Funds			Fund		
Positions - Other Count	(2.0)	(2.0)	Other Participating Funds		
Personal Services	95,118	93,265	* Federal Expenditure Fund		
All Other	42,166	43,356	Positions - Other Count	(3.5)	(3.5)
Fund Total	137,284	136,621	Personal Services	150,369	154,273
Solid Waste Management			All Other	544,472	561,361
* General Fund			Fund Total	694,841	715,634
Positions - Legislative Count	(9.0)	(9.0)	Municipal Sewerage Construction		
Personal Services	458,654	457,385	Other Participating Funds		
All Other	53,488	55,070	* Federal Expenditure Fund		
Fund Total	512,142	512,455	Positions - Other Count	(10.0)	(10.0)
Other Participating Funds			Personal Services	522,800	519,261
* Federal Expenditure Fund			All Other	169,314	173,997
Positions - Other Count	(2.5)	(2.5)	Capital Expenditures	3,000	3,000
Personal Services	114,588	117,299	Fund Total	695,114	696,258
All Other	43,070	44,381	* Other Special Revenue Funds		
Fund Total	157,658	161,680	Positions - Other Count	(6.0)	(6.0)
* Other Special Revenue Funds			Personal Services	315,608	311,792
Positions - Other Count	(17.0)	(17.0)	All Other	74,566	75,967
Personal Services	747,956	753,270	Fund Total	390,174	387,759
All Other	166,392	170,772	SUMMARY - MUNICIPAL		
Fund Total	914,348	924,042	SEWERAGE CONSTRUCTION		
SUMMARY - SOLID WASTE			Positions - Other Count	(16.0)	(16.0)
MANAGEMENT			Personal Services	838,408	831,053
Positions - Legislative Count	(9.0)	(9.0)	All Other	243,880	249,964
Positions - Other Count	(19.5)	(19.5)	Capital Expenditures	3,000	3,000
Personal Services	1,321,198	1,327,954	Program Total	1,085,288	1,084,017
All Other	262,950	270,223	Water Pollution Control Training		
Program Total	1,584,148	1,598,177	Program		
OFFICE OF POLLUTION			* General Fund		
PREVENTION			All Other	18,213	19,178
Pollution Prevention			Fund Total	18,213	19,178
Other Participating Funds			Water Quality Control		
* Federal Expenditure Fund			* General Fund		
Positions - Other Count	(1.0)	(1.0)	Positions - Legislative Count	(19.0)	(19.0)
Personal Services	49,303	48,411	Positions - Other Count	(0.5)	(0.5)
All Other	168,418	177,250	Personal Services	970,055	969,853

All Other	375,181	386,662
Fund Total	1,345,236	1,356,515
Other Participating Funds		
* Federal Expenditure Fund		
Positions - Other Count	(35.0)	(35.0)
Personal Services	1,523,482	1,531,219
All Other	1,854,206	1,868,542
Capital Expenditures	63,000	12,000
Fund Total	3,440,688	3,411,761

SUMMARY - WATER
QUALITY CONTROL

Positions - Legislative Count	(19.0)	(19.0)
Positions - Other Count	(35.5)	(35.5)
Personal Services	2,493,537	2,501,072
All Other	2,229,387	2,255,204
Capital Expenditures	63,000	12,000
Program Total	4,785,924	4,768,276

SUMMARY - DEPARTMENT
OF ENVIRONMENTAL
PROTECTION

* General Fund		
Positions - Legislative Count	(83.0)	(83.0)
Positions - Other Count	(0.5)	(0.5)
Personal Services	4,574,077	4,401,719
All Other	851,984	844,547

Umbrella Fund Total	5,426,061	5,246,266
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Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(160.0)	(160.0)
Personal Services	7,415,053	7,451,478
All Other	5,124,292	5,265,594
Capital Expenditures	261,648	186,291

Umbrella Fund Total	12,800,993	12,903,363
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* Other Special Revenue Funds

Positions - Other Count	(225.0)	(225.0)
Personal Services	10,520,916	10,560,315
All Other	21,351,865	21,941,816
Capital Expenditures	537,000	764,900

Umbrella Fund Total	32,409,781	33,267,031
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SUMMARY - DEPARTMENT
OF ENVIRONMENTAL
PROTECTION

Positions - Legislative Count	(83.0)	(83.0)
Positions - Other Count	(385.5)	(385.5)
Personal Services	22,510,046	22,413,512
All Other	27,328,141	28,051,957
Capital Expenditures	798,648	951,191
Umbrella Grand Total	50,636,835	51,416,660

COMMISSION ON
GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
Governmental Ethics and Election
Practices - Commission on

* General Fund		
Positions - Legislative Count	(3.0)	(3.0)
Personal Services	120,185	120,685
All Other	19,202	19,743
Fund Total	139,387	140,428

EXECUTIVE DEPARTMENT
(Office of) GovernorAdministration - Executive -
Governor's Office

* General Fund		
Positions - Legislative Count	(21.5)	(21.5)
Personal Services	1,206,742	1,232,913
All Other	295,191	302,707

Fund Total	1,501,933	1,535,620
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Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(0.5)	(0.5)
Personal Services	21,890	22,376

Fund Total	21,890	22,376
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SUMMARY -
ADMINISTRATION -
EXECUTIVE - GOVERNOR'S
OFFICE

Positions - Legislative Count	(21.5)	(21.5)
Positions - Other Count	(0.5)	(0.5)
Personal Services	1,228,632	1,255,289
All Other	295,191	302,707

Program Total	1,523,823	1,557,996
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BLAINE HOUSE

* General Fund		
Positions - Legislative Count	(5.5)	(5.5)
Personal Services	227,954	234,782
All Other	71,329	73,647

Fund Total	299,283	308,429
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STATE PLANNING OFFICE
Planning Office

* General Fund		
Positions - Legislative Count	(15.0)	(15.0)
Personal Services	900,326	883,908
All Other	163,293	167,590

Fund Total	1,063,619	1,051,498
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Other Participating Funds

* Federal Expenditure Fund

Positions - Other Count	(20.5)	(20.5)
Personal Services	952,002	957,333
All Other	1,678,548	1,688,873
Capital Expenditures	20,000	20,000
Fund Total	2,650,550	2,666,206
* Other Special Revenue Funds		
Positions - Other Count	(2.0)	(2.0)
Personal Services	141,889	139,274
All Other	15,211,675	15,217,556
Capital Expenditures	20,000	20,000
Fund Total	15,373,564	15,376,830

SUMMARY - PLANNING
OFFICE

Positions - Legislative Count	(15.0)	(15.0)
Positions - Other Count	(22.5)	(22.5)
Personal Services	1,994,217	1,980,515
All Other	17,053,516	17,074,019
Capital Expenditures	40,000	40,000
Program Total	19,087,733	19,094,534

(OFFICE OF) PUBLIC
ADVOCATE
Public Advocate

Other Participating Funds

* Other Special Revenue Funds		
Positions - Other Count	(7.0)	(7.0)
Personal Services	428,062	427,506
All Other	189,618	198,275
Fund Total	617,680	625,781

DIVISION OF QUALITY
ASSURANCE (AFRR)
Office of State Quality
Management

* General Fund		
Positions - Legislative Count	(2.0)	(2.0)

OFFICE OF SUBSTANCE
ABUSEDriver Education and Evaluation
Program - Substance Abuse

* General Fund		
Positions - Legislative Count	(10.0)	(10.0)
Personal Services	378,762	378,561
All Other	797,688	830,592
Capital Expenditures	2,100	
Fund Total	1,178,550	1,209,153

Office of Substance Abuse

* General Fund		
Positions - Legislative Count	(26.0)	(26.0)
Personal Services	1,211,807	1,205,772
All Other	6,209,735	6,237,652
Capital Expenditures	12,109	3,595

Fund Total	7,433,651	7,447,019
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Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(5.5)	(5.5)
Personal Services	256,254	255,133
All Other	3,088,111	3,182,521

Fund Total	3,344,365	3,437,654
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* Other Special Revenue Funds

Positions - Other Count	(4.0)	(4.0)
Personal Services	175,741	178,470
All Other	155,043	149,911

Fund Total	330,784	328,381
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* Federal Block Grant Fund

Positions - Legislative Count	(8.0)	(8.0)
Personal Services	355,067	352,734
All Other	3,703,844	3,708,277
Capital Expenditures	2,100	

Fund Total	4,061,011	4,061,011
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SUMMARY - OFFICE OF
SUBSTANCE ABUSE

Positions - Legislative Count	(34.0)	(34.0)
Positions - Other Count	(9.5)	(9.5)
Personal Services	1,998,869	1,992,109
All Other	13,156,733	13,278,361
Capital Expenditures	14,209	3,595

Program Total	15,169,811	15,274,065
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SUMMARY - EXECUTIVE
DEPARTMENT

* General Fund

Positions - Legislative Count	(80.0)	(80.0)
Personal Services	3,925,591	3,935,936
All Other	7,537,236	7,612,188
Capital Expenditures	14,209	3,595

Umbrella Fund Total	11,477,036	11,551,719
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Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(26.5)	(26.5)
Personal Services	1,230,146	1,234,842
All Other	4,766,659	4,871,394
Capital Expenditures	20,000	20,000

Umbrella Fund Total	6,016,805	6,126,236
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* Other Special Revenue Funds

Positions - Other Count	(13.0)	(13.0)
Personal Services	745,692	745,250
All Other	15,556,336	15,565,742
Capital Expenditures	20,000	20,000

Umbrella Fund Total	16,322,028	16,330,992
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* Federal Block Grant Fund

Positions - Legislative Count	(8.0)	(8.0)			
Personal Services	355,067	352,734	Umbrella Fund Total	100,000	100,000
All Other	3,703,844	3,708,277			
Capital Expenditures	2,100		SUMMARY - FINANCE		
			AUTHORITY OF MAINE		
Umbrella Fund Total	4,061,011	4,061,011	All Other	9,143,394	9,143,394
SUMMARY - EXECUTIVE					
DEPARTMENT			Umbrella Grand Total	9,143,394	9,143,394
Positions - Legislative Count	(88.0)	(88.0)	FUND INSURANCE REVIEW		
Positions - Other Count	(39.5)	(39.5)	BOARD		
Personal Services	6,256,496	6,268,762	Fund Insurance Review Board		
All Other	31,564,075	31,757,601	Other Participating Funds		
Capital Expenditures	56,309	43,595	* Other Special Revenue Funds		
Umbrella Grand Total	37,876,880	38,069,958	All Other	150,000	150,000
FINANCE AUTHORITY OF			Fund Total	150,000	150,000
MAINE					
Business Development Finance			MAINE HEALTH CARE		
* General Fund			FINANCE COMMISSION		
All Other	37,361	37,361	Health Care Finance Commission		
Fund Total	37,361	37,361	Other Participating Funds		
Natural Resources and Marketing			* Other Special Revenue Funds		
* General Fund			Positions - Other Count	(30.0)	(30.0)
All Other	201,656	201,656	Personal Services	1,665,680	1,663,767
Fund Total	201,656	201,656	All Other	341,325	355,988
Student Financial Assistance			Capital Expenditures	24,500	24,626
Programs			Fund Total	2,031,505	2,044,381
* General Fund			Management Support Fund		
All Other	8,804,377	8,804,377	Other Participating Funds		
Fund Total	8,804,377	8,804,377	* Other Special Revenue Funds		
Other Participating Funds			All Other	235,000	235,000
* Other Special Revenue Funds			Fund Total	235,000	235,000
All Other	100,000	100,000	SUMMARY - MAINE HEALTH		
Fund Total	100,000	100,000	CARE FINANCE COMMISSION		
SUMMARY - STUDENT			Other Participating Funds		
FINANCIAL ASSISTANCE			* Other Special Revenue Funds		
PROGRAMS			Positions - Other Count	(30.0)	(30.0)
All Other	8,904,377	8,904,377	Personal Services	1,665,680	1,663,767
Program Total	8,904,377	8,904,377	All Other	576,325	590,988
SUMMARY - FINANCE			Capital Expenditures	24,500	24,626
AUTHORITY OF MAINE			Umbrella Fund Total	2,266,505	2,279,381
* General Fund			SUMMARY - MAINE		
All Other	9,043,394	9,043,394	HEALTH CARE FINANCE		
Umbrella Fund Total	9,043,394	9,043,394	COMMISSION		
Other Participating Funds			Positions - Other Count	(30.0)	(30.0)
* Other Special Revenue Funds			Personal Services	1,665,680	1,663,767
All Other	100,000	100,000	All Other	576,325	590,988
			Capital Expenditures	24,500	24,626
			Umbrella Grand Total	2,266,505	2,279,381
			MAINE HISTORIC		
			PRESERVATION		
			COMMISSION		

State Restoration Grants Program			Umbrella Fund Total	427,881	435,663
* General Fund			SUMMARY - MAINE		
All Other	1,250	1,250	HISTORIC PRESERVATION		
			COMMISSION		
Fund Total	1,250	1,250			
HISTORIC PRESERVATION			Positions - Legislative Count	(3.0)	(3.0)
COMMISSION			Positions - Other Count	(14.5)	(14.5)
* General Fund			Personal Services	779,243	781,403
Positions - Legislative Count	(3.0)	(3.0)	All Other	407,164	410,431
Personal Services	177,519	174,191			
All Other	54,757	55,730	Umbrella Grand Total	1,186,407	1,191,834
Fund Total	232,276	229,921	MAINE HISTORICAL		
			SOCIETY		
Other Participating Funds			Historical Society		
* Federal Expenditure Fund			* General Fund		
Positions - Other Count	(5.0)	(5.0)	All Other	24,761	24,761
Personal Services	259,106	258,967			
All Other	265,894	266,033	Fund Total	24,761	24,761
Fund Total	525,000	525,000	MAINE HOSPICE COUNCIL		
			Maine Hospice Council		
* Other Special Revenue Funds			* General Fund		
Positions - Other Count	(9.5)	(9.5)	All Other	49,020	49,020
Personal Services	342,618	348,245			
All Other	85,263	87,418	Fund Total	49,020	49,020
Fund Total	427,881	435,663	MAINE STATE HOUSING		
			AUTHORITY		
SUMMARY - HISTORIC			Housing Authority - State		
PRESERVATION			Other Participating Funds		
COMMISSION			* Other Special Revenue Funds		
Positions - Legislative Count	(3.0)	(3.0)	All Other	3,977,220	3,977,220
Positions - Other Count	(14.5)	(14.5)			
Personal Services	779,243	781,403	Fund Total	3,977,220	3,977,220
All Other	405,914	409,181			
			Housing Opportunities for Maine		
Program Total	1,185,157	1,190,584	Fund		
			* General Fund		
SUMMARY - MAINE			All Other	490,196	490,196
HISTORIC PRESERVATION					
COMMISSION			Fund Total	490,196	490,196
* General Fund			Temporary Housing Assistance		
Positions - Legislative Count	(3.0)	(3.0)	Program		
Personal Services	177,519	174,191	* General Fund		
All Other	56,007	56,980	All Other	245,098	245,098
Umbrella Fund Total	233,526	231,171	Fund Total	245,098	245,098
Other Participating Funds			SUMMARY - MAINE STATE		
* Federal Expenditure Fund			HOUSING AUTHORITY		
Positions - Other Count	(5.0)	(5.0)	* General Fund		
Personal Services	259,106	258,967	All Other	735,294	735,294
All Other	265,894	266,033			
			Umbrella Fund Total	735,294	735,294
Umbrella Fund Total	525,000	525,000	Other Participating Funds		
			* Other Special Revenue Funds		
* Other Special Revenue Funds					
Positions - Other Count	(9.5)	(9.5)			
Personal Services	342,618	348,245			
All Other	85,263	87,418			

All Other	3,977,220	3,977,220
Umbrella Fund Total	3,977,220	3,977,220
SUMMARY - MAINE STATE HOUSING AUTHORITY		
All Other	4,712,514	4,712,514
Umbrella Grand Total	4,712,514	4,712,514
MAINE HUMAN RIGHTS COMMISSION		
Human Rights Commission - Regulation		
* General Fund		
Positions - Legislative Count	(8.0)	(8.0)
Personal Services	380,326	375,146
All Other	36,764	37,587
Fund Total	417,090	412,733
Other Participating Funds		
* Federal Expenditure Fund		
Positions - Other Count	(3.5)	(3.5)
Personal Services	148,975	147,537
All Other	13,777	19,880
Fund Total	162,752	167,417
* Other Special Revenue Funds		
All Other	17,286	17,286
Fund Total	17,286	17,286
SUMMARY - HUMAN RIGHTS COMMISSION - REGULATION		
Positions - Legislative Count	(8.0)	(8.0)
Positions - Other Count	(3.5)	(3.5)
Personal Services	529,301	522,683
All Other	67,827	74,753
Program Total	597,128	597,436
DEPARTMENT OF HUMAN SERVICES		
Miscellaneous Acts and Resolves - Human Services		
* General Fund		
All Other	34,314	34,314
Fund Total	34,314	34,314
BUREAU OF CHILD AND FAMILY SERVICES		
Administration - Social Services		
* General Fund		
Positions - Legislative Count	(52.0)	(52.0)
Personal Services	2,423,595	2,395,948
All Other	597,486	612,027

Fund Total	3,021,081	3,007,975
Other Participating Funds		
* Federal Expenditure Fund		
Positions - Other Count	(5.0)	(5.0)
Personal Services	235,875	239,964
All Other	1,989,757	2,057,683
Fund Total	2,225,632	2,297,647
* Other Special Revenue Funds		
All Other	29,638	29,638
Fund Total	29,638	29,638
* Federal Block Grant Fund		
Positions - Legislative Count	(7.5)	(7.5)
Personal Services	320,990	321,759
All Other	32,993	33,644
Fund Total	353,983	355,403
SUMMARY - ADMINISTRATION - SOCIAL SERVICES		
Positions - Legislative Count	(59.5)	(59.5)
Positions - Other Count	(5.0)	(5.0)
Personal Services	2,980,460	2,957,671
All Other	2,649,874	2,732,992
Program Total	5,630,334	5,690,663
Charitable Institutions - Aid to		
* General Fund		
All Other	278,432	278,432
Fund Total	278,432	278,432
Child Care Food Program		
Other Participating Funds		
* Federal Expenditure Fund		
Positions - Other Count	(4.0)	(4.0)
Personal Services	165,003	164,585
All Other	9,400,675	9,601,445
Fund Total	9,565,678	9,766,030
Child Care Services		
* General Fund		
All Other	516,540	516,540
Fund Total	516,540	516,540
Child Welfare Services		
* General Fund		
Positions - Legislative Count	(16.5)	(16.5)
Personal Services	762,904	759,495
All Other	14,668,352	16,071,083
Fund Total	15,431,256	16,830,578

Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(32.0)	(32.0)
Personal Services	1,501,858	1,496,964
All Other	2,561,323	2,584,585
Fund Total	4,063,181	4,081,549

SUMMARY - CHILD WELFARE SERVICES

Positions - Legislative Count	(16.5)	(16.5)
Positions - Other Count	(32.0)	(32.0)
Personal Services	2,264,762	2,256,459
All Other	17,229,675	18,655,668
Program Total	19,494,437	20,912,127

Community Services Block Grant

Other Participating Funds

* Federal Block Grant Fund		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	67,679	66,569
All Other	2,221,573	2,337,147
Fund Total	2,289,252	2,403,716

Head Start

* General Fund

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	33,608	33,286
All Other	2,327,570	2,327,722
Fund Total	2,361,178	2,361,008

Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(2.0)	(2.0)
Personal Services	87,258	88,454
All Other	56,172	54,976
Fund Total	143,430	143,430

SUMMARY - HEAD START

Positions - Legislative Count	(1.0)	(1.0)
Positions - Other Count	(2.0)	(2.0)
Personal Services	120,866	121,740
All Other	2,383,742	2,382,698
Program Total	2,504,608	2,504,438

Long Term Care - Human Services

* General Fund

All Other	4,671,428	4,671,793
Fund Total	4,671,428	4,671,793

Purchased Social Services

* General Fund

All Other	8,708,859	8,708,859
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Fund Total	8,708,859	8,708,859
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Other Participating Funds

* Federal Block Grant Fund		
All Other	11,229,459	11,229,459
Fund Total	11,229,459	11,229,459

SUMMARY - PURCHASED SOCIAL SERVICES

All Other	19,938,318	19,938,318
Program Total	19,938,318	19,938,318

DIVISION OF DISABILITY DETERMINATION SERVICES

Disability Determination - Division of

Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(60.0)	(60.0)
Personal Services	2,557,822	2,547,584
All Other	1,983,901	2,076,765
Fund Total	4,541,723	4,624,349

BUREAU OF ELDER AND ADULT SERVICES
Congregate Housing

* General Fund		
All Other	460,105	460,105
Fund Total	460,105	460,105

Elder and Adult Services - Bureau of

* General Fund		
Positions - Legislative Count	(84.5)	(84.5)
Personal Services	4,029,425	4,009,897
All Other	1,513,873	1,530,224

Fund Total	5,543,298	5,540,121
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Other Participating Funds

* Federal Expenditure Fund		
Positions - Other Count	(12.5)	(12.5)
Personal Services	606,343	605,209
All Other	5,983,931	5,988,645

Fund Total	6,590,274	6,593,854
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* Other Special Revenue Funds

All Other	40,000	40,000
Fund Total	40,000	40,000

SUMMARY - ELDER AND ADULT SERVICES - BUREAU OF

Positions - Legislative Count	(84.5)	(84.5)
Positions - Other Count	(12.5)	(12.5)

Personal Services	4,635,768	4,615,106	Positions - Legislative Count	(95.0)	(95.0)
All Other	7,537,804	7,558,869	Positions - Other Count	(200.0)	(200.0)
Program Total	12,173,572	12,173,975	Personal Services	12,847,502	12,883,369
BUREAU OF HEALTH			All Other	24,274,891	24,965,416
Cerebral Palsy Centers - Grants to			Capital Expenditures	334,900	301,200
* General Fund			Program Total	37,457,293	38,149,985
All Other	75,987	75,987	Hypertension Control		
Fund Total	75,987	75,987	Other Participating Funds		
Community Family Planning			* Federal Block Grant Fund		
* General Fund			Positions - Legislative Count	(1.0)	(1.0)
All Other	211,518	211,518	Personal Services	28,895	29,849
Fund Total	211,518	211,518	All Other	160,867	161,680
Dental Disease Prevention			Fund Total	189,762	191,529
Other Participating Funds			Rape Crisis Control		
* Federal Block Grant Fund			Other Participating Funds		
Positions - Legislative Count	(3.0)	(3.0)	* Federal Block Grant Fund		
Personal Services	118,097	117,148	All Other	39,017	39,017
All Other	77,770	79,174	Fund Total	39,017	39,017
Fund Total	195,867	196,322	Risk Reduction		
HEALTH - BUREAU OF			Other Participating Funds		
* General Fund			* Federal Block Grant Fund		
Positions - Legislative Count	(94.0)	(94.0)	Positions - Legislative Count	(4.0)	(4.0)
Positions - Other Count	(2.5)	(2.5)	Personal Services	180,526	179,734
Personal Services	4,458,356	4,436,258	All Other	234,691	235,662
All Other	2,247,560	2,285,797	Fund Total	415,217	415,396
Fund Total	6,705,916	6,722,055	Special Children's Services		
Other Participating Funds			* General Fund		
* Federal Expenditure Fund			Positions - Legislative Count	(0.5)	(0.5)
Positions - Other Count	(125.0)	(125.0)	Personal Services	43,984	44,986
Personal Services	5,269,682	5,325,344	All Other	8,551	8,773
All Other	19,988,645	20,600,007	Fund Total	52,535	53,759
Capital Expenditures	13,600	12,400	Other Participating Funds		
Fund Total	25,271,927	25,937,751	* Federal Block Grant Fund		
* Other Special Revenue Funds			Positions - Legislative Count	(17.0)	(17.0)
Positions - Other Count	(72.5)	(72.5)	Personal Services	662,981	665,160
Personal Services	3,080,269	3,082,663	All Other	304,780	307,366
All Other	1,783,586	1,828,059	Fund Total	967,761	972,526
Capital Expenditures	321,300	288,800	SUMMARY - SPECIAL		
Fund Total	5,185,155	5,199,522	CHILDREN'S SERVICES		
* Federal Block Grant Fund			Positions - Legislative Count	(17.5)	(17.5)
Positions - Legislative Count	(1.0)	(1.0)	Personal Services	706,965	710,146
Personal Services	39,195	39,104	All Other	313,331	316,139
All Other	255,100	251,553	Program Total	1,020,296	1,026,285
Fund Total	294,295	290,657	Tuberculosis Control Program		
SUMMARY - HEALTH -			Other Participating Funds		
BUREAU OF			* Federal Block Grant Fund		
			Positions - Legislative Count	(1.0)	(1.0)

Personal Services	35,243	35,136			
All Other	529	526	Fund Total	37,485	38,259
Fund Total	35,772	35,662	SUMMARY - HEALTH PLANNING AND DEVELOPMENT		
Venereal Disease Program					
Other Participating Funds			Positions - Legislative Count	(7.0)	(7.0)
* Federal Block Grant Fund			Positions - Other Count	(1.0)	(1.0)
All Other	27,735	28,116	Personal Services	412,413	409,333
Fund Total	27,735	28,116	All Other	90,835	93,415
			Program Total	503,248	502,748
DIVISION OF HEALTH ENGINEERING (HUMAN SERVICES)			BUREAU OF INCOME MAINTENANCE		
Nuclear Safety Program			Administration - Income Maintenance		
Other Participating Funds			* General Fund		
* Other Special Revenue Funds			Positions - Legislative Count	(50.0)	(50.0)
Positions - Other Count	(1.0)	(1.0)	Personal Services	2,131,200	2,123,543
Personal Services	41,837	43,117	All Other	2,934,583	3,020,857
All Other	35,392	36,502	Fund Total	5,065,783	5,144,400
Fund Total	77,229	79,619	Other Participating Funds		
Plumbing - Control Over			* Federal Expenditure Fund		
Other Participating Funds			Positions - Other Count	(199.5)	(199.5)
* Other Special Revenue Funds			Personal Services	7,962,434	7,958,284
Positions - Other Count	(6.0)	(6.0)	All Other	10,297,445	10,531,000
Personal Services	230,736	230,211	Fund Total	18,259,879	18,489,284
All Other	93,318	96,121	* Other Special Revenue Funds		
Fund Total	324,054	326,332	Positions - Other Count	(57.0)	(57.0)
Maine Water Well Drilling Program			Personal Services	2,274,939	2,274,049
Other Participating Funds			All Other	1,218,001	1,250,746
* Other Special Revenue Funds			Fund Total	3,492,940	3,524,795
Positions - Other Count	(1.0)	(1.0)	SUMMARY - ADMINISTRATION - INCOME MAINTENANCE		
Personal Services	34,058	34,962	Positions - Legislative Count	(50.0)	(50.0)
All Other	2,569	2,621	Positions - Other Count	(256.5)	(256.5)
Fund Total	36,627	37,583	Personal Services	12,368,573	12,355,876
OFFICE OF HEALTH PLANNING AND DEVELOPMENT (HUMAN SERVICES)			All Other	14,450,029	14,802,603
Health Planning And Development			Program Total	26,818,602	27,158,479
* General Fund			Aid to Families with Dependent Children		
Positions - Legislative Count	(7.0)	(7.0)	* General Fund		
Personal Services	376,571	372,762	All Other	31,723,000	31,723,000
All Other	89,192	91,727	Fund Total	31,723,000	31,723,000
Fund Total	465,763	464,489	Other Participating Funds		
Other Participating Funds			* Federal Expenditure Fund		
* Other Special Revenue Funds			All Other	56,015,692	56,015,692
Positions - Other Count	(1.0)	(1.0)	Fund Total	56,015,692	56,015,692
Personal Services	35,842	36,571			
All Other	1,643	1,688			

* Other Special Revenue Funds			State Supplement to Federal Supplemental Security Income		
All Other	60,486,379	60,486,379			
Fund Total	60,486,379	60,486,379	* General Fund		
SUMMARY - AID TO FAMILIES WITH DEPENDENT CHILDREN			All Other	13,892,842	13,892,842
All Other	148,225,071	148,225,071	Fund Total	13,892,842	13,892,842
Program Total	148,225,071	148,225,071	Welfare Employment, Education and Training		
Aid to Families with Dependent Children - Foster Care			* General Fund		
* General Fund			Positions - Legislative Count	(34.5)	(34.5)
All Other	8,106,264	8,776,891	Personal Services	1,618,387	1,600,681
Fund Total	8,106,264	8,776,891	All Other	3,690,948	3,815,814
Other Participating Funds			Fund Total	5,309,335	5,416,495
* Federal Expenditure Fund			Other Participating Funds		
Positions - Other Count	(12.0)	(12.0)	* Federal Expenditure Fund		
Personal Services	520,677	527,364	Positions - Other Count	(54.0)	(54.0)
All Other	16,097,334	17,368,316	Personal Services	2,114,166	2,109,584
Fund Total	16,618,011	17,895,680	All Other	7,746,753	7,762,685
* Other Special Revenue Funds			Fund Total	9,860,919	9,872,269
All Other	2,105,796	2,316,376	SUMMARY - WELFARE EMPLOYMENT, EDUCATION AND TRAINING		
Fund Total	2,105,796	2,316,376	Positions - Legislative Count	(34.5)	(34.5)
SUMMARY - AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE			Positions - Other Count	(54.0)	(54.0)
Positions - Other Count	(12.0)	(12.0)	Personal Services	3,732,553	3,710,265
Personal Services	520,677	527,364	All Other	11,437,701	11,578,499
All Other	26,309,394	28,461,583	Program Total	15,170,254	15,288,764
Program Total	26,830,071	28,988,947	OFFICE OF MANAGEMENT AND BUDGET (HUMAN SERVICES)		
General Assistance - Reimbursement to Cities And Towns			Administration - Human Services		
* General Fund			* General Fund		
All Other	6,767,000	6,834,670	Positions - Legislative Count	(64.5)	(64.5)
Fund Total	6,767,000	6,834,670	Personal Services	2,826,743	2,807,320
Other Participating Funds			All Other	520,294	534,069
* Federal Expenditure Fund			Fund Total	3,347,037	3,341,389
All Other	732,000	732,000	Other Participating Funds		
Fund Total	732,000	732,000	* Federal Expenditure Fund		
SUMMARY - GENERAL ASSISTANCE - REIMBURSEMENT TO CITIES AND TOWNS			Positions - Other Count	(80.0)	(80.0)
All Other	7,499,000	7,566,670	Personal Services	2,098,664	2,077,699
Program Total	7,499,000	7,566,670	All Other	827,659	854,732
			Fund Total	2,926,323	2,932,431
			* Other Special Revenue Funds		
			Positions - Other Count	(3.0)	(3.0)
			Personal Services	125,909	124,944
			All Other	9,774	10,009
			Fund Total	135,683	134,953
			* Federal Block Grant Fund		
			Personal Services	1,621,731	1,625,115

All Other	24,327	24,377			
Fund Total	1,646,058	1,649,492	Program Total	2,944,556	2,943,879
SUMMARY - ADMINISTRATION - HUMAN SERVICES			BUREAU OF MEDICAL SERVICES (HUMAN SERVICES)		
Positions - Legislative Count	(64.5)	(64.5)	Intermediate Care - Payments to Providers		
Positions - Other Count	(83.0)	(83.0)	* General Fund		
Personal Services	6,673,047	6,635,078	All Other	86,955,000	91,650,000
All Other	1,382,054	1,423,187	Fund Total	86,955,000	91,650,000
Program Total	8,055,101	8,058,265	Other Participating Funds		
Training Programs and Employee Assistance			* Federal Expenditure Fund		
Other Participating Funds			All Other	201,645,020	223,811,086
* Federal Block Grant Fund			Fund Total	201,645,020	223,811,086
All Other	354,965	369,795	SUMMARY - INTERMEDIATE CARE - PAYMENTS TO PROVIDERS		
Fund Total	354,965	369,795	All Other	288,600,020	315,461,086
DIVISION OF MATERNAL AND CHILD HEALTH (HUMAN SERVICES)			Program Total	288,600,020	315,461,086
Cystic Fibrosis - Treatment Of			Low-cost Drugs to Maine's Elderly		
* General Fund			* General Fund		
All Other	4,902	4,902	All Other	3,867,492	4,072,469
Fund Total	4,902	4,902	Fund Total	3,867,492	4,072,469
Maternal and Child Health			Medical Care - Payments to Providers		
Other Participating Funds			* General Fund		
* Federal Expenditure Fund			All Other	92,116,270	101,327,900
Positions - Other Count	(2.0)	(2.0)	Fund Total	92,116,270	101,327,900
Personal Services	82,192	84,320	Other Participating Funds		
All Other	21,046	21,630	* Federal Expenditure Fund		
Fund Total	103,238	105,950	All Other	434,878,095	484,040,715
* Other Special Revenue Funds			Fund Total	434,878,095	484,040,715
Positions - Other Count	(1.0)	(1.0)	* Other Special Revenue Funds		
Personal Services	47,830	49,203	All Other	129,837,713	138,618,205
All Other	210,707	211,092	Fund Total	129,837,713	138,618,205
Fund Total	258,537	260,295	SUMMARY - MEDICAL CARE PAYMENTS TO PROVIDERS		
* Federal Block Grant Fund			All Other	656,832,078	723,986,820
Positions - Legislative Count	(41.0)	(41.0)	Program Total	656,832,078	723,986,820
Personal Services	1,823,163	1,816,579	Medical Care Administration		
All Other	759,618	761,055	* General Fund		
Fund Total	2,582,781	2,577,634	Positions - Legislative Count	(102.5)	(102.5)
SUMMARY - MATERNAL AND CHILD HEALTH			Personal Services	4,044,055	4,057,856
Positions - Legislative Count	(41.0)	(41.0)			
Positions - Other Count	(3.0)	(3.0)			
Personal Services	1,953,185	1,950,102			
All Other	991,371	993,777			

All Other	4,695,309	4,778,821			
Fund Total	8,739,364	8,836,677	Fund Total	2,137,024	2,198,887
Other Participating Funds			SUMMARY -		
* Federal Expenditure Fund			ADMINISTRATION -		
Positions - Other Count	(192.0)	(192.0)	REGIONAL - HUMAN		
Personal Services	7,841,298	7,855,460	SERVICES		
All Other	8,376,900	8,594,836	Positions - Legislative Count	(28.0)	(28.0)
Fund Total	16,218,198	16,450,296	Positions - Other Count	(58.5)	(58.5)
* Other Special Revenue Funds			Personal Services	2,880,998	2,876,329
Positions - Other Count	(2.5)	(2.5)	All Other	4,995,717	5,165,184
Personal Services	107,133	106,482	Program Total	7,876,715	8,041,513
All Other	293,072	300,553	Income Maintenance - Regional		
Fund Total	400,205	407,035	* General Fund		
SUMMARY - MEDICAL CARE			Positions - Legislative Count	(255.0)	(255.0)
ADMINISTRATION			Personal Services	10,048,131	10,071,267
Positions - Legislative Count	(102.5)	(102.5)	All Other	219,263	223,842
Positions - Other Count	(194.5)	(194.5)	Fund Total	10,267,394	10,295,109
Personal Services	11,992,486	12,019,798	Other Participating Funds		
All Other	13,365,281	13,674,210	* Federal Expenditure Fund		
Program Total	25,357,767	25,694,008	Positions - Other Count	(267.5)	(267.5)
MAINE PUBLIC DRINKING			Personal Services	10,113,464	10,112,508
WATER COMMISSION			All Other	592,791	602,585
Drinking Water Enforcement			Fund Total	10,706,255	10,715,093
Other Participating Funds			SUMMARY - INCOME		
* Other Special Revenue Funds			MAINTENANCE - REGIONAL		
Positions - Other Count	(10.0)	(10.0)	Positions - Legislative Count	(255.0)	(255.0)
Personal Services	396,086	405,580	Positions - Other Count	(267.5)	(267.5)
All Other	50,851	51,950	Personal Services	20,161,595	20,183,775
Fund Total	446,937	457,530	All Other	812,054	826,427
DIVISION OF REGIONAL			Program Total	20,973,649	21,010,202
ADMINISTRATION (HUMAN			Social Services - Regional		
SERVICES)			* General Fund		
Administration - Regional -			Positions - Legislative Count	(456.5)	(456.5)
Human Services			Personal Services	19,325,994	19,381,226
* General Fund			All Other	962,880	980,410
Positions - Legislative Count	(28.0)	(28.0)	Fund Total	20,288,874	20,361,636
Personal Services	923,561	922,162	SUMMARY - DEPARTMENT		
All Other	2,295,581	2,357,924	OF HUMAN SERVICES		
Fund Total	3,219,142	3,280,086	* General Fund		
Other Participating Funds			Positions - Legislative Count	(1,246.5)	(1,246.5)
* Federal Expenditure Fund			Positions - Other Count	(2.5)	(2.5)
Positions - Other Count	(58.5)	(58.5)	Personal Services	53,046,514	53,016,687
Personal Services	1,001,510	998,216	All Other	295,161,395	311,879,312
All Other	1,519,039	1,564,324	Umbrella Fund Total	348,207,909	364,895,999
Fund Total	2,520,549	2,562,540	Other Participating Funds		
* Federal Block Grant Fund			* Federal Expenditure Fund		
Personal Services	955,927	955,951	Positions - Other Count	(1,106.0)	(1,106.0)
All Other	1,181,097	1,242,936	Personal Services	42,158,246	42,191,539

All Other	780,714,178	854,863,707	Positions - Legislative Count	(8.0)	(8.0)
Capital Expenditures	13,600	12,400	Personal Services	396,083	397,427
			All Other	249,071	256,067
Umbrella Fund Total	822,886,024	897,067,646	Fund Total	645,154	653,494
* Other Special Revenue Funds			Other Participating Funds		
Positions - Other Count	(155.0)	(155.0)	* Federal Expenditure Fund		
Personal Services	6,374,639	6,387,782	Personal Services	66,478	66,538
All Other	196,198,439	205,279,939	All Other	22,355	23,017
Capital Expenditures	321,300	288,800	Fund Total	88,833	89,555
Umbrella Fund Total	202,894,378	211,956,521	SUMMARY - OFFICE OF THE		
* Federal Block Grant Fund			COMMISSIONER - INLAND		
Positions - Legislative Count	(76.5)	(76.5)	FISHERIES AND WILDLIFE		
Personal Services	5,854,427	5,852,104	Positions - Legislative Count	(8.0)	(8.0)
All Other	16,904,521	17,101,507	Personal Services	462,561	463,965
Umbrella Fund Total	22,758,948	22,953,611	All Other	271,426	279,084
SUMMARY - DEPARTMENT			Program Total	733,987	743,049
OF HUMAN SERVICES			BUREAU OF		
Positions - Legislative Count	(1,323.0)	(1,323.0)	ADMINISTRATIVE SERVICES		
Positions - Other Count	(1,263.5)	(1,263.5)	(INLAND FISHERIES AND		
Personal Services	107,433,826	107,448,112	WILDLIFE)		
All Other	1,288,978,533	1,389,124,465	Administrative Services - Inland		
Capital Expenditures	334,900	301,200	Fisheries and Wildlife		
Umbrella Grand Total	1,396,747,259	1,496,873,777	* General Fund		
MAINE INDIAN TRIBAL-			Positions - Legislative Count	(19.0)	(19.0)
STATE COMMISSION			Personal Services	801,942	794,866
Maine Indian Tribal-State			All Other	644,755	663,874
Commission			Capital Expenditures	75,000	
* General Fund			Fund Total	1,521,697	1,458,740
All Other	15,000	15,000	Licensing Services - Inland		
Fund Total	15,000	15,000	Fisheries and Wildlife		
* Other Special Revenue Funds			* General Fund		
All Other	15,000	15,000	Positions - Legislative Count	(20.0)	(20.0)
Fund Total	15,000	15,000	Positions - Other Count	(1.5)	(1.5)
Other Participating Funds			Personal Services	638,249	641,862
* Other Special Revenue Funds			All Other	633,976	648,093
All Other	15,000	15,000	Fund Total	1,272,225	1,289,955
Umbrella Fund Total	15,000	15,000	Other Participating Funds		
SUMMARY - MAINE INDIAN			* Federal Expenditure Fund		
TRIBAL- STATE			Personal Services	94,232	94,241
COMMISSION			All Other	38,915	39,300
All Other	30,000	30,000	Fund Total	133,147	133,541
Program Total	30,000	30,000	SUMMARY - LICENSING		
DEPARTMENT OF INLAND			SERVICES - INLAND		
FISHERIES AND WILDLIFE			FISHERIES AND WILDLIFE		
Office of the Commissioner -			Positions - Legislative Count	(20.0)	(20.0)
Inland Fisheries and Wildlife			Positions - Other Count	(1.5)	(1.5)
* General Fund			Personal Services	732,481	736,103
			All Other	672,891	687,393
			Program Total	1,405,372	1,423,496

Whitewater Rafting Fund			Program Total	290,000	290,000
Other Participating Funds			Endangered Nongame Operations		
* Other Special Revenue Funds			Other Participating Funds		
All Other	7,661	7,661	* Federal Expenditure Fund		
			Personal Services	29,000	31,000
Fund Total	7,661	7,661	All Other	80,913	82,120
DIVISION OF PUBLIC			Capital Expenditures	5,000	5,000
INFORMATION AND			Fund Total	114,913	118,120
EDUCATION (INLAND			* Other Special Revenue Funds		
FISHERIES AND WILDLIFE)			Positions - Other Count	(4.0)	(4.0)
Public Information and Education			Personal Services	176,448	172,217
Division of			All Other	47,247	47,790
* General Fund			Capital Expenditures	75,000	75,000
Positions - Legislative Count	(9.0)	(9.0)	Fund Total	298,695	295,007
Positions - Other Count	(1.0)	(1.0)	SUMMARY - ENDANGERED		
Personal Services	428,994	425,762	NONGAME OPERATIONS		
All Other	190,383	195,882	Positions - Other Count	(4.0)	(4.0)
Capital Expenditures	12,000	12,000	Personal Services	205,448	203,217
Fund Total	631,377	633,644	All Other	128,160	129,910
Other Participating Funds			Capital Expenditures	80,000	80,000
* Other Special Revenue Funds			Program Total	413,608	413,127
All Other	109,093	109,876	Fisheries and Hatcheries		
Capital Expenditures	16,135	18,540	Operations		
Fund Total	125,228	128,416	* General Fund		
SUMMARY - PUBLIC			Positions - Legislative Count	(54.0)	(54.0)
INFORMATION AND			Positions - Other Count	(4.0)	(4.0)
EDUCATION DIVISION OF			Personal Services	1,797,923	1,790,901
Positions - Legislative Count	(9.0)	(9.0)	All Other	246,192	253,286
Positions - Other Count	(1.0)	(1.0)	Capital Expenditures	77,325	79,575
Personal Services	428,994	425,762	Fund Total	2,121,440	2,123,762
All Other	299,476	305,758	Other Participating Funds		
Capital Expenditures	28,135	30,540	* Federal Expenditure Fund		
Program Total	756,605	762,060	Personal Services	774,789	775,589
BUREAU OF RESOURCE			All Other	562,668	576,236
MANAGEMENT (INLAND			Capital Expenditures	18,975	13,725
FISHERIES AND WILDLIFE)			Fund Total	1,356,432	1,365,550
Boating Access Sites			SUMMARY - FISHERIES AND		
Other Participating Funds			HATCHERIES OPERATIONS		
* Federal Expenditure Fund			Positions - Legislative Count	(54.0)	(54.0)
Capital Expenditures	210,000	210,000	Positions - Other Count	(4.0)	(4.0)
Fund Total	210,000	210,000	Personal Services	2,572,712	2,566,490
* Other Special Revenue Funds			All Other	808,860	829,522
All Other	20,000	20,000	Capital Expenditures	96,300	93,300
Capital Expenditures	60,000	60,000	Program Total	3,477,872	3,489,312
Fund Total	80,000	80,000	Resource Management Services -		
SUMMARY - BOATING			Inland Fisheries and Wildlife		
ACCESS SITES			* General Fund		
All Other	20,000	20,000			
Capital Expenditures	270,000	270,000			

Positions - Legislative Count	(43.0)	(43.0)	Capital Expenditures	119,200	183,000
Positions - Other Count	(1.5)	(1.5)			
Personal Services	949,746	925,493	Fund Total	7,437,643	7,731,084
All Other	322,552	345,219			
Capital Expenditures	21,200	15,425	Other Participating Funds		
Fund Total	1,293,498	1,286,137	* Federal Expenditure Fund		
Other Participating Funds			Personal Services	190,000	190,000
* Federal Expenditure Fund			All Other	101,040	104,216
Personal Services	1,202,409	1,205,298	Fund Total	291,040	294,216
All Other	433,979	447,608	SUMMARY - ENFORCEMENT		
Capital Expenditures	55,600	46,275	OPERATIONS - INLAND AND		
Fund Total	1,691,988	1,699,181	FISHERIES AND WILDLIFE		
* Other Special Revenue Funds			Positions - Legislative Count	(133.0)	(133.0)
Positions - Other Count	(2.0)	(2.0)	Personal Services	7,467,729	7,462,790
Personal Services	75,228	74,206	All Other	141,754	379,510
All Other	41,407	41,733	Capital Expenditures	119,200	183,000
Fund Total	116,635	115,939	Program Total	7,728,683	8,025,300
SUMMARY - RESOURCE			Whitewater Rafting - Inland		
MANAGEMENT SERVICES -			Fisheries and Wildlife		
INLAND FISHERIES AND			Other Participating Funds		
WILDLIFE			* Other Special Revenue Funds		
Positions - Legislative Count	(43.0)	(43.0)	All Other	49,795	49,795
Positions - Other Count	(3.5)	(3.5)	Fund Total	49,795	49,795
Personal Services	2,227,383	2,204,997	SUMMARY - DEPARTMENT		
All Other	797,938	834,560	OF INLAND FISHERIES AND		
Capital Expenditures	76,800	61,700	WILDLIFE		
Program Total	3,102,121	3,101,257	* General Fund		
Waterfowl Habitat Acquisition			Positions - Legislative Count	(287.0)	(287.0)
and Management			Positions - Other Count	(8.0)	(8.0)
Other Participating Funds			Personal Services	12,327,463	12,286,796
* Other Special Revenue Funds			All Other	2,343,743	2,654,274
All Other	46,283	11,849	Capital Expenditures	304,725	290,000
Capital Expenditures	86,765	64,405	Umbrella Fund Total	14,975,931	15,231,070
Fund Total	133,048	76,254	Other Participating Funds		
BUREAU OF WARDEN			* Federal Expenditure Fund		
SERVICE (INLAND FISHERIES			Personal Services	2,356,908	2,362,666
AND WILDLIFE)			All Other	1,239,870	1,272,497
ATV Safety and Educational			Capital Expenditures	289,575	275,000
Program			Umbrella Fund Total	3,886,353	3,910,163
* General Fund			* Other Special Revenue Funds		
Positions - Legislative Count	(1.0)	(1.0)	Positions - Other Count	(6.0)	(6.0)
Personal Services	36,797	37,695	Personal Services	251,676	246,423
All Other	16,100	16,559	All Other	321,486	288,704
Fund Total	52,897	54,254	Capital Expenditures	237,900	217,945
Enforcement Operations - Inland			Umbrella Fund Total	811,062	753,072
Fisheries and Wildlife			SUMMARY - DEPARTMENT		
* General Fund			OF INLAND FISHERIES AND		
Positions - Legislative Count	(133.0)	(133.0)	WILDLIFE		
Personal Services	7,277,729	7,272,790	Positions - Legislative Count	(287.0)	(287.0)
All Other	40,714	275,294	Positions - Other Count	(14.0)	(14.0)

Personal Services	14,936,047	14,895,885			
All Other	3,905,099	4,215,475			
Capital Expenditures	832,200	782,945			
Umbrella Grand Total	19,673,346	19,894,305			
JUDICIAL DEPARTMENT					
Courts - Supreme, Superior, District and Administrative					
* General Fund					
Positions - Legislative Count	(368.5)	(368.5)			
Personal Services	18,728,115	18,763,594			
All Other	14,792,848	15,135,793			
Capital Expenditures	500,000	500,000			
Fund Total	34,020,963	34,399,387			
Other Participating Funds					
* Other Special Revenue Funds					
Positions - Other Count	(3.0)	(3.0)			
Personal Services	175,045	173,056			
All Other	462,013	462,003			
Capital Expenditures	200,000	200,000			
Fund Total	837,058	835,059			
SUMMARY - COURTS - SUPREME, SUPERIOR, DISTRICT AND ADMINISTRATIVE					
Positions - Legislative Count	(368.5)	(368.5)			
Positions - Other Count	(3.0)	(3.0)			
Personal Services	18,903,160	18,936,650			
All Other	15,254,861	15,597,796			
Capital Expenditures	700,000	700,000			
Program Total	34,858,021	35,234,446			
Total Quality Management					
Other Participating Funds					
* Other Special Revenue Funds					
Personal Services	7,500	7,500			
Fund Total	7,500	7,500			
BOARD OF BAR EXAMINERS					
Bar Examiners - Board of					
Other Participating Funds					
* Other Special Revenue Funds					
All Other	101,000	101,000			
Fund Total	101,000	101,000			
SUMMARY - JUDICIAL DEPARTMENT					
* General Fund					
Positions - Legislative Count	(368.5)	(368.5)			
Personal Services	18,728,115	18,763,594			
All Other	14,792,848	15,135,793			
Capital Expenditures	500,000	500,000			
Umbrella Fund Total	34,020,963	34,399,387			
Other Participating Funds					
* Other Special Revenue Funds					
Positions - Other Count	(3.0)	(3.0)			
Personal Services	182,545	180,556			
All Other	563,013	563,003			
Capital Expenditures	200,000	200,000			
Umbrella Fund Total	945,558	943,559			
SUMMARY - JUDICIAL DEPARTMENT					
Positions - Legislative Count	(368.5)	(368.5)			
Positions - Other Count	(3.0)	(3.0)			
Personal Services	18,910,660	18,944,150			
All Other	15,355,861	15,698,796			
Capital Expenditures	700,000	700,000			
Umbrella Grand Total	34,966,521	35,342,946			
DEPARTMENT OF LABOR					
Office of the Commissioner					
Administration - Labor					
* General Fund					
Personal Services	57,345	58,561			
All Other	15,712	16,091			
Fund Total	73,057	74,652			
BUREAU OF EMPLOYMENT SECURITY					
Employment Security Services					
Other Participating Funds					
* Federal Expenditure Fund					
Positions - Other Count	(618.0)	(618.0)			
Personal Services	25,133,287	25,227,147			
All Other	35,236,156	35,479,453			
Capital Expenditures	525,000	525,000			
Fund Total	60,894,443	61,231,600			
* Other Special Revenue Funds					
All Other	657,365	676,916			
Fund Total	657,365	676,916			
* Employment Security Trust Fund					
All Other	200,000,000	200,000,000			
Fund Total	200,000,000	200,000,000			
SUMMARY - EMPLOYMENT SECURITY SERVICES					
Positions - Other Count	(618.0)	(618.0)			
Personal Services	25,133,287	25,227,147			
All Other	235,893,521	236,156,369			
Capital Expenditures	525,000	525,000			
Program Total	261,551,808	261,908,516			

BUREAU OF EMPLOYMENT AND TRAINING PROGRAMS Displaced Homemakers Program			Fund Total	100,000	100,000
* General Fund			SUMMARY - ADMINISTRATION - BUREAU OF LABOR STANDARDS		
All Other	489,418	489,418	Positions - Legislative Count	(8.0)	(8.0)
			Positions - Other Count	(3.0)	(3.0)
Fund Total	489,418	489,418	Personal Services	358,467	360,296
Job Training Partnership Program			All Other	332,161	333,539
* General Fund			Capital Expenditures	16,000	16,000
Personal Services	50,608	50,426	Program Total	706,628	709,835
All Other	722,561	524,834			
Fund Total	773,169	575,260	Occupational Safety Loan Program		
Other Participating Funds			Other Participating Funds		
* Federal Expenditure Fund			* Other Special Revenue Funds		
Positions - Other Count	(34.0)	(34.0)	All Other	350,000	350,000
Personal Services	1,434,506	1,443,126			
All Other	6,882,446	6,888,260	Fund Total	350,000	350,000
Fund Total	8,316,952	8,331,386	Regulation and Enforcement		
SUMMARY - JOB TRAINING PARTNERSHIP PROGRAM			* General Fund		
Positions - Other Count	(34.0)	(34.0)	Positions - Legislative Count	(21.0)	(21.0)
Personal Services	1,485,114	1,493,552	Personal Services	860,351	854,501
All Other	7,605,007	7,413,094	All Other	107,411	109,193
Program Total	9,090,121	8,906,646	Fund Total	967,762	963,694
Star			Other Participating Funds		
* General Fund			* Federal Expenditure Fund		
Personal Services	235,385	234,440	Positions - Other Count	(6.5)	(6.5)
All Other	932,197	935,143	Personal Services	266,902	267,411
Fund Total	1,167,582	1,169,583	All Other	107,100	107,123
BUREAU OF LABOR STANDARDS			Capital Expenditures	3,520	3,585
Administration - Bureau of Labor Standards			Fund Total	377,522	378,119
* General Fund			SUMMARY - REGULATION AND ENFORCEMENT		
Positions - Legislative Count	(8.0)	(8.0)	Positions - Legislative Count	(21.0)	(21.0)
Personal Services	229,503	227,974	Positions - Other Count	(6.5)	(6.5)
All Other	93,939	95,166	Personal Services	1,127,253	1,121,912
Capital Expenditures	10,000	10,000	All Other	214,511	216,316
Fund Total	333,442	333,140	Capital Expenditures	3,520	3,585
Other Participating Funds			Program Total	1,345,284	1,341,813
* Federal Expenditure Fund			Safety Education and Training Programs		
Positions - Other Count	(3.0)	(3.0)	Other Participating Funds		
Personal Services	128,964	132,322	* Other Special Revenue Funds		
All Other	138,222	138,373	Positions - Other Count	(23.5)	(23.5)
Capital Expenditures	6,000	6,000	Personal Services	1,261,182	1,258,759
Fund Total	273,186	276,695	All Other	923,741	936,010
* Other Special Revenue Funds			Capital Expenditures	8,806	7,923
All Other	100,000	100,000	Fund Total	2,193,729	2,202,692

MAINE LABOR RELATIONS
BOARD

Labor Relations Board

* General Fund

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	312,076	310,543
All Other	27,576	28,257
Fund Total	339,652	338,800

Other Participating Funds

* Other Special Revenue Funds

Personal Services	44,000	44,000
All Other	21,555	22,052
Fund Total	65,555	66,052

SUMMARY - LABOR
RELATIONS BOARD

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	356,076	354,543
All Other	49,131	50,309
Program Total	405,207	404,852

MAINE OCCUPATIONAL
INFORMATION
COORDINATING COMMITTEEOccupational Information
Coordination

* General Fund

Positions - Legislative Count	(2.0)	(2.0)
Personal Services	123,202	120,579
All Other	74,770	76,137
Fund Total	197,972	196,716

Other Participating Funds

* Federal Expenditure Fund

Positions - Other Count	(2.0)	(2.0)
Personal Services	92,168	93,408
All Other	23,192	22,804
Fund Total	115,360	116,212

* Other Special Revenue Funds

All Other	134,584	140,800
Fund Total	134,584	140,800

SUMMARY - OCCUPATIONAL
INFORMATION
COORDINATION

Positions - Legislative Count	(2.0)	(2.0)
Positions - Other Count	(2.0)	(2.0)
Personal Services	215,370	213,987
All Other	232,546	239,741
Program Total	447,916	453,728

TWELVE COUNTY SERVICE
DELIVERY AREATwelve County SDA - Job
Training Partnership Program

* General Fund

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	59,777	58,980
All Other	4,364	4,409
Fund Total	64,141	63,389

Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(106.5)	(106.5)
Personal Services	4,039,784	4,067,524
All Other	13,394,904	14,030,882
Capital Expenditures	23,421	17,736

Fund Total	17,458,109	18,116,142
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* Other Special Revenue Funds

Personal Services	70,894	72,772
All Other	112,333	113,688

Fund Total	183,227	186,460
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SUMMARY - TWELVE
COUNTY SDA - JOB
TRAINING PARTNERSHIP
PROGRAM

Positions - Legislative Count	(1.0)	(1.0)
Positions - Other Count	(106.5)	(106.5)
Personal Services	4,170,455	4,199,276
All Other	13,511,601	14,148,979
Capital Expenditures	23,421	17,736

Program Total	17,705,477	18,365,991
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SUMMARY - DEPARTMENT
OF LABOR

* General Fund

Positions - Legislative Count	(38.0)	(38.0)
Personal Services	1,928,247	1,916,004
All Other	2,467,948	2,278,648
Capital Expenditures	10,000	10,000

Umbrella Fund Total	4,406,195	4,204,652
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Other Participating Funds

* Federal Expenditures Fund

Positions - Other Count	(770.0)	(770.0)
Personal Services	31,095,611	31,230,938
All Other	55,782,020	56,666,895
Capital Expenditures	557,941	552,321

Umbrella Fund Total	87,435,572	88,450,154
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* Other Special Revenue Funds

Positions - Other Count	(23.5)	(23.5)
Personal Services	1,376,076	1,375,531
All Other	2,299,578	2,339,466
Capital Expenditures	8,806	7,923

Umbrella Fund Total	3,684,460	3,722,920
* Employment Security Trust Fund		
All Other	200,000,000	200,000,000
Umbrella Fund Total	200,000,000	200,000,000

SUMMARY - DEPARTMENT OF LABOR

Positions - Legislative Count	(38.0)	(38.0)
Positions - Other Count	(793.5)	(793.5)
Personal Services	34,399,934	34,522,473
All Other	260,549,546	261,285,009
Capital Expenditures	576,747	570,244
Umbrella Grand Total	295,526,227	296,377,726

LAW AND LEGISLATIVE REFERENCE LIBRARY

Law and Legislative Reference Library

* General Fund		
Positions - Legislative Count	(14.5)	(14.5)
Personal Services	751,740	763,502
All Other	281,684	290,170
Capital Expenditures	10,000	10,000
Fund Total	1,043,424	1,063,672

LEGISLATURE

Legislative Council

Maine Health Care Reform Commission

* General Fund		
Positions - Legislative Count	(2.0)	(0.0)
Personal Services	124,259	10,400
All Other	52,190	3,500
Fund Total	176,449	13,900

Legislature

* General Fund		
Positions - Legislative Count	(77.0)	(77.0)
Positions - Other Count	(123.0)	(123.0)
Personal Services	10,936,031	12,126,659
All Other	3,955,376	4,353,004
Capital Expenditures	85,000	85,000
Fund Total	14,976,407	16,564,663

STATE HOUSE AND CAPITOL PARK COMMISSION

State House and Capitol Park Commission

* General Fund		
All Other	119,581	123,951
Fund Total	119,581	123,951

COMMISSION ON INTERSTATE COOPERATION

Interstate Cooperation - Commission on

* General Fund		
All Other	133,053	133,774
Fund Total	133,053	133,774

COMMISSION ON UNIFORM STATE LAWS

Uniform State Laws - Commission on

* General Fund		
All Other	15,650	16,320
Fund Total	15,650	16,320

Legislature

* General Fund		
Positions - Legislative Count	(79.0)	(77.0)
Positions - Other Count	(123.0)	(123.0)
Personal Services	11,060,290	12,137,059
All Other	4,275,850	4,630,549
Capital Expenditures	85,000	85,000
Umbrella Fund Total	15,421,140	16,852,608

SUMMARY - LEGISLATURE

Positions - Legislative Count	(79.0)	(77.0)
Positions - Other Count	(123.0)	(123.0)
Personal Services	11,060,290	12,137,059
All Other	4,275,850	4,630,549
Capital Expenditures	85,000	85,000

Umbrella Grand Total	15,421,140	16,852,608
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MAINE STATE LIBRARY

Administration - Library

* General Fund		
Positions - Legislative Count	(4.0)	(4.0)
Personal Services	219,770	215,954
All Other	10,800	10,900
Fund Total	230,570	226,854

Library Development Services

* General Fund		
Positions - Legislative Count	(26.0)	(26.0)
Personal Services	1,023,203	1,013,997
All Other	339,558	345,598
Capital Expenditures	13,000	13,000

Fund Total	1,375,761	1,372,595
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Other Participating Funds

* Federal Expenditures Fund		
Positions - Other Count	(13.5)	(13.5)
Personal Services	460,797	465,134
All Other	565,382	575,560

Capital Expenditures	33,000	25,000	Personal Services	2,362,340	2,345,852
Fund Total	1,059,179	1,065,694	All Other	1,082,053	1,104,583
			Capital Expenditures	46,000	38,000
* Other Special Revenue Funds			Umbrella Grand Total	3,490,393	3,488,435
All Other	13,450	13,864	ADVISORY BOARD FOR		
Fund Total	13,450	13,864	LICENSURE OF WATER		
SUMMARY - LIBRARY			TREATMENT PLANT		
DEVELOPMENT SERVICES			Water Treatment Plant Operators -		
Positions - Legislative Count	(26.0)	(26.0)	Board of Certification		
Positions - Other Count	(13.5)	(13.5)	Other Participating Funds		
Personal Services	1,484,000	1,479,131	* Other Special Revenue Funds		
All Other	918,390	935,022	All Other	13,293	13,708
Capital Expenditures	46,000	38,000	Fund Total	13,293	13,708
Program Total	2,448,390	2,452,153	LOBSTER PROMOTION		
Library Special Acquisitions Fund			COUNCIL		
* General Fund			Lobster Promotion Fund		
All Other	351	362	Other Participating Funds		
Fund Total	351	362	* Other Special Revenue Funds		
Reader and Information Services -			All Other	365,000	374,000
Library			Fund Total	365,000	374,000
* General Fund			DEPARTMENT OF MARINE		
Positions - Legislative Count	(18.0)	(18.0)	RESOURCES		
Personal Services	658,570	650,767	Bureau of Administration (Marine		
All Other	152,512	158,299	Resources)		
Fund Total	811,082	809,066	Administration - Marine		
SUMMARY - MAINE STATE			Resources		
LIBRARY			* General Fund		
* General Fund			Positions - Legislative Count	(10.0)	(10.0)
Positions - Legislative Count	(48.0)	(48.0)	Personal Services	470,415	468,265
Personal Services	1,901,543	1,880,718	All Other	43,226	43,668
All Other	503,221	515,159	Fund Total	513,641	511,933
Capital Expenditures	13,000	13,000	Marine Development - Bureau of		
Umbrella Fund Total	2,417,764	2,408,877	* General Fund		
Other Participating Funds			Positions - Legislative Count	(25.0)	(25.0)
* Federal Expenditures Fund			Personal Services	1,230,347	1,221,384
Positions - Other Count	(13.5)	(13.5)	All Other	431,333	435,774
Personal Services	460,797	465,134	Capital Expenditures	63,619	63,619
All Other	565,382	575,560	Fund Total	1,725,299	1,720,777
Capital Expenditures	33,000	25,000	Other Participating Funds		
Umbrella Fund Total	1,059,179	1,065,694	* Other Special Revenue Funds		
* Other Special Revenue Funds			Positions - Other Count	(5.5)	(5.5)
All Other	13,450	13,864	Personal Services	179,005	181,251
Umbrella Fund Total	13,450	13,864	All Other	234,955	236,829
SUMMARY - MAINE STATE			Capital Expenditures	66,706	66,706
LIBRARY			Fund Total	480,666	484,786
Positions - Legislative Count	(48.0)	(48.0)	SUMMARY - MARINE		
Positions - Other Count	(13.5)	(13.5)	DEVELOPMENT - BUREAU OF		
			Positions - Legislative Count	(25.0)	(25.0)

Positions - Other Count	(5.5)	(5.5)
Personal Services	1,409,352	1,402,635
All Other	666,288	672,603
Capital Expenditures	130,325	130,325
Program Total	2,205,965	2,205,563
Seafood Market Development		
Other Participating Funds		
* Other Special Revenue Funds		
All Other	50,514	51,035
Fund Total	50,514	51,035
BUREAU OF MARINE PATROL		
Marine Patrol - Bureau of		
* General Fund		
Positions - Legislative Count	(46.5)	(46.5)
Personal Services	2,651,206	2,633,633
All Other	441,900	505,130
Capital Expenditures	113,225	113,225
Fund Total	3,206,331	3,251,988
Other Participating Funds		
* Other Special Revenue Funds		
Positions - Other Count	(3.0)	(3.0)
Personal Services	146,351	145,160
All Other	31,636	31,902
Capital Expenditures	73,184	73,184
Fund Total	251,171	250,246
SUMMARY - MARINE PATROL - BUREAU OF		
Positions - Legislative Count	(46.5)	(46.5)
Positions - Other Count	(3.0)	(3.0)
Personal Services	2,797,557	2,778,793
All Other	473,536	537,032
Capital Expenditures	186,409	186,409
Program Total	3,457,502	3,502,234
BUREAU OF MARINE SCIENCES		
Marine Sciences - Bureau of		
* General Fund		
Positions - Legislative Count	(22.0)	(22.0)
Personal Services	1,224,779	1,216,471
All Other	499,455	504,692
Capital Expenditures	29,911	29,911
Fund Total	1,754,145	1,751,074
Other Participating Funds		
* Federal Expenditures Fund		
Positions - Other Count	(40.0)	(40.0)
Personal Services	1,690,406	1,704,292
All Other	365,774	369,504
Capital Expenditures	90,752	90,752
Fund Total	2,146,932	2,164,548

* Other Special Revenue Funds		
Positions - Other Count	(17.0)	(17.0)
Personal Services	696,065	694,279
All Other	559,182	565,779
Capital Expenditures	149,675	149,675
Fund Total	1,404,922	1,409,733
SUMMARY - MARINE SCIENCES - BUREAU OF		
Positions - Legislative Count	(22.0)	(22.0)
Positions - Other Count	(57.0)	(57.0)
Personal Services	3,611,250	3,615,042
All Other	1,424,411	1,439,975
Capital Expenditures	270,338	270,338
Program Total	5,305,999	5,325,355
SUMMARY - DEPARTMENT OF MARINE RESOURCES		
* General Fund		
Positions - Legislative Count	(103.5)	(103.5)
Personal Services	5,576,747	5,539,753
All Other	1,415,914	1,489,264
Capital Expenditures	206,755	206,755
Umbrella Fund Total	7,199,416	7,235,772
Other Participating Funds		
* Federal Expenditures Fund		
Positions - Other Count	(40.0)	(40.0)
Personal Services	1,690,406	1,704,292
All Other	365,774	369,504
Capital Expenditures	90,752	90,752
Umbrella Fund Total	2,146,932	2,164,548
* Other Special Revenue Funds		
Positions - Other Count	(25.5)	(25.5)
Personal Services	1,021,421	1,020,690
All Other	876,287	885,545
Capital Expenditures	289,565	289,565
Umbrella Fund Total	2,187,273	2,195,800
SUMMARY - DEPARTMENT OF MARINE RESOURCES		
Positions - Legislative Count	(103.5)	(103.5)
Positions - Other Count	(65.5)	(65.5)
Personal Services	8,288,574	8,264,735
All Other	2,657,975	2,744,313
Capital Expenditures	587,072	587,072
Umbrella Grand Total	11,533,621	11,596,120
MAINE MARITIME ACADEMY		
Maritime Academy - Operations		
* General Fund		
All Other	6,698,727	6,939,881
Fund Total	6,698,727	6,939,881

**MAINE WASTE
MANAGEMENT AGENCY**Administration - Office of the
Executive Director

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(3.0)	(3.0)
Personal Services	169,349	167,156
All Other	97,044	100,306

Fund Total	266,393	267,462
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OFFICE OF PLANNING

Office of Planning

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(4.0)	(4.0)
Personal Services	217,382	215,208
All Other	100,567	105,287

Fund Total	317,949	320,495
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**OFFICE OF SITING AND
DISPOSAL OPERATIONS**Office of Siting and Disposal
Operations

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(4.0)	(4.0)
Personal Services	205,452	206,748
All Other	835,531	501,672
Capital Expenditures	7,000	7,000

Fund Total	1,047,983	715,420
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**OFFICE OF WASTE
REDUCTION AND
RECYCLING**Office of Waste Reduction and
Recycling

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(5.0)	(5.0)
Personal Services	265,107	263,348
All Other	690,718	1,021,425
Capital Expenditures	7,000	7,000

Fund Total	962,825	1,291,773
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**SUMMARY - MAINE WASTE
MANAGEMENT AGENCY**

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(16.0)	(16.0)
Personal Services	857,290	852,460
All Other	1,723,860	1,728,690
Capital Expenditures	14,000	14,000

Umbrella Fund Total	2,595,150	2,595,150
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**SUMMARY - MAINE WASTE
MANAGEMENT AGENCY**

Positions - Other Count	(16.0)	(16.0)
Personal Services	857,290	852,460
All Other	1,723,860	1,728,690
Capital Expenditures	14,000	14,000

Umbrella Grand Total	2,595,150	2,595,150
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**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION**Administration - Mental Health
and Mental Retardation

* General Fund

Positions - Legislative Count	(84.5)	(84.5)
Personal Services	4,603,712	4,561,224
All Other	700,260	719,884
Capital Expenditures	5,000	5,000

Fund Total	5,308,972	5,286,108
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**OFFICE OF ADVOCACY
(MENTAL HEALTH AND
MENTAL RETARDATION)**Office of Advocacy - Mental
Health and Mental Retardation

* General Fund

Positions - Legislative Count	(13.5)	(13.5)
Personal Services	681,617	678,803
All Other	28,173	28,815

Fund Total	709,790	707,618
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**AROOSTOOK RESIDENTIAL
CENTER**

Aroostook Residential Center

* General Fund

Positions - Legislative Count	(21.0)	(21.0)
Personal Services	821,431	824,528
All Other	259,155	270,513
Capital Expenditures	6,000	5,700

Fund Total	1,086,586	1,100,741
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**AUGUSTA MENTAL HEALTH
INSTITUTE**

Augusta Mental Health Institute

* General Fund

Positions - Legislative Count	(4.0)	(4.0)
Personal Services	139,588	139,325
All Other	19,906	20,400

Fund Total	159,494	159,725
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Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(550.0)	(550.0)
Personal Services	16,046,381	15,934,919
All Other	2,427,967	2,511,572
Capital Expenditures	75,705	38,336

Fund Total	18,550,053	18,484,827	* General Fund		
SUMMARY - AUGUSTA			Personal Services	7,987,652	7,956,373
MENTAL HEALTH INSTITUTE			All Other	1,284,901	1,306,660
			Capital Expenditures	33,876	12,605
Positions - Legislative Count	(4.0)	(4.0)	Fund Total	9,306,429	9,275,638
Positions - Other Count	(550.0)	(550.0)	BATH CHILDREN'S HOME		
Personal Services	16,185,969	16,074,244	Bath Children's Home		
All Other	2,447,873	2,531,972	* General Fund		
Capital Expenditures	75,705	38,336	Positions - Legislative Count	(18.0)	(18.0)
Program Total	18,709,547	18,644,552	Personal Services	683,692	692,046
Disproportionate Share - Augusta			All Other	106,201	108,798
Mental Health Institute			Fund Total	789,893	800,844
* General Fund			BUREAU OF CHILDREN WITH		
Personal Services	8,858,783	8,795,649	SPECIAL NEEDS (MENTAL		
All Other	1,328,118	1,373,547	HEALTH AND MENTAL		
Capital Expenditures	41,795	21,164	RETARDATION)		
Fund Total	10,228,696	10,190,360	Mental Health Services - Child		
BANGOR MENTAL HEALTH			Medicaid		
INSTITUTE			* General Fund		
Bangor Mental Health Institute			All Other	2,338,071	2,464,327
* General Fund			Fund Total	2,338,071	2,464,327
Positions - Legislative Count	(32.0)	(32.0)	Mental Health Services - Children		
Personal Services	1,294,559	1,288,590	* General Fund		
All Other	456,736	464,994	Positions - Legislative Count	(60.5)	(60.5)
Capital Expenditures	10,295	3,753	Personal Services	2,897,717	2,880,657
Fund Total	1,761,590	1,757,337	All Other	8,861,089	9,330,468
Other Participating Funds			Fund Total	11,758,806	12,211,125
* Federal Expenditures Fund			Other Participating Funds		
Positions - Other Count	(0.5)	(0.5)	* Federal Expenditures Fund		
Personal Services	9,340	9,586	Positions - Other Count	(9.0)	(9.0)
All Other	1,660	1,274	Personal Services	456,598	464,388
Fund Total	11,000	10,860	All Other	4,970,756	5,044,354
* Other Special Revenue Funds			Fund Total	5,427,354	5,508,742
Positions - Other Count	(507.5)	(507.5)	* Federal Block Grant Fund		
Personal Services	14,505,071	14,452,063	All Other	518,332	518,332
All Other	2,246,974	2,291,029	Fund Total	518,332	518,332
Capital Expenditures	58,429	21,742	SUMMARY - MENTAL		
Fund Total	16,810,474	16,764,834	HEALTH SERVICES -		
SUMMARY - BANGOR			CHILDREN		
MENTAL HEALTH INSTITUTE			Positions - Legislative Count	(60.5)	(60.5)
Positions - Legislative Count	(32.0)	(32.0)	Positions - Other Count	(9.0)	(9.0)
Positions - Other Count	(508.0)	(508.0)	Personal Services	3,354,315	3,345,045
Personal Services	15,808,970	15,750,239	All Other	14,350,177	14,893,154
All Other	2,705,370	2,757,297	Program Total	17,704,492	18,238,199
Capital Expenditures	68,724	25,495	ELIZABETH LEVINSON		
Program Total	18,583,064	18,533,031	CENTER		
Disproportionate Share - Bangor			Elizabeth Levinson Center		
Mental Health Institute					

* General Fund			All Other	32,103,862	33,837,471
Positions - Legislative Count	(49.0)	(49.0)			
Personal Services	1,983,316	1,983,895	Fund Total	32,103,862	33,837,471
All Other	275,636	278,721			
Fund Total	2,258,952	2,262,616	Mental Retardation Services - Community		
DIVISION OF MENTAL HEALTH			* General Fund		
Mental Health Services - Community			Positions - Legislative Count	(147.0)	(147.0)
Medicaid			Personal Services	6,809,645	6,783,311
			All Other	8,179,590	8,594,584
			Fund Total	14,989,235	15,377,895
* General Fund			Other Participating Funds		
All Other	9,564,226	9,837,918	* Federal Expenditures Fund		
Fund Total	9,564,226	9,837,918	Positions - Other Count	(4.0)	(4.0)
Mental Health Services - Community			Personal Services	210,751	207,138
			All Other	209,724	213,337
			Fund Total	420,475	420,475
* General Fund			Other Participating Funds		
Positions - Legislative Count	(18.0)	(18.0)	* Other Special Revenue Funds		
Personal Services	891,441	891,732	All Other	35,750	37,375
All Other	20,201,518	21,409,960	Fund Total	35,750	37,375
Fund Total	21,092,959	22,301,692	Other Participating Funds		
Other Participating Funds			* Federal Block Grant Fund		
* Federal Expenditures Fund			All Other	924,149	924,149
Positions - Other Count	(2.0)	(2.0)	Fund Total	924,149	924,149
Personal Services	109,512	109,933	SUMMARY - MENTAL RETARDATION SERVICES - COMMUNITY		
All Other	670,316	669,895	Positions - Legislative Count	(147.0)	(147.0)
Fund Total	779,828	779,828	Positions - Other Count	(4.0)	(4.0)
Other Participating Funds			Personal Services	7,020,396	6,990,449
* Other Special Revenue Funds			All Other	9,349,213	9,769,445
All Other	55,195	57,486	Program Total	16,369,609	16,759,894
Fund Total	55,195	57,486	PINELAND CENTER Pineland Center		
Other Participating Funds			* General Fund		
* Federal Block Grant Fund			Positions - Legislative Count	(287.0)	(287.0)
All Other	872,658	872,658	Personal Services	11,886,311	11,808,376
Fund Total	872,658	872,658	All Other	1,545,507	1,561,972
SUMMARY - MENTAL HEALTH SERVICES - COMMUNITY			Capital Expenditures	34,300	3,300
Positions - Legislative Count	(18.0)	(18.0)	Fund Total	13,466,118	13,373,648
Positions - Other Count	(2.0)	(2.0)	Other Participating Funds		
Personal Services	1,000,953	1,001,665	* Other Special Revenue Funds		
All Other	21,799,687	23,009,999	All Other	96,085	97,094
Program Total	22,800,640	24,011,664	Fund Total	96,085	97,094
DIVISION OF MENTAL RETARDATION			SUMMARY - PINELAND CENTER		
Medicaid Services - Mental Retardation			Positions - Legislative Count	(287.0)	(287.0)
* General Fund					

Personal Services	11,886,311	11,808,376	Personal Services	386,994	386,652
All Other	1,641,592	1,659,066	All Other	28,633	29,382
Capital Expenditures	34,300	3,300			
Program Total	13,562,203	13,470,742	Fund Total	415,627	416,034
SUMMARY - DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION			Other Participating Funds		
* General Fund			* Other Special Revenue Funds		
Positions - Legislative Count	(734.5)	(734.5)	Positions - Other Count	(1.0)	(1.0)
Personal Services	49,539,464	49,284,509	Personal Services	31,077	31,120
All Other	87,252,949	91,609,032	All Other	142,062	145,878
Capital Expenditures	131,266	51,522	Fund Total	173,139	176,998
Umbrella Fund Total	136,923,679	140,945,063	SUMMARY - ADMINISTRATION - MUSEUM		
Other Participating Funds			Positions - Legislative Count	(9.5)	(9.5)
* Federal Expenditures Fund			Positions - Other Count	(1.0)	(1.0)
Positions - Other Count	(15.5)	(15.5)	Personal Services	418,071	417,772
Personal Services	786,201	791,045	All Other	170,695	175,260
All Other	5,852,456	5,928,860	Program Total	588,766	593,032
Umbrella Fund Total	6,638,657	6,719,905	Exhibit Design and Preparation - Museum		
* Other Special Revenue Funds			* General Fund		
Positions - Other Count	(1,057.5)	(1,057.5)	Positions - Legislative Count	(3.0)	(3.0)
Personal Services	30,551,452	30,386,982	Personal Services	123,795	122,270
All Other	4,861,971	4,994,556	All Other	96,850	100,635
Capital Expenditures	134,134	60,078	Fund Total	220,645	222,905
Umbrella Fund Total	35,547,557	35,441,616	Research and Collection - Museum		
* Federal Block Grant Fund			* General Fund		
All Other	2,315,139	2,315,139	Positions - Legislative Count	(8.0)	(8.0)
Umbrella Fund Total	2,315,139	2,315,139	Personal Services	401,240	394,103
SUMMARY - DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION			All Other	35,154	36,315
Positions - Legislative Count	(734.5)	(734.5)	Fund Total	436,394	430,418
Positions - Other Count	(1,073.0)	(1,073.0)	Other Participating Funds		
Personal Services	80,877,117	80,462,536	* Other Special Revenue Funds		
All Other	100,282,515	104,847,587	All Other	50,931	52,208
Capital Expenditures	265,400	111,600	Fund Total	50,931	52,208
Umbrella Grand Total	181,425,032	185,421,723	SUMMARY - RESEARCH AND COLLECTION - MUSEUM		
MAINE MUNICIPAL BOND BANK			Positions - Legislative Count	(8.0)	(8.0)
Maine Municipal Bond Bank - Maine Rural Water Association			Personal Services	401,240	394,103
* General Fund			All Other	86,085	88,523
All Other	113,637	113,637	Program Total	487,325	482,626
Fund Total	113,637	113,637	SUMMARY - MAINE STATE MUSEUM		
MAINE STATE MUSEUM			* General Fund		
Administration - Museum			Positions - Legislative Count	(20.5)	(20.5)
* General Fund			Personal Services	912,029	903,025
Positions - Legislative Count	(9.5)	(9.5)	All Other	160,637	166,332

Umbrella Fund Total	1,072,666	1,069,357	Capital Expenditures	223,700	135,700
Other Participating Funds			Fund Total	1,445,729	1,374,639
* Other Special Revenue Funds			ARBORIST EXAMINING BOARD		
Positions - Other Count	(1.0)	(1.0)	Arborist Examining Board		
Personal Services	31,077	31,120	Other Participating Funds		
All Other	192,993	198,086	* Other Special Revenue Funds		
Umbrella Fund Total	224,070	229,206	Personal Services	750	750
SUMMARY - MAINE STATE MUSEUM			All Other	4,618	4,699
Positions - Legislative Count	(20.5)	(20.5)	Fund Total	5,368	5,449
Positions - Other Count	(1.0)	(1.0)	MAINE STATE BOARD FOR LICENSURE OF ARCHITECTS, LANDSCAPE ARCHITECTS AND INTERIOR DESIGNERS		
Personal Services	943,106	934,145	Architects, Landscape Architects and Interior Designers - Maine State Board for Licensure of		
All Other	353,630	364,418	Other Participating Funds		
Umbrella Grand Total	1,296,736	1,298,563	* Other Special Revenue Funds		
PINE TREE LEGAL ASSISTANCE			Positions - Other Count	(1.0)	(1.0)
Legal Assistance			Personal Services	35,441	35,109
* General Fund			All Other	24,218	25,090
All Other	148,050	148,050	Fund Total	59,659	60,199
Fund Total	148,050	148,050	MAINE ATHLETIC COMMISSION		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION			Athletic Commission		
Board of Accountancy			Other Participating Funds		
Accountancy - Board of			* Other Special Revenue Funds		
Other Participating Funds			Personal Services	2,000	2,000
* Other Special Revenue Funds			All Other	6,861	6,861
Positions - Other Count	(1.0)	(1.0)	Fund Total	8,861	8,861
Personal Services	38,261	38,260	BOARD OF BARBERING AND COSMETOLOGY		
All Other	48,712	50,672	Barbering and Cosmetology - Board of		
Fund Total	86,973	88,932	Other Participating Funds		
ACUPUNCTURE LICENSING BOARD			* Other Special Revenue Funds		
Acupuncture Licensing Board			Positions - Other Count	(7.0)	(7.0)
Other Participating Funds			Personal Services	260,590	258,834
* Other Special Revenue Funds			All Other	85,937	88,565
All Other	2,770	2,853	Fund Total	346,527	347,399
Fund Total	2,770	2,853	BUREAU OF BANKING		
DIVISION OF ADMINISTRATIVE SERVICES (BUSINESS REGULATION)			Banking - Bureau of		
Administrative Services - Professional and Financial Regulation			Other Participating Funds		
Other Participating Funds			* Other Special Revenue Funds		
* Other Special Revenue Funds			Positions - Other Count	(43.0)	(43.0)
Positions - Other Count	(15.0)	(15.0)	Personal Services	2,120,417	2,118,735
Personal Services	715,364	708,934	All Other	476,934	486,889
All Other	506,665	530,005	Fund Total	2,597,351	2,605,624

BOARD OF CHIROPRACTIC
LICENSURE
Chiropractic Licensure - Board of

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(1.0)	(1.0)
Personal Services	32,681	33,538
All Other	11,417	11,739
Fund Total	44,098	45,277

BOARD OF COMMERCIAL
DRIVER EDUCATION
Commercial Driver Education

Other Participating Funds

* Other Special Revenue Funds

Personal Services	420	420
All Other	7,302	7,490
Fund Total	7,722	7,910

BUREAU OF CONSUMER
CREDIT PROTECTION
Consumer Credit Protection -
Bureau of

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(16.0)	(16.0)
Personal Services	739,260	741,264
All Other	178,421	182,487
Fund Total	917,681	923,751

BOARD OF COUNSELING
PROFESSIONALS LICENSURE
Board of Counseling
Professionals Licensure

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(0.5)	(0.5)
Personal Services	22,975	22,811
All Other	31,836	33,060
Fund Total	54,811	55,871

BOARD OF DENTAL
EXAMINERS
Dental Examiners - Board of

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(1.0)	(1.0)
Personal Services	44,201	44,677
All Other	56,514	58,078
Fund Total	100,715	102,755

ELECTRICIANS' EXAMINING
BOARD
Electricians' Examining Board

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(8.0)	(8.0)
Personal Services	337,874	337,961
All Other	39,941	39,908

Fund Total	377,815	377,869
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STATE BOARD OF
REGISTRATION FOR
PROFESSIONAL ENGINEERS
Engineers - State Board of
Registration for Professional

Other Participating Funds

* Other Special Revenue Funds

Positions - Other Count	(1.0)	(1.0)
Personal Services	38,119	38,770
All Other	113,184	110,105
Capital Expenditures	1,026	1,026

Fund Total	152,329	149,901
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STATE BOARD OF
LICENSURE FOR
PROFESSIONAL FORESTERS
Foresters - State Board of
Licensure for

Other Participating Funds

* Other Special Revenue Funds

Personal Services	1,500	1,500
All Other	9,307	9,686

Fund Total	10,807	11,186
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STATE BOARD OF FUNERAL
SERVICE
Funeral Service - State Board of

Other Participating Funds

* Other Special Revenue Funds

Personal Services	10,114	10,408
All Other	12,541	12,874

Fund Total	22,655	23,282
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STATE BOARD OF
CERTIFICATION FOR
GEOLOGISTS AND SOIL
SCIENTISTS
Geologists and Soil Scientists -
State Board of Certification for

Other Participating Funds

* Other Special Revenue Funds

Personal Services	980	980
All Other	2,509	2,583

Fund Total	3,489	3,563
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BOARD OF HEARING AID
DEALERS AND FITTERS
Hearing Aid Dealers and Fitters -
Board of

Other Participating Funds

* Other Special Revenue Funds			MANUFACTURED HOUSING		
Personal Services	5,040	5,040	BOARD		
All Other	7,261	7,458	Manufactured Housing Board		
Fund Total	12,301	12,498	Other Participating Funds		
BUREAU OF INSURANCE			* Other Special Revenue Funds		
Insurance - Bureau of			Positions - Other Count	(3.5)	(3.5)
Other Participating Funds			Personal Services	149,455	147,806
* Other Special Revenue Funds			All Other	93,403	93,403
Positions - Other Count	(79.0)	(79.0)	Fund Total	242,858	241,209
Personal Services	3,860,347	3,869,695	BOARD OF LICENSURE IN		
All Other	2,091,853	2,226,123	MEDICINE		
Fund Total	5,952,200	6,095,818	Licensure in Medicine - Board of		
BOARD OF LICENSURE FOR			Other Participating Funds		
PROFESSIONAL LAND			* Other Special Revenue Funds		
SURVEYORS			Positions - Other Count	(8.0)	(8.0)
Land Surveyors - Board of			Personal Services	375,534	378,297
Registration for			All Other	338,917	348,721
Other Participating Funds			Capital Expenditures	14,950	13,700
* Other Special Revenue Funds			Fund Total	729,401	740,718
Personal Services	3,000	3,000	STATE BOARD OF NURSING		
All Other	22,419	23,242	Nursing - State Board of		
Fund Total	25,419	26,242	Other Participating Funds		
BOARD OF LICENSING OF			* Other Special Revenue Funds		
AUCTIONEERS			Positions - Other Count	(7.0)	(7.0)
Licensing of Auctioneers - Board			Personal Services	281,029	278,958
of			All Other	271,501	278,025
Other Participating Funds			Capital Expenditures	15,750	9,000
* Other Special Revenue Funds			Fund Total	568,280	565,983
Personal Services	1,800	1,800	NURSING HOME		
All Other	6,060	6,089	ADMINISTRATORS		
Fund Total	7,860	7,889	LICENSING BOARD		
DIVISION OF LICENSING AND			Nursing Home Administrators		
ENFORCEMENT			Licensing Board		
Licensing and Enforcement			Other Participating Funds		
Other Participating Funds			* Other Special Revenue Funds		
* Other Special Revenue Funds			Personal Services	2,940	2,940
Positions - Other Count	(16.5)	(16.5)	All Other	10,324	10,660
Personal Services	646,097	653,613	Fund Total	13,264	13,600
All Other	329,720	336,711	BOARD OF OCCUPATIONAL		
Fund Total	975,817	990,324	THERAPISTS		
BOARD OF LICENSING OF			Occupational Therapists - Board		
DIETETIC PRACTICE			of		
Licensing of Dietetic Practice -			Other Participating Funds		
Board of			* Other Special Revenue Funds		
Other Participating Funds			Personal Services	1,400	1,400
* Other Special Revenue Funds			All Other	2,503	2,574
Personal Services	1,400	1,400	Fund Total	3,903	3,974
All Other	6,211	6,280	OIL AND SOLID FUEL BOARD		
Fund Total	7,611	7,680	Oil and Solid Fuel Board		
			Other Participating Funds		

* Other Special Revenue Funds			PLUMBERS' EXAMINING BOARD		
Positions - Other Count	(4.0)	(4.0)	Plumbers' Examining Board		
Personal Services	166,636	168,017	Other Participating Funds		
All Other	33,390	34,254	* Other Special Revenue Funds		
Fund Total	200,026	202,271	Positions - Other Count	(4.0)	(4.0)
STATE BOARD OF OPTOMETRY			Personal Services	152,680	153,343
Optometry - State Board of			All Other	21,119	21,510
Other Participating Funds			Fund Total	173,799	174,853
* Other Special Revenue Funds			BOARD OF LICENSURE OF PODIATRIC MEDICINE		
Personal Services	2,050	2,050	Licensure of Podiatric Medicine - Board of		
All Other	30,198	29,804	Other Participating Funds		
Fund Total	32,248	31,854	* Other Special Revenue Funds		
BOARD OF OSTEOPATHIC LICENSURE			Personal Services	1,250	1,250
Osteopathic Licensure - Board of			All Other	6,804	7,006
Other Participating Funds			Fund Total	8,054	8,256
* Other Special Revenue Funds			STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS		
Positions - Other Count	(1.0)	(1.0)	Psychologists - Board of Examiners		
Personal Services	39,177	39,214	Other Participating Funds		
All Other	39,144	40,220	* Other Special Revenue Funds		
Capital Expenditures	1,000	1,000	Personal Services	5,670	5,670
Fund Total	79,321	80,434	All Other	25,171	26,235
BOARD OF COMMISSIONERS OF THE PROFESSION OF PHARMACY			Fund Total	30,841	31,905
Pharmacy - Board of Commissioners of the Profession of			RADIOLOGIC TECHNOLOGY BOARD OF EXAMINERS		
Other Participating Funds			Radiologic Technology Board of Examiners		
* Other Special Revenue Funds			Other Participating Funds		
Personal Services	3,920	3,920	* Other Special Revenue Funds		
All Other	49,705	50,904	All Other	8,476	8,766
Fund Total	53,625	54,824	Fund Total	8,476	8,766
BOARD OF EXAMINERS IN PHYSICAL THERAPY			REAL ESTATE COMMISSION		
Physical Therapy - Board of Examiners			Real Estate Commission		
Other Participating Funds			Other Participating Funds		
* Other Special Revenue Funds			* Other Special Revenue Funds		
Personal Services	1,500	1,500	Positions - Other Count	(11.0)	(11.0)
All Other	15,231	15,847	Personal Services	441,302	441,184
Fund Total	16,731	17,347	All Other	237,410	243,440
MAINE STATE PILOTAGE COMMISSION			Fund Total	678,712	684,624
Maine State Pilotage Commission			BOARD OF REAL ESTATE APPRAISERS		
Other Participating Funds			Real Estate Appraisers - Board of		
* Other Special Revenue Funds			Other Participating Funds		
All Other	643	659	* Other Special Revenue Funds		
Fund Total	643	659	Personal Services	2,450	2,450

All Other	61,770	64,204	SUMMARY - DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
Fund Total	64,220	66,654			
BOARD OF RESPIRATORY CARE PRACTITIONERS			Other Participating Funds		
Respiratory Care Practitioners - Board of			* Other Special Revenue Funds		
			Positions - Other Count	(230.5)	(230.5)
			Personal Services	10,620,624	10,632,286
			All Other	5,432,769	5,653,414
			Capital Expenditures	256,426	160,426
Other Participating Funds					
* Other Special Revenue Funds					
Personal Services	2,800	2,800			
All Other	9,614	9,911			
Fund Total	12,414	12,711	Umbrella Fund Total	16,309,819	16,446,126
STATE BOARD OF SOCIAL WORKER LICENSURE			SUMMARY - DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
Social Worker Licensure - State Board of			Positions - Other Count	(230.5)	(230.5)
			Personal Services	10,620,624	10,632,286
			All Other	5,432,769	5,653,414
			Capital Expenditures	256,426	160,426
Other Participating Funds					
* Other Special Revenue Funds			Umbrella Grand Total	16,309,819	16,446,126
Positions - Other Count	(2.0)	(2.0)	STATE BOARD OF PROPERTY TAX REVIEW		
Personal Services	65,790	65,578			
All Other	65,040	67,805	Property Tax Review - State Board of		
Fund Total	130,830	133,383	* General Fund		
BOARD OF EXAMINERS ON SPEECH PATHOLOGY AND AUDIOLOGY			Positions - Legislative Count	(0.5)	(0.5)
Speech Pathology and Audiology - Board of Examiners on			Personal Services	29,963	30,261
			All Other	70,597	72,190
Other Participating Funds			Fund Total	100,560	102,451
* Other Special Revenue Funds			MAINE PUBLIC BROADCASTING CORPORATION		
Personal Services	2,450	2,450	Maine Public Broadcasting Corporation		
All Other	5,907	5,835	* General Fund		
Fund Total	8,357	8,285	All Other	2,297,061	2,365,973
STATE BOARD OF SUBSTANCE ABUSE COUNSELORS			Fund Total	2,297,061	2,365,973
Substance Abuse Counselors - State Board of			DEPARTMENT OF PUBLIC SAFETY		
Other Participating Funds			Administration - Public Safety		
* Other Special Revenue Funds			* General Fund		
All Other	16,624	17,189	Positions - Legislative Count	(2.5)	(2.5)
Fund Total	16,624	17,189	Personal Services	186,320	185,943
STATE BOARD OF VETERINARY MEDICINE			All Other	5,122	5,219
Veterinary Medicine - State Board of			Fund Total	191,442	191,162
Other Participating Funds			Other Participating Funds		
* Other Special Revenue Funds			* Highway Fund		
Personal Services	3,960	3,960	Positions - Legislative Count	(13.0)	(13.0)
All Other	6,664	6,895	Personal Services	498,674	498,149
Fund Total	10,624	10,855	All Other	56,184	58,244
			Fund Total	554,858	556,393

* Federal Expenditures Fund					
Positions - Other Count	(0.5)	(0.5)	Fund Total	775,971	796,191
Personal Services	29,902	29,333	BUREAU OF CAPITOL		
All Other	570	558	SECURITY		
Fund Total	30,472	29,891	Capitol Security - Bureau of		
* Other Special Revenue Funds			* General Fund		
Positions - Other Count	(5.0)	(5.0)	Positions - Legislative Count	(10.5)	(10.5)
Personal Services	252,418	251,582	Personal Services	389,417	385,949
All Other	29,243	29,869	All Other	19,085	19,634
Fund Total	281,661	281,451	Fund Total	408,502	405,583
SUMMARY -			Other Participating Funds		
ADMINISTRATION - PUBLIC			* Other Special Revenue Funds		
SAFETY			Positions - Other Count	(1.0)	(1.0)
Positions - Legislative Count	(15.5)	(15.5)	Personal Services	31,910	32,838
Positions - Other Count	(5.5)	(5.5)	All Other	638	656
Personal Services	967,314	965,007	Fund Total	32,548	33,494
All Other	91,119	93,890	SUMMARY - CAPITOL		
Program Total	1,058,433	1,058,897	SECURITY - BUREAU OF		
Emergency Medical Services			Positions - Legislative Count	(10.5)	(10.5)
* General Fund			Positions - Other Count	(1.0)	(1.0)
Positions - Legislative Count	(3.0)	(3.0)	Personal Services	421,327	418,787
Personal Services	128,734	127,276	All Other	19,723	20,290
All Other	638,312	668,631	Program Total	441,050	439,077
Capital Expenditures	57,300	24,100	MAINE CRIMINAL JUSTICE		
Fund Total	824,346	820,007	ACADEMY		
Other Participating Funds			Criminal Justice Academy		
* Other Special Revenue Funds			* General Fund		
All Other	70,000	70,000	Positions - Legislative Count	(10.0)	(10.0)
Fund Total	70,000	70,000	Personal Services	434,258	447,958
* Federal Block Grant Fund			All Other	212,864	221,650
Positions - Legislative Count	(3.0)	(3.0)	Fund Total	647,122	669,608
Personal Services	167,709	168,930	Other Participating Funds		
All Other	20,551	21,089	* Federal Expenditures Fund		
Fund Total	188,260	190,019	Positions - Other Count	(4.0)	(4.0)
SUMMARY - EMERGENCY			Personal Services	180,668	179,964
MEDICAL SERVICES			All Other	338,381	371,506
Positions - Legislative Count	(6.0)	(6.0)	Fund Total	519,049	551,470
Personal Services	296,443	296,206	* Other Special Revenue Funds		
All Other	728,863	759,720	Positions - Other Count	(6.0)	(6.0)
Capital Expenditures	57,300	24,100	Personal Services	243,901	244,580
Program Total	1,082,606	1,080,026	All Other	235,215	244,076
Motor Vehicle Inspection			Fund Total	479,116	488,656
Other Participating Funds			SUMMARY - CRIMINAL		
* Highway Fund			JUSTICE ACADEMY		
Positions - Legislative Count	(12.0)	(12.0)	Positions - Legislative Count	(10.0)	(10.0)
Personal Services	640,938	639,240	Positions - Other Count	(10.0)	(10.0)
All Other	135,033	92,151	Personal Services	858,827	872,502
Capital Expenditures		64,800	All Other	786,460	837,232

Program Total	1,645,287	1,709,734	Highway Safety - Department of Public Safety		
MAINE DRUG ENFORCEMENT AGENCY			Other Participating Funds		
Drug Enforcement Agency			* Highway Fund		
* General Fund			Positions - Legislative Count	(7.0)	(7.0)
Positions - Legislative Count	(8.0)	(8.0)	Personal Services	267,180	265,993
Personal Services	370,140	364,705	All Other	337,498	353,716
All Other	747,344	776,772	Fund Total	604,678	619,709
Fund Total	1,117,484	1,141,477	* Federal Expenditures Fund		
Other Participating Funds			Positions - Other Count	(1.0)	(1.0)
* Federal Expenditures Fund			Personal Services	73,490	73,526
All Other	1,350,000	1,350,000	All Other	403,264	407,341
Fund Total	1,350,000	1,350,000	Capital Expenditures	150,000	160,000
* Other Special Revenue Funds			Fund Total	626,754	640,867
Positions - Other Count	(4.0)	(4.0)	* Other Special Revenue Funds		
Personal Services	203,091	201,712	Positions - Other Count	(1.0)	(1.0)
All Other	139,339	145,503	Personal Services	21,242	20,947
Fund Total	342,430	347,215	All Other	33,780	35,306
SUMMARY - DRUG ENFORCEMENT AGENCY			Capital Expenditures	225,000	225,000
Positions - Legislative Count	(8.0)	(8.0)	Fund Total	280,022	281,253
Positions - Other Count	(4.0)	(4.0)	SUMMARY - HIGHWAY SAFETY - DEPARTMENT OF PUBLIC SAFETY		
Personal Services	573,231	566,417	Positions - Legislative Count	(7.0)	(7.0)
All Other	2,236,683	2,272,275	Positions - Other Count	(2.0)	(2.0)
Program Total	2,809,914	2,838,692	Personal Services	361,912	360,466
EMERGENCY SERVICES COMMUNICATION BUREAU			All Other	774,542	796,363
Emergency Services			Capital Expenditures	375,000	385,000
Communication Bureau			Program Total	1,511,454	1,541,829
Other Participating Funds			BUREAU OF LIQUOR ENFORCEMENT		
* Other Special Revenue Funds			Liquor Enforcement		
Positions - Other Count	(3.0)	(3.0)	* General Fund		
Personal Services	164,196	159,985	Positions - Legislative Count	(32.0)	(32.0)
All Other	31,457	31,978	Personal Services	1,509,433	1,503,480
Fund Total	195,653	191,963	All Other	122,867	126,263
OFFICE OF THE STATE FIRE MARSHAL			Capital Expenditures	123,200	89,200
State Fire Marshal - Office of			Fund Total	1,755,500	1,718,943
Other Participating Funds			BUREAU OF STATE POLICE		
* Other Special Revenue Funds			Licensing and Enforcement - Public Safety		
Positions - Other Count	(41.5)	(41.5)	Other Participating Funds		
Personal Services	1,789,152	1,794,168	* Other Special Revenue Funds		
All Other	406,432	406,788	Positions - Other Count	(8.0)	(8.0)
Capital Expenditures	62,000	97,000	Personal Services	341,330	338,299
Fund Total	2,257,584	2,297,956	All Other	104,450	106,599
BUREAU OF HIGHWAY SAFETY			Capital Expenditures	25,000	
			Fund Total	470,780	444,898
			Motor Carrier Safety		

Other Participating Funds			Personal Services	1,775,646	1,925,916
* Federal Expenditures Fund			All Other	270,694	278,677
Positions - Other Count	(8.0)	(8.0)	Capital Expenditures	122,500	72,800
Personal Services	324,178	325,289			
All Other	60,302	61,301	Fund Total	2,168,840	2,277,393
Fund Total	384,480	386,590	Turnpike Enforcement		
State Police			Other Participating Funds		
* General Fund			* Other Special Revenue Funds		
Positions - Legislative Count	(364.0)	(364.0)	Positions - Other Count	(30.0)	(30.0)
Personal Services	10,369,072	10,338,426	Personal Services	2,006,839	1,999,878
All Other	2,154,583	2,198,870	All Other	206,910	210,240
Capital Expenditures	1,527,280	625,100	Capital Expenditures	155,000	162,000
Fund Total	14,050,935	13,162,396	Fund Total	2,368,749	2,372,118
Other Participating Funds			SUMMARY - DEPARTMENT		
* Highway Fund			OF PUBLIC SAFETY		
Personal Services	10,369,072	10,338,426	* General Fund		
All Other	2,154,583	2,198,870	Positions - Legislative Count	(430.0)	(430.0)
Capital Expenditures	1,527,280	625,100	Personal Services	13,387,374	13,353,737
Fund Total	14,050,935	13,162,396	All Other	3,900,177	4,017,039
* Federal Expenditures Fund			Capital Expenditures	1,707,780	738,400
Positions - Other Count	(5.0)	(5.0)	Umbrella Fund Total	18,995,331	18,109,176
Personal Services	157,331	158,665	Other Participating Funds		
All Other	12,064	12,109	* Highway Fund		
Fund Total	169,395	170,774	Positions - Legislative Count	(41.0)	(41.0)
* Other Special Revenue Funds			Personal Services	12,379,723	12,338,596
Positions - Other Count	(6.0)	(6.0)	All Other	2,835,360	2,833,044
Personal Services	219,846	220,271	Capital Expenditures	1,527,280	689,900
All Other	12,680	12,705	Umbrella Fund Total	16,742,363	15,861,540
Fund Total	232,526	232,976	* Federal Expenditures Fund		
SUMMARY - STATE POLICE			Positions - Other Count	(18.5)	(18.5)
Positions - Legislative Count	(364.0)	(364.0)	Personal Services	765,569	766,777
Positions - Other Count	(11.0)	(11.0)	All Other	2,164,581	2,202,815
Personal Services	21,115,321	21,055,788	Capital Expenditures	150,000	160,000
All Other	4,333,910	4,422,554	Umbrella Fund Total	3,080,150	3,129,592
Capital Expenditures	3,054,560	1,250,200	* Other Special Revenue Funds		
Program Total	28,503,791	26,728,542	Positions - Legislative Count	(41.0)	(41.0)
Traffic Safety			Positions - Other Count	(105.5)	(105.5)
Other Participating Funds			Personal Services	7,049,571	7,190,176
* Highway Fund			All Other	1,540,838	1,572,397
Positions - Legislative Count	(9.0)	(9.0)	Capital Expenditures	589,500	556,800
Personal Services	603,859	596,788	Umbrella Fund Total	9,179,909	9,319,373
All Other	152,062	130,063	* Federal Block Grant Fund		
Fund Total	755,921	726,851	Positions - Legislative Count	(3.0)	(3.0)
Traffic Safety - Commercial			Personal Services	167,709	168,930
Vehicle Enforcement			All Other	20,551	21,089
Other Participating Funds			Umbrella Fund Total	188,260	190,019
* Other Special Revenue Funds			SUMMARY - DEPARTMENT		
Positions - Legislative Count	(41.0)	(41.0)	OF PUBLIC SAFETY		
			Positions - Legislative Count	(515.0)	(515.0)
			Positions - Other Count	(124.0)	(124.0)

Personal Services	33,749,946	33,818,216	DEPARTMENT OF THE		
All Other	10,461,507	10,646,384	SECRETARY OF STATE		
Capital Expenditures	3,974,560	2,145,100	Maine State Archives		
Umbrella Grand Total	48,186,013	46,609,700	Administration - Archives		
PUBLIC UTILITIES			* General Fund		
COMMISSION			Positions - Legislative Count	(14.0)	(14.0)
Public Utilities - Administrative			Personal Services	596,311	591,613
Division			All Other	73,264	75,583
			Capital Expenditures	46,648	9,012
Other Participating Funds			Fund Total	716,223	676,208
* Other Special Revenue Funds			Other Participating Funds		
Positions - Legislative Count	(68.5)	(68.5)	* Other Special Revenue Funds		
Personal Services	4,033,344	4,034,831	All Other	9,846	10,145
All Other	1,096,546	1,101,869	Fund Total	9,846	10,145
Capital Expenditures	13,110	6,300			
Fund Total	5,143,000	5,143,000	SUMMARY -		
RADIOLOGICAL			ADMINISTRATION -		
EMERGENCY			ARCHIVES		
PREPAREDNESS			Positions - Legislative Count	(14.0)	(14.0)
COMMITTEE			Personal Services	596,311	591,613
Nuclear Emergency Planning			All Other	83,110	85,728
Fund - Maine			Capital Expenditures	46,648	9,012
Other Participating Funds			Program Total	726,069	686,353
* Other Special Revenue Funds			BUREAU OF CORPORATIONS,		
Positions - Legislative Count	(3.0)	(3.0)	ELECTIONS AND		
Personal Services	78,267	79,565	COMMISSIONS		
All Other	151,099	149,801	Bureau of Administrative Services		
Fund Total	229,366	229,366	and Corporations		
(BOARD OF TRUSTEES OF			* General Fund		
THE) MAINE STATE			Positions - Legislative Count	(28.0)	(28.0)
RETIREMENT SYSTEM			Personal Services	1,021,241	1,029,099
Retirement System - Retirement			All Other	249,463	256,415
Allowance Fund			Capital Expenditures	141,201	77,489
* General Fund			Fund Total	1,411,905	1,363,003
All Other	181,369	188,624	Other Participating Funds		
Fund Total	181,369	188,624	* Other Special Revenue Funds		
MAINE SARDINE COUNCIL			Positions - Other Count	(2.5)	(2.5)
Sardine Council			Personal Services	70,986	72,364
Other Participating Funds			All Other	10,666	10,895
* Other Special Revenue Funds			Fund Total	81,652	83,259
All Other	525,000	525,000	SUMMARY - BUREAU OF		
Fund Total	525,000	525,000	ADMINISTRATIVE SERVICES		
MAINE SCIENCE AND			AND CORPORATIONS		
TECHNOLOGY			Positions - Legislative Count	(28.0)	(28.0)
FOUNDATION			Positions - Other Count	(2.5)	(2.5)
Maine Science and Technology			Personal Services	1,092,227	1,101,463
Foundation			All Other	260,129	267,310
* General Fund			Capital Expenditures	141,201	77,489
All Other	2,340,000	2,340,000	Program Total	1,493,557	1,446,262
Fund Total	2,340,000	2,340,000	Elections and Commissions		

* General Fund		
Positions - Legislative Count	(8.0)	(8.0)
Positions - Other Count	(0.5)	(0.5)
Personal Services	341,552	339,136
All Other	552,107	421,138
Fund Total	893,659	760,274

Office of the Secretary of State

* General Fund		
Positions - Legislative Count	(4.5)	(4.5)
Personal Services	270,089	273,292
All Other	5,779	5,880
Fund Total	275,868	279,172

DIVISION OF MOTOR VEHICLES

Administration - Motor Vehicles

Other Participating Funds

* Highway Fund		
Positions - Legislative Count	(363.0)	(363.0)
Positions - Other Count	(0.5)	(0.5)
Personal Services	13,201,475	13,219,754
All Other	8,034,627	8,248,369
Capital Expenditures	288,266	252,656
Fund Total	21,524,368	21,720,779

* Federal Expenditures Fund		
All Other	400,000	400,000
Fund Total	400,000	400,000

* Other Special Revenue Funds		
Positions - Legislative Count	(19.0)	(19.0)
Personal Services	595,763	602,290
All Other	125,127	127,829
Fund Total	720,890	730,119

SUMMARY -
ADMINISTRATION - MOTOR
VEHICLES

Positions - Legislative Count	(382.0)	(382.0)
Positions - Other Count	(0.5)	(0.5)
Personal Services	13,797,238	13,822,044
All Other	8,559,754	8,776,198
Capital Expenditures	288,266	252,656
Program Total	22,645,258	22,850,898

Fuel Use Decal Program

Other Participating Funds

* Highway Fund		
Positions - Legislative Count	(7.0)	(7.0)
Personal Services	220,623	222,966
All Other	72,437	74,139
Fund Total	293,060	297,105

SUMMARY - DEPARTMENT
OF THE SECRETARY OF
STATE

* General Fund		
Positions - Legislative Count	(54.5)	(54.5)
Positions - Other Count	(0.5)	(0.5)
Personal Services	2,229,193	2,233,140
All Other	880,613	759,016
Capital Expenditures	187,849	86,501
Umbrella Fund Total	3,297,655	3,078,657

Other Participating Funds

* Highway Fund		
Positions - Legislative Count	(370.0)	(370.0)
Positions - Other Count	(0.5)	(0.5)
Personal Services	13,422,098	13,442,720
All Other	8,107,064	8,322,508
Capital Expenditures	288,266	252,656
Umbrella Fund Total	21,817,428	22,017,884

* Federal Expenditures Fund		
All Other	400,000	400,000
Umbrella Fund Total	400,000	400,000

* Other Special Revenue Funds		
Positions - Legislative Count	(19.0)	(19.0)
Positions - Other Count	(2.5)	(2.5)
Personal Services	666,749	674,654
All Other	145,639	148,869
Umbrella Fund Total	812,388	823,523

SUMMARY - DEPARTMENT
OF THE SECRETARY OF
STATE

Positions - Legislative Count	(443.5)	(443.5)
Positions - Other Count	(3.5)	(3.5)
Personal Services	16,318,040	16,350,514
All Other	9,533,316	9,630,393
Capital Expenditures	476,115	339,157
Umbrella Grand Total	26,327,471	26,320,064

ST. CROIX INTERNATIONAL
WATERWAY COMMISSIONSt. Croix International Waterway
Commission

* General Fund		
All Other	10,000	10,000
Fund Total	10,000	10,000

BOARD OF TRUSTEES OF
THE MAINE TECHNICAL
COLLEGE SYSTEMMaine Technical College System -
Board of Trustees

* General Fund

All Other	27,678,484	28,674,910
Fund Total	27,678,484	28,674,910

Other Participating Funds
* Other Special Revenue Funds

All Other	560,000	560,000
Fund Total	560,000	560,000

**SUMMARY - MAINE
TECHNICAL COLLEGE
SYSTEM - BOARD OF
TRUSTEES**

All Other	28,238,484	29,234,910
Program Total	28,238,484	29,234,910

**DEPARTMENT OF
TRANSPORTATION**
Bureau of Finance and
Administration (Transportation)
Administration and Planning

Other Participating Funds
* Highway Fund

Positions - Legislative Count	(204.0)	(204.0)
Positions - Other Count	(1.5)	(1.5)
Personal Services	7,641,530	7,577,559
All Other	3,955,000	3,955,004
Capital Expenditures	530,000	530,000
Fund Total	12,126,530	12,062,563

* Federal Expenditures Fund

Personal Services	1,521,268	1,513,782
All Other	1,400,000	1,400,000
Capital Expenditures	100,000	100,000
Fund Total	3,021,268	3,013,782

* Other Special Revenue Funds

All Other	150,000	150,000
Fund Total	150,000	150,000

**SUMMARY -
ADMINISTRATION AND
PLANNING**

Positions - Legislative Count	(204.0)	(204.0)
Positions - Other Count	(1.5)	(1.5)
Personal Services	9,162,798	9,091,341
All Other	5,505,000	5,505,004
Capital Expenditures	630,000	630,000
Program Total	15,297,798	15,226,345

Suspense Receivable -
Transportation

Other Participating Funds
* Other Special Revenue Funds

Personal Services	529,898	529,140
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All Other	378,486	392,327
Capital Expenditures	150,000	150,000
Fund Total	1,058,384	1,071,467

**BUREAU OF MAINTENANCE
AND OPERATIONS**
Bridge Maintenance

Other Participating Funds
* Highway Fund

Positions - Legislative Count	(16.0)	(16.0)
Positions - Other Count	(152.0)	(152.0)
Personal Services	7,562,292	7,599,849
All Other	3,092,000	3,188,000
Capital Expenditures	110,000	110,000

Fund Total	10,764,292	10,897,849
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Collector Road Program

Other Participating Funds
* Highway Fund

Personal Services	748,383	748,692
All Other	1,812,000	1,812,000
Capital Expenditures	2,000	2,000

Fund Total	2,562,383	2,562,692
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Highway Maintenance

Other Participating Funds
* Highway Fund

Positions - Legislative Count	(128.0)	(128.0)
Positions - Other Count	(966.0)	(966.0)
Personal Services	45,125,557	45,370,618
All Other	33,233,000	33,137,000
Capital Expenditures	5,456,000	5,456,000

Fund Total	83,814,557	83,963,618
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Island Town Refunds - Highway

Other Participating Funds
* Highway Fund

All Other	70,000	75,000
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Fund Total	70,000	75,000
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Local Bridges

Other Participating Funds
* Highway Fund

Personal Services	318,068	318,206
All Other	179,000	179,000
Capital Expenditures	438,000	438,000

Fund Total	935,068	935,206
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* Federal Expenditures Fund

Personal Services	292,987	292,132
All Other	304,737	317,049
Capital Expenditures	3,050,000	3,050,000

Fund Total	3,647,724	3,659,181
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* Other Special Revenue Funds			Personal Services	2,804,050	2,811,457
Personal Services	146,494	146,067	All Other	3,414,871	3,479,817
All Other	204,206	210,623	Capital Expenditures	9,000	9,000
Capital Expenditures	2,000,000	2,000,000			
Fund Total	2,350,700	2,356,690	Program Total	6,227,921	6,300,274
SUMMARY - LOCAL BRIDGES			BUREAU OF PROJECT DEVELOPMENT		
Personal Services	757,549	756,405	Bond Interest - Highway		
All Other	687,943	706,672	Other Participating Funds		
Capital Expenditures	5,488,000	5,488,000	* Highway Fund		
Program Total	6,933,492	6,951,077	All Other	8,062,629	6,925,139
Local Road Assistance			Fund Total	8,062,629	6,925,139
Other Participating Funds			Bond Retirement - Highway		
* Highway Fund			Other Participating Funds		
All Other	19,400,000	19,300,000	* Highway Fund		
Fund Total	19,400,000	19,300,000	All Other	18,510,001	17,880,001
Motor Transport Service			Fund Total	18,510,001	17,880,001
Other Participating Funds			Highway and Bridge Improvement		
* Highway Garage Fund			Other Participating Funds		
Positions - Other Count	(252.0)	(252.0)	* Highway Fund		
Personal Services	10,733,380	11,005,087	Positions - Legislative Count	(618.5)	(618.5)
All Other	13,605,200	13,854,916	Positions - Other Count	(72.5)	(72.5)
Fund Total	24,338,580	24,860,003	Personal Services	15,852,045	15,854,919
Radio Operations - Highway			All Other	1,043,000	1,043,000
Other Participating Funds			Capital Expenditures	3,000,000	9,650,000
* Highway Fund			Fund Total	19,895,045	26,547,919
Positions - Legislative Count	(6.0)	(6.0)	* Federal Expenditures Fund		
Personal Services	281,881	280,733	Personal Services	13,854,872	13,814,703
All Other	99,000	99,000	All Other	9,444,100	9,690,037
Capital Expenditures	29,000	5,000	Capital Expenditures	133,000,000	133,000,000
Fund Total	409,881	384,733	Fund Total	156,298,972	156,504,740
Traffic Service			* Other Special Revenue Funds		
Other Participating Funds			Capital Expenditures	6,000,000	6,000,000
* Highway Fund			Fund Total	6,000,000	6,000,000
Positions - Legislative Count	(14.0)	(14.0)	SUMMARY - HIGHWAY AND BRIDGE IMPROVEMENT		
Positions - Other Count	(44.0)	(44.0)	Positions - Legislative Count	(618.5)	(618.5)
Personal Services	1,644,222	1,649,658	Positions - Other Count	(72.5)	(72.5)
All Other	1,215,000	1,215,000	Personal Services	29,706,917	29,669,622
Capital Expenditures	9,000	9,000	All Other	10,487,100	10,733,037
Fund Total	2,868,222	2,873,658	Capital Expenditures	142,000,000	148,650,000
* Federal Expenditures Fund			Program Total	182,194,017	189,052,659
Personal Services	1,159,828	1,161,799	Small Utility Loan Program		
All Other	2,199,871	2,264,817	Other Participating Funds		
Fund Total	3,359,699	3,426,616	* Highway Fund		
SUMMARY - TRAFFIC SERVICE			All Other	250,000	250,000
Positions - Legislative Count	(14.0)	(14.0)			
Positions - Other Count	(44.0)	(44.0)			

Fund Total	250,000	250,000	Other Participating Funds		
BUREAU OF			* Island Ferry Services Fund		
TRANSPORTATION SERVICES			Positions - Other Count	(56.0)	(56.0)
Administration - Aeronautics			Personal Services	2,289,240	2,298,332
			All Other	1,263,220	1,278,168
* General Fund			Fund Total	3,552,460	3,576,500
Positions - Legislative Count	(3.5)	(3.5)	Park and Ride Lots		
Personal Services	189,500	186,784	Other Participating Funds		
All Other	389,226	398,869	* Other Special Revenue Funds		
Fund Total	578,726	585,653	All Other	1,000	
Other Participating Funds			Fund Total	1,000	
* Federal Expenditures Fund			Ports and Marine Transportation		
All Other	164,866	165,148	Other Participating Funds		
Capital Expenditures	1,590,000	1,120,000	* Marine Ports Fund		
Fund Total	1,754,866	1,285,148	Positions - Other Count	(3.0)	(3.0)
SUMMARY -			Personal Services	144,960	144,134
ADMINISTRATION -			All Other	92,852	93,527
AERONAUTICS			Fund Total	237,812	237,661
Positions - Legislative Count	(3.5)	(3.5)	Railroad Assistance Program		
Personal Services	189,500	186,784	* General Fund		
All Other	554,092	564,017	Positions - Legislative Count	(2.0)	(2.0)
Capital Expenditures	1,590,000	1,120,000	Personal Services	92,559	93,480
Program Total	2,333,592	1,870,801	All Other	111,941	117,554
Administration - Ports and Marine			Fund Total	204,500	211,034
Transportation			Other Participating Funds		
* General Fund			* Highway Fund		
All Other	1,779,492	1,655,237	All Other	605,000	605,000
Fund Total	1,779,492	1,655,237	Fund Total	605,000	605,000
Other Participating Funds			* Federal Expenditures Fund		
* Federal Expenditures Fund			All Other	750,000	750,000
All Other	35,000	40,000	Fund Total	750,000	750,000
Fund Total	35,000	40,000	* Other Special Revenue Funds		
SUMMARY -			All Other	209,250	159,400
ADMINISTRATION - PORTS			Fund Total	209,250	159,400
AND MARINE			SUMMARY - RAILROAD		
TRANSPORTATION			ASSISTANCE PROGRAM		
All Other	1,814,492	1,695,237	Positions - Legislative Count	(2.0)	(2.0)
Program Total	1,814,492	1,695,237	Personal Services	92,559	93,480
Augusta State Airport			All Other	1,676,191	1,631,954
Other Participating Funds			Program Total	1,768,750	1,725,434
* Augusta State Airport Fund			Railroad Preservation and		
Positions - Other Count	(8.0)	(8.0)	Assistance Fund		
Personal Services	285,416	290,437	Other Participating Funds		
All Other	222,140	225,767	* Other Special Revenue Funds		
Fund Total	507,556	516,204	All Other	150,000	150,000
Island Ferry Service					

Fund Total	150,000	150,000	Umbrella Fund Total	175,003,573	174,544,819
Transportation Services			* Other Special Revenue Funds		
* General Fund			Personal Services	676,392	675,207
All Other	420,000	420,000	All Other	1,157,241	1,128,398
			Capital Expenditures	8,596,000	8,531,200
Fund Total	420,000	420,000	Umbrella Fund Total	10,429,633	10,334,805
Other Participating Funds			* Highway Garage Fund		
* Federal Expenditures Fund			Positions - Other Count	(252.0)	(252.0)
Personal Services	292,124	306,730	Personal Services	10,733,380	11,005,087
All Other	3,843,920	3,997,622	All Other	13,605,200	13,854,916
Capital Expenditures	2,000,000	1,561,000			
Fund Total	6,136,044	5,865,352	Umbrella Fund Total	24,338,580	24,860,003
* Other Special Revenue Funds			* Island Ferry Services Fund		
Capital Expenditures	400,000	312,200	Positions - Other Count	(56.0)	(56.0)
Fund Total	400,000	312,200	Personal Services	2,289,240	2,298,332
			All Other	1,263,220	1,278,168
SUMMARY -			Umbrella Fund Total	3,552,460	3,576,500
TRANSPORTATION SERVICES			* Augusta State Airport Fund		
Personal Services	292,124	306,730	Positions - Other Count	(8.0)	(8.0)
All Other	4,263,920	4,417,622	Personal Services	285,416	290,437
Capital Expenditures	2,400,000	1,873,200	All Other	222,140	225,767
Program Total	6,956,044	6,597,552	Umbrella Fund Total	507,556	516,204
Van-Pool Services			* Marine Ports Fund		
Other Participating Funds			Positions - Other Count	(3.0)	(3.0)
* Other Special Revenue Funds			Personal Services	144,960	144,134
All Other	64,299	66,048	All Other	92,852	93,527
Capital Expenditures	46,000	69,000	Umbrella Fund Total	237,812	237,661
Fund Total	110,299	135,048	SUMMARY - DEPARTMENT		
SUMMARY - DEPARTMENT			OF TRANSPORTATION		
OF TRANSPORTATION			Positions - Legislative Count	(992.0)	(992.0)
* General Fund			Positions - Other Count	(1,555.0)	(1,555.0)
Positions - Legislative Count	(5.5)	(5.5)	Personal Services	110,706,504	111,182,841
Personal Services	282,059	280,264	All Other	128,709,436	127,460,253
All Other	2,700,659	2,591,660	Capital Expenditures	157,910,000	163,562,200
Umbrella Fund Total	2,982,718	2,871,924	Umbrella Grand Total	397,325,940	402,205,294
Other Participating Funds			(OFFICE OF) TREASURER		
* Highway Fund			OF STATE		
Positions - Legislative Count	(986.5)	(986.5)	Administration - Treasury		
Positions - Other Count	(1,236.0)	(1,236.0)	* General Fund		
Personal Services	79,173,978	79,400,234	Positions - Legislative Count	(17.0)	(17.0)
All Other	91,525,630	89,663,144	Personal Services	740,537	737,111
Capital Expenditures	9,574,000	16,200,000	All Other	212,560	218,637
Umbrella Fund Total	180,273,608	185,263,378	Capital Expenditures	1,500	
* Federal Expenditures Fund			Fund Total	954,597	955,748
Personal Services	17,121,079	17,089,146	Other Participating Funds		
All Other	18,142,494	18,624,673	* Other Special Revenue Funds		
Capital Expenditures	139,740,000	138,831,000	Positions - Other Count	(2.0)	(2.0)
			Personal Services	62,872	64,566
			All Other	5,596	5,747

Fund Total	68,468	70,313	Capital Expenditures	1,500	
* Abandoned Property Fund			Umbrella Grand Total	153,229,840	155,888,478
All Other	287,750	291,000	BOARD OF TRUSTEES OF		
Fund Total	287,750	291,000	THE UNIVERSITY OF MAINE		
SUMMARY -			SYSTEM		
ADMINISTRATION -			Educational and General		
TREASURY			Activities - University of Maine		
Positions - Legislative Count	(17.0)	(17.0)	* General Fund		
Positions - Other Count	(2.0)	(2.0)	All Other	137,370,980	142,316,336
Personal Services	803,409	801,677	Fund Total	137,370,980	142,316,336
All Other	505,906	515,384	WORKERS'		
Capital Expenditures	1,500		COMPENSATION BOARD		
Program Total	1,310,815	1,317,061	Administration - Workers'		
Debt Service - Treasury			Compensation Board		
* General Fund			Other Participating Funds		
All Other	80,654,777	80,456,599	* Other Special Revenue Funds		
Fund Total	80,654,777	80,456,599	Positions - Other Count	(114.5)	(114.5)
State - Municipal Revenue			Personal Services	4,985,575	4,966,282
Sharing			All Other	989,417	1,017,433
Other Participating Funds			Capital Expenditures	5,000	5,000
* Other Special Revenue Funds			Fund Total	5,979,992	5,988,715
All Other	71,264,248	74,114,818	Employment Rehabilitation		
Fund Total	71,264,248	74,114,818	Program		
SUMMARY - (OFFICE OF)			Other Participating Funds		
TREASURER OF STATE			* Other Special Revenue Funds		
* General Fund			All Other	519,000	519,000
Positions - Legislative Count	(17.0)	(17.0)	Fund Total	519,000	519,000
Personal Services	740,537	737,111	Workers' Compensation Board		
All Other	80,867,337	80,675,236	Other Participating Funds		
Capital Expenditures	1,500		* Other Special Revenue Funds		
Umbrella Fund Total	81,609,374	81,412,347	Personal Services	40,000	40,000
Other Participating Funds			All Other	21,885	21,963
* Other Special Revenue Funds			Fund Total	61,885	61,963
Positions - Other Count	(2.0)	(2.0)	SUMMARY - WORKERS'		
Personal Services	62,872	64,566	COMPENSATION BOARD		
All Other	71,269,844	74,120,565	Other Participating Funds		
Umbrella Fund Total	71,332,716	74,185,131	* Other Special Revenue Funds		
* Abandoned Property Fund			Positions - Other Count	(114.5)	(114.5)
All Other	287,750	291,000	Personal Services	5,025,575	5,006,282
Umbrella Fund Total	287,750	291,000	All Other	1,530,302	1,558,396
SUMMARY - (OFFICE OF)			Capital Expenditures	5,000	5,000
TREASURER OF STATE			Umbrella Fund Total	6,560,877	6,569,678
Positions - Legislative Count	(17.0)	(17.0)	SUMMARY - WORKERS'		
Positions - Other Count	(2.0)	(2.0)	COMPENSATION BOARD		
Personal Services	803,409	801,677	Positions - Other Count	(114.5)	(114.5)
All Other	152,424,931	155,086,801	Personal Services	5,025,575	5,006,282
			All Other	1,530,302	1,558,396
			Capital Expenditures	5,000	5,000

Umbrella Grand Total	6,560,877	6,569,678	Positions - Legislative Count	(111.5)	(111.5)
MAINE WORLD TRADE ASSOCIATION			Personal Services	7,613,838	7,615,045
Maine World Trade Association			All Other	41,403,081	41,610,285
* General Fund			Capital Expenditures	32,100	30,000
All Other	150,000	150,000	State Fund Total	49,049,019	49,255,330
			* Highway Garage Fund		
Fund Total	150,000	150,000	Positions - Other Count	(252.0)	(252.0)
SUMMARY - MAINE WORLD TRADE ASSOCIATION			Personal Services	10,733,380	11,005,087
* General Fund			All Other	13,605,200	13,854,916
All Other	150,000	150,000	State Fund Total	24,338,580	24,860,003
Umbrella Fund Total	150,000	150,000	* Postal, Printing and Supply Fund		
SUMMARY - MAINE WORLD TRADE ASSOCIATION			Positions - Other Count	(71.0)	(71.0)
All Other	150,000	150,000	Personal Services	2,401,873	2,402,127
Umbrella Grand Total	150,000	150,000	All Other	1,193,665	1,221,217
CURRENT SERVICES			State Fund Total	3,595,538	3,623,344
* General Fund			* Telecommunication Fund		
Positions - Legislative Count	(6,199.0)	(6,197.0)	Positions - Legislative Count	(33.5)	(33.5)
Positions - Other Count	(389.0)	(389.0)	Personal Services	1,427,779	1,444,379
Personal Services	302,491,185	302,777,173	All Other	2,072,986	1,759,422
All Other	1,465,153,247	1,537,532,889	State Fund Total	3,500,765	3,203,801
Capital Expenditures	5,356,683	3,381,238	* Office of Information Services Fund		
State Fund Total	1,773,001,115	1,843,691,300	Positions - Other Count	(11.0)	(11.0)
Other Participating Funds			Personal Services	683,449	672,524
* Highway Fund			All Other	473,474	495,173
Positions - Legislative Count	(1,421.5)	(1,421.5)	State Fund Total	1,156,923	1,167,697
Positions - Other Count	(1,236.5)	(1,236.5)	* Risk Management Fund		
Personal Services	106,996,766	107,236,092	Positions - Other Count	(5.0)	(5.0)
All Other	103,347,476	101,717,751	Personal Services	242,211	242,284
Capital Expenditures	11,389,546	17,142,556	All Other	4,044,241	4,045,002
State Fund Total	221,733,788	226,096,399	State Fund Total	4,286,452	4,287,286
* Federal Expenditures Fund			* Data Processing Fund		
Positions - Other Count	(2,643.0)	(2,643.0)	Positions - Other Count	(157.0)	(157.0)
Personal Services	127,022,351	127,302,761	Personal Services	7,449,287	7,456,291
All Other	975,926,127	1,052,660,345	All Other	10,110,473	10,398,450
Capital Expenditures	141,802,237	140,519,827	State Fund Total	17,559,760	17,854,741
State Fund Total	1,244,750,715	1,320,482,933	* Central Motor Pool		
* Other Special Revenue Funds			Positions - Other Count	(13.0)	(13.0)
Positions - Legislative Count	(131.5)	(131.5)	Personal Services	458,658	462,589
Positions - Other Count	(2,364.0)	(2,364.0)	All Other	2,268,787	2,335,790
Personal Services	96,561,958	96,647,699	State Fund Total	2,727,445	2,798,379
All Other	361,621,538	375,844,148	* Real Property Lease Internal Service Fund		
Capital Expenditures	13,342,273	13,279,820	Positions - Other Count	(1.0)	(1.0)
State Fund Total	471,525,769	485,771,667	Personal Services	29,135	29,648
* Federal Block Grant Fund			All Other	1,600,000	1,600,000
			State Fund Total	1,629,135	1,629,648
			* Island Ferry Services Fund		

Positions - Other Count	(56.0)	(56.0)
Personal Services	2,289,240	2,298,332
All Other	1,263,220	1,278,168
State Fund Total	3,552,460	3,576,500
* Augusta State Airport Fund		
Positions - Other Count	(8.0)	(8.0)
Personal Services	285,416	290,437
All Other	222,140	225,767
State Fund Total	507,556	516,204
* Marine Ports Fund		
Positions - Other Count	(3.0)	(3.0)
Personal Services	144,960	144,134
All Other	92,852	93,527
State Fund Total	237,812	237,661
* Alcoholic Beverage Fund		
Positions - Legislative Count	(130.5)	(130.5)
Positions - Other Count	(7.5)	(7.5)
Personal Services	5,203,901	5,201,274
All Other	3,001,650	3,083,542
State Fund Total	8,205,551	8,284,816
* Prison Industries Fund		
Positions - Other Count	(6.0)	(6.0)
Personal Services	222,360	223,292
All Other	343,078	355,745
Capital Expenditures	50,000	50,000
State Fund Total	615,438	629,037
* Potato Marketing Improvement Fund		
Positions - Other Count	(2.0)	(2.0)
Personal Services	85,519	85,764
All Other	107,336	108,698
State Fund Total	192,855	194,462
* Seed Potato Board Fund		
Positions - Other Count	(18.5)	(18.5)
Personal Services	909,381	932,329
All Other	484,138	504,190
State Fund Total	1,393,519	1,436,519
* State Lottery Fund		
Positions - Legislative Count	(29.0)	(29.0)
Personal Services	1,199,845	1,200,411
All Other	1,517,600	1,580,316
State Fund Total	2,717,445	2,780,727
* Employment Security Trust Fund		
All Other	200,000,000	200,000,000
State Fund Total	200,000,000	200,000,000
* Abandoned Property Fund		
All Other	287,750	291,000

State Fund Total	287,750	291,000
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**SUMMARY - STATEWIDE
GRAND TOTALS FOR
CURRENT SERVICES**

Positions - Legislative Count	(8,056.5)	(8,054.5)
Positions - Other Count	(7,243.5)	(7,243.5)
Personal Services	674,452,492	675,669,672
All Other	3,190,140,059	3,352,596,341
Capital Expenditures	171,972,839	174,403,441

STATEWIDE GRAND TOTAL	\$4,036,565,390	\$4,202,669,454
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PART B

Sec. B-1. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the following sums.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Administration - Human Resources		
All Other	(\$7,000)	(\$10,000)
Capital Expenditures	(5,937)	(5,937)
TOTAL	(12,937)	(15,937)
Provides for the deappropriation of funds from a reduction in All Other expenses in the bureau.		
Accounts and Control - Bureau of		
All Other	(68,234)	(61,491)
Provides for the deappropriation of funds from the savings anticipated by placing less reliance on the private sector for support of the MFASIS system.		
Accounts and Control - Bureau of - Systems Project		
All Other	(527,063)	(481,345)
Provides for the deappropriation of funds from the reduction in All Other expenses regarding		

MFASIS. Reduced data processing rates make this proposal viable.			reduction in operating costs.		
Budget - Bureau of the			Public Improvements - Planning - Construction - Administration		
All Other	(6,300)	(6,300)	Positions - Legislative Count	(-1.0)	(-1.0)
Capital Expenditures	(3,400)		Personal Services	(49,630)	(47,791)
			All Other	(2,035)	(2,983)
TOTAL	(9,700)	(6,300)	TOTAL	(51,665)	(50,774)
Provides for the deappropriation of funds from not participating in the Governor's youth apprenticeship program and more efficient use of data processing capabilities.			Provides for the deappropriation of funds through the reduction in All Other and the transfer of one Space Management Specialist position to the Real Property Internal Service Fund.		
Buildings and Grounds Operations			Public Improvements - Planning - Construction - Administration		
Positions - Legislative Count	(1.0)	(1.0)	Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	37,769	40,034	Personal Services	(140,857)	(135,642)
All Other	(62,769)	(65,034)			
TOTAL	(25,000)	(25,000)	Provides for the deappropriation of funds through the transfer of one Civil Engineer IV position and one Architect position to a dedicated revenue account.		
Provides for the appropriation of funds to establish one Engineering Technician IV position for asbestos removal, which can be done at a lower cost than if the services were contracted out.			Taxation - Bureau of		
Data Processing Services			Personal Services	22,500	45,000
Positions - Legislative Count	(-1.0)	(-1.0)	All Other	615,000	789,000
Personal Services	(58,711)	(60,426)	Capital Expenditures	600,000	707,000
All Other	(1,866)	(1,906)	TOTAL	1,237,500	1,541,000
TOTAL	(60,577)	(62,332)	Provides for the appropriation of funds for the reclassification of 9 positions, the purchase of software and hardware, including related support costs for the acquisition and implementation of imaging and scanning technology, for the processing of tax returns and other forms. This effort will allow for the reassignment of 9 positions to new revenue-generating activities in order to realize estimated revenue of \$2,250,000 in fiscal year 1995-96 and fiscal year 1996-97.		
Provides for the deappropriation of funds from the transfer of one Programmer Analyst position to the data processing internal service fund.			Tree Growth Tax Reimbursement		
Financial and Personnel Services - Division of					
All Other	(2,000)	(2,000)			
Capital Expenditures	(6,000)				
TOTAL	(8,000)	(2,000)			
Provides for the deappropriation of funds from the elimination of the capital request and a					

All Other	(2,535,000)	(2,765,000)	jurisdiction over appropriations and financial affairs and agriculture, conservation and forestry matters concerning the distribution of these funds no later than January 19, 1996.		
Provides for the deappropriation of funds from the reduction in payments made to municipalities for valuation limitations arising from the Maine Tree Growth Tax Law.					
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>(2,201,533)</u>	<u>(2,064,821)</u>	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL	<u>3,600,000</u>	<u>450,000</u>
MAINE ADVOCACY SERVICES			ATTORNEY GENERAL, DEPARTMENT OF THE		
Maine Advocacy Services			Administration - Attorney General		
All Other	(45,000)	(45,000)	Positions - Legislative Count	(-5.0)	(-5.0)
Provides for the deappropriation of funds from the elimination of direct General Fund support for the Maine Advocacy Services.			Personal Services	(316,129)	(323,194)
			All Other	(30,137)	(25,822)
MAINE ADVOCACY SERVICES TOTAL	<u>(45,000)</u>	<u>(45,000)</u>	TOTAL	<u>(346,266)</u>	<u>(349,016)</u>
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF			Provides for the deappropriation of funds through the transfer of one Senior Attorney General position, 3 Assistant Attorney General positions and one Senior Legal Secretary position from a General Fund account to an Other Special Revenue account in order to provide legal services to the Bureau of Taxation, Department of Administrative and Financial Services.		
Maine Milk Commission			Administration - Attorney General		
All Other	3,600,000	450,000	Positions - Legislative Count	(-1.0)	(-1.0)
Provides funds to the Maine Milk Commission to be deposited in the Maine Milk Pool created in the Maine Revised Statutes, Title 7, section 3153. The funds must be distributed at the rate of \$250,000 per month in the months of July to December 1995, inclusive, at the rate of \$350,000 per month in the months of January to June 1996, inclusive, and at the rate of \$150,000 per month in the months of July, August and September 1996. The Executive Director of the Maine Milk Commission shall report to the joint standing committees of the Legislature having			Personal Services	(65,953)	(67,715)
			All Other	(5,207)	(5,263)
			TOTAL	<u>(71,160)</u>	<u>(72,978)</u>
			Provides for the deappropriation of funds through the transfer of one Assistant Attorney General position from a General Fund account to an Other Special Revenue account in order to provide legal services for the State Board of Property Tax Review and the Bureau of Alcoholic Beverages and Lottery Operations within the		

Department of Administrative and Financial Services.			Provides for the deappropriation of funds from the elimination of one Vocational Trades Instructor position and 2 Correctional Officer I positions and through reductions in All Other expenses and capital purchases.		
Administration - Attorney General					
Positions - Legislative Count	(-1.0)	(-1.0)			
Personal Services	(29,992)	(29,985)			
Provides for the deappropriation of funds from the elimination of one Senior Legal Secretary position.			Community Based Corrections		
			All Other	(3,931,290)	(3,931,331)
Chief Medical Examiner - Office of			Provides for the deappropriation of funds through the reduction of the reimbursement to the counties under the community corrections laws.		
All Other	(30,000)	(30,000)			
Provides for the deappropriation of funds to reflect lower than originally projected costs for contracted services.			Correctional Program Improvement		
			All Other	(23,511)	(30,438)
DEPARTMENT OF THE ATTORNEY GENERAL TOTAL	<u>(477,418)</u>	<u>(481,979)</u>	Provides for the deappropriation of funds available for nursing home and medical costs.		
CORRECTIONS, DEPARTMENT OF					
Administration - Corrections			Correctional Center		
All Other	(6,000)	(6,000)	All Other	(122,733)	(121,227)
Capital Expenditures	(10,900)		Capital Expenditures	(15,198)	
TOTAL	<u>(16,900)</u>	<u>(6,000)</u>	TOTAL	<u>(137,931)</u>	<u>(121,227)</u>
Provides for the deappropriation of funds through the elimination of funds for the wide area network line charge and through reductions in capital equipment purchases.			Provides for the deappropriation of funds through a reduction in All Other expenses and in the amount of funds available for catastrophic illness and through reductions in capital equipment purchases.		
Central Maine Pre-Release Center			Departmentwide		
Capital Expenditures	(1,100)		Personal Services	(436,407)	(440,368)
Provides for the deappropriation of funds through a reduction in capital equipment purchases.			Provides for the deappropriation of funds from the elimination of positions to be identified by the Department of Corrections in conjunction with the productivity realization task force.		
Charleston Correctional Facility			Downtown Correctional Facility		
Positions - Legislative Count	(-3.0)	(-3.0)	All Other	(28,766)	(26,084)
Personal Services	(111,586)	(111,586)			
All Other	(20,000)	(20,000)			
Capital Expenditures	(6,798)	(34,000)			
TOTAL	<u>(138,384)</u>	<u>(165,586)</u>			

Capital Expenditures	(33,900)	(40,263)	Provides for the deappropriation of funds through the elimination of one Clerk Typist II position and one Maintenance Mechanic Supervisor position, the downgrade of one Psychologist III position to one Psychiatric Social Worker position and through a reduction in the purchase of miscellaneous minor equipment and capital equipment items.		
TOTAL	(62,666)	(66,347)			
Provides for the deappropriation of funds through a reduction in the number of leased vehicles, reduced purchasing of minor equipment and vocational and educational supplies and reductions in capital equipment purchases.					
Food - Downeast Correctional Facility			State Prison - Farm Program		
All Other	(21,553)	(24,715)	All Other	(2,000)	(2,000)
Provides for the deappropriation of funds from food savings.			Capital Expenditures	(24,000)	(14,000)
			TOTAL	(26,000)	(16,000)
Food - State Prison			Provides for the deappropriation of funds through a reduction in the purchase of miscellaneous minor equipment and capital equipment items.		
All Other	(35,000)	(35,000)			
Provides for the deappropriation of funds from food savings.					
Parole Board			Warren Correctional Facility		
All Other	(673)	(845)	Positions - Legislative Count	(-1.0)	(-1.0)
Provides for the deappropriation of funds for meeting expenses.			Personal Services	(100,634)	(101,662)
			All Other	(6,450)	(6,657)
			TOTAL	(107,084)	(108,319)
State Prison			Provides for the deappropriation of funds through the elimination of one Physician III position and a reduction in the purchase of miscellaneous minor equipment.		
Positions - Legislative Count	(-3.0)	(-3.0)			
Personal Services	(127,419)	(154,036)	Youth Center - Maine		
Provides for the deappropriation of funds through the elimination of one Master Carpenter position, one Correctional Plans Coordinator position and one Community Program Coordinator position and the reclassification of one Psychologist II position to one Psychiatric Social Worker position.			All Other	(162,981)	(171,619)
			Provides for the deappropriation of funds through the elimination of the tracker program.		
State Prison			Youth Center - Maine		
Positions - Legislative Count	(-2.0)	(-2.0)	All Other		(3,108)
Personal Services	(62,784)	(68,425)	Capital Expenditures	(12,307)	(7,402)
All Other	(90,713)	(90,508)	TOTAL	(12,307)	(10,510)
Capital Expenditures	(28,997)	(25,000)	Provides for the deappropriation of funds through reductions in All Other expenses and		
TOTAL	(182,494)	(183,933)			

Capital Expenditures	(33,900)	(40,263)	Provides for the deappropriation of funds through the elimination of one Clerk Typist II position and one Maintenance Mechanic Supervisor position, the downgrade of one Psychologist III position to one Psychiatric Social Worker position and through a reduction in the purchase of miscellaneous minor equipment and capital equipment items.		
TOTAL	(62,666)	(66,347)			
Provides for the deappropriation of funds through a reduction in the number of leased vehicles, reduced purchasing of minor equipment and vocational and educational supplies and reductions in capital equipment purchases.					
Food - Downeast Correctional Facility			State Prison - Farm Program		
All Other	(21,553)	(24,715)	All Other	(2,000)	(2,000)
Provides for the deappropriation of funds from food savings.			Capital Expenditures	(24,000)	(14,000)
			TOTAL	(26,000)	(16,000)
Food - State Prison			Provides for the deappropriation of funds through a reduction in the purchase of miscellaneous minor equipment and capital equipment items.		
All Other	(35,000)	(35,000)			
Provides for the deappropriation of funds from food savings.					
Parole Board			Warren Correctional Facility		
All Other	(673)	(845)	Positions - Legislative Count	(-1.0)	(-1.0)
Provides for the deappropriation of funds for meeting expenses.			Personal Services	(100,634)	(101,662)
			All Other	(6,450)	(6,657)
			TOTAL	(107,084)	(108,319)
State Prison			Provides for the deappropriation of funds through the elimination of one Physician III position and a reduction in the purchase of miscellaneous minor equipment.		
Positions - Legislative Count	(-3.0)	(-3.0)			
Personal Services	(127,419)	(154,036)	Youth Center - Maine		
Provides for the deappropriation of funds through the elimination of one Master Carpenter position, one Correctional Plans Coordinator position and one Community Program Coordinator position and the reclassification of one Psychologist II position to one Psychiatric Social Worker position.			All Other	(162,981)	(171,619)
			Provides for the deappropriation of funds through the elimination of the tracker program.		
			Youth Center - Maine		
State Prison			All Other		(3,108)
Positions - Legislative Count	(-2.0)	(-2.0)	Capital Expenditures	(12,307)	(7,402)
Personal Services	(62,784)	(68,425)	TOTAL	(12,307)	(10,510)
All Other	(90,713)	(90,508)	Provides for the deappropriation of funds through reductions in All Other expenses and		
Capital Expenditures	(28,997)	(25,000)			
TOTAL	(182,494)	(183,933)			

Environmental Investment Fund.			EDUCATION, DEPARTMENT OF		
Office of Community Development			Administrative Office of the Commissioner		
All Other	(100,000)	(100,000)	All Other	(877)	(904)
Provides for the deappropriation of funds through a reduction in planning and implementation grants.			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
Administration - Economic and Community Development			Division of Adult Education		
All Other	(12,000)	(11,800)	All Other	(108,315)	(220,910)
Provides for the deappropriation of funds from savings realized by not participating in the Governor's youth apprenticeship program.			Provides for the deappropriation of funds to maintain the adult education local subsidy program at the fiscal year 1994-95 level.		
Maine Economic Growth Council			Division of Adult Education		
All Other	(60,600)	(71,760)	All Other	(25,500)	(25,500)
Provides for the deappropriation of funds to reflect a reduced funding level.			Provides for the deappropriation of funds to reduce the Literacy Volunteers Program to \$60,000 each fiscal year.		
Regional Development - EMDC			Division of Adult Education		
All Other	(90,253)	(50,000)	All Other	(4,418)	(4,551)
Provides for the deappropriation of funds to reflect a reduced funding level.			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
Administration - Economic and Community Development			Division of Applied Technology		
All Other	98,146		All Other	(965)	(994)
Provides for the appropriation of funds for relocation costs including modular furniture.			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
Administration - Economic and Community Development			Blind and Visually Impaired - Division for the		
All Other	64,707	133,560	All Other	(1,479)	(1,524)
Provides for the appropriation of funds for the Loring Development Authority.			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	<u>(2,100,000)</u>	<u>(6,100,000)</u>	Block Grants to Municipalities		
			All Other	(400,000)	(400,000)
			Provides for the deappropriation of funds to eliminate the grants in the certification program.		

Certification, Placement and Teacher Education			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
All Other	(2,188)	(2,254)			
Provides for the deappropriation of funds to eliminate out-of-state travel in this program.			Reimbursement for State Mandates		
			All Other	(3,000)	(3,000)
General Purpose Aid for Local Schools			Provides for the deappropriation of funds to reduce the Reimbursement for State Mandates program to the estimated required level.		
All Other	(15,657,306)	(27,087,139)			
Provides for the deappropriation of funds to achieve increased funding to local schools amounting to 2% in fiscal year 1995-96 and 3% in fiscal year 1996-97.			Division of School Business Services		
			All Other	(2,300)	(2,370)
Governor Baxter School for the Deaf			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
Positions - Legislative Count Personal Services	(-1.0) (57,158)	(-1.0) (66,321)	Division of Special Services		
Provides for the deappropriation of funds to eliminate one Program Director position.			All Other	(2,219)	(2,286)
Division of Management Information			Provides for the deappropriation of funds to eliminate out-of-state travel in this program.		
Capital Expenditures	(4,500)	(4,600)	DEPARTMENT OF EDUCATION TOTAL	<u>(16,277,993)</u>	<u>(27,830,205)</u>
Provides for the deappropriation of funds to eliminate funding for the purchase of capital items.			ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Division of Management Information			Administration - Environmental Protection		
All Other	(5,000)	(5,000)	Positions - Legislative Count Personal Services	(-2.0) (118,293)	(-2.0) (116,101)
Provides for the deappropriation of funds for the printing and mailing of school administrative unit "report cards."			All Other	(36,240)	(18,505)
Preschool Handicapped			TOTAL	<u>(154,533)</u>	<u>(134,606)</u>
All Other	(910)	(938)	Provides for the deappropriation of funds through the transfer of one Senior Programmer Analyst position to the Administration - Environmental Protection program, Other Special Revenue Fund, and the transfer of one Deputy Commissioner position to the Board of Environmental Protection Fund program, Other		
Rehabilitation Services					
All Other	(1,858)	(1,914)			

Special Revenue Fund, where an existing position is eliminated.			All Other	(200,000)	(200,000)
Air Quality Control			Provides for the deappropriation of funds from data processing rebates.		
Positions - Legislative Count	(-2.0)	(-2.0)			
Personal Services	(101,475)	(101,875)	Administration - Income Maintenance		
Provides for the deappropriation of funds through the transfer of one Environmental Specialist III position and one Environmental Engineering Specialist position to the Maine Environmental Protection Fund program, Other Special Revenue Fund, where 2 existing positions are eliminated.			Positions - Legislative Count	(18.0)	(18.0)
			Personal Services	469,152	492,610
			All Other	663,848	707,390
			Capital Expenditures	67,000	
			TOTAL	1,200,000	1,200,000
Maine Environmental Protection Fund			Provides for the appropriation of funds to increase child support enforcement staff by one Counsel position, one Support Enforcement Field Supervisor position, one Clerk Typist III position, 3 Clerk Typist II positions, 9 Human Services Aide II positions and 3 Human Services Enforcement Agent positions to upgrade effectiveness and increase revenues.		
Personal Services	(150,500)		The Commissioner of Human Services shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judicial matters no later than January 15, 1996 on the additional revenue generated by the additional staff authorized in this Part. The report must include the actual amount of additional revenue generated compared to the budgeted increase in child support collections.		
All Other	(33,500)				
TOTAL	(184,000)				
Provides for the deappropriation of funds appropriated to pay back the Ground Water Oil Clean-up Fund.					
Oil and Hazardous Materials Control			Aid to Families with Dependent Children		
Positions - Legislative Count	(-2.0)	(-2.0)			
Personal Services	(91,575)	(91,787)	All Other	(1,250,000)	(1,250,000)
Provides for the deappropriation of funds through the transfer of one Environmental Specialist II position and one Geologist position to the Oil and Hazardous Materials Control program, Other Special Revenue Fund, where 2 existing positions are eliminated.			Provides for the deappropriation of funds due to an anticipated increase in sliding-scale		
DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	(531,583)	(328,268)			
HUMAN SERVICES, DEPARTMENT OF					
Administration - Income Maintenance					

fees charged for nonwelfare collections.			added child support collections.		
Aid to Families with Dependent Children			Aid to Families with Dependent Children - Foster Care		
All Other	(500,000)	(2,000,000)	All Other	(100,000)	(100,000)
Provides for the deappropriation of funds in the Aid to Families with Dependent Children account due to the elimination of the Aid to Families with Dependent Children gap for unearned income.			Provides for the deappropriation of funds as a result of additional child support from parents of children in Department of Human Services custody.		
Aid to Families with Dependent Children			Departmentwide		
All Other	(750,000)	(1,000,000)	Personal Services	(1,800,000)	(1,800,000)
Provides for the deappropriation of funds through the elimination of Aid to Families with Dependent Children housing special needs.			Provides for the deappropriation of funds from the elimination of positions to be identified by the Department of Human Services in conjunction with the productivity realization task force.		
Aid to Families with Dependent Children			General Assistance - Reimbursement to Cities and Towns		
All Other	(1,852,000)	(2,704,000)	All Other	(500,000)	(500,000)
Provides for the deappropriation of Aid to Families with Dependent Children funds due to anticipated reductions in Aid to Families with Dependent Children caseloads.			Provides for the deappropriation of funds based on anticipated expenditures.		
Aid to Families with Dependent Children			Health - Bureau of		
All Other	(1,200,000)	(2,000,000)	All Other	(400,000)	(400,000)
Provides for the deappropriation of funds due to an increase in child support staff. Expectations are that the increase in staff will upgrade effectiveness and increase revenues.			Provides for the deappropriation of funds in the Bureau of Health from the elimination of some General Fund support for the health and environmental testing lab and a reevaluation of fee structure.		
Aid to Families with Dependent Children			Intermediate Care - Payments to Providers		
All Other		(1,000,000)	All Other	(2,000,000)	(3,000,000)
Provides for the deappropriation of Aid to Families with Dependent Children funds due to			Provides for the deappropriation of funds through savings resulting from the modification of nursing facilities principles of reimbursement that		

includes provisions for Medicare enhancement.			All Other	(297,380)	(297,380)
Intermediate Care - Payments to Providers			Provides for the deappropriation of funds through the reduction of money that is either no longer needed or not direct service funds.		
All Other	(715,000)	(2,037,000)	Welfare Employment, Education and Training		
Provides for the deappropriation of funds through savings achieved from the continuation of nursing facilities diversion activities.			All Other	500,000	1,000,000
Low-cost Drugs to Maine's Elderly			Provides for the appropriation of funds in the ASPIRE program from savings generated in the Aid to Families with Dependent Children account due to caseload reductions.		
All Other	(250,000)	(250,000)	Medical Care - Payments to Providers		
Provides for the deappropriation of funds through a reduction resulting from anticipated efficiencies of the drug utilization review program.			All Other	9,471,764	9,816,551
Medical Care - Payments to Providers			Provides for the appropriation of funds for the state seed in order to recognize the hospital tax as a Medicare allowable cost.		
All Other	(1,770,000)	(2,525,000)	Medical Care - Payments to Providers		
Provides for the deappropriation of funds from 3rd-party recoveries for same-day eligibility, fees for the Certified Nurses Assistant Registry, and a paper claims surcharge, and through the issuance of Medicaid Management Information Systems plastic eligibility cards.			All Other	(7,500,000)	
Medical Care - Payments to Providers			Provides for the deappropriation of funds to recognize the impact of Public Law 1995, chapter 5, which removed anticipated July 1995 Other Special Revenue from fiscal year 1994-95 and put it back in fiscal year 1995-96.		
All Other		(413,000)	DEPARTMENT OF HUMAN SERVICES		
Provides for the deappropriation of funds through the earlier-than-anticipated implementation of managed care.			TOTAL	(10,112,616)	(9,659,829)
Medical Care Administration			INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
All Other	(200,000)	(200,000)	Fisheries and Hatcheries Operations		
Provides for the deappropriation of funds from data processing rebates.			All Other	385,972	420,015
Purchased Social Services			Provides for the appropriation of funds for biological studies, fish		

rearing programs and repairs to hatcheries.					
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
TOTAL	385,972	420,015	Mental Health Services - Community Medicaid		
LABOR, DEPARTMENT OF			All Other	(1,414,275)	
STAR			Provides for the deappropriation of funds as a result of inadvertent delays in the start-up of new and expanded community services.		
All Other	(107,198)	(163,730)	Mental Health Services - Community		
Provides for the deappropriation of funds through a reduction in services provided by the Strategic Training for Accelerated Reemployment Program.			All Other	(721,000)	
Job Training Partnership Program			Provides for the deappropriation of funds as a result of inadvertent delays in the start-up of new and expanded community services.		
All Other		200,000	DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
Provides for the appropriation of funds for the continuation of Health Occupations Training program.			TOTAL	(2,135,275)	
DEPARTMENT OF LABOR			PUBLIC BROADCASTING CORPORATION, MAINE		
TOTAL	(107,198)	36,270	Maine Public Broadcasting Corporation		
LEGISLATURE			All Other	(44,602)	(68,465)
Legislature			Provides for the deappropriation of funds to limit the budget to a 1% and 2% growth, respectively, for fiscal year 1995-96 and fiscal year 1996-97.		
Personal Services	(200,000)	(200,000)	MAINE PUBLIC BROADCASTING CORPORATION		
All Other	(200,000)	(200,000)	TOTAL	(44,602)	(68,465)
Provides for the deappropriation of funds through the streamlining of legislative operations.			PUBLIC SAFETY, DEPARTMENT OF		
LEGISLATURE			Drug Enforcement Agency		
TOTAL	(400,000)	(400,000)	Positions - Legislative Count	(-4.0)	(-4.0)
MARITIME ACADEMY, MAINE			Personal Services	(176,456)	(171,277)
Maritime Academy - Operations			All Other	(580,628)	(609,800)
All Other	(161,805)	(272,221)	TOTAL	(757,084)	(781,077)
Provides for the deappropriation of funds to limit the budget to a 1% and 2% growth, respectively, for fiscal year 1995-96 and fiscal year 1996-97.			Provides for the deappropriation of funds		
MAINE MARITIME ACADEMY					
TOTAL	(161,805)	(272,221)			

through the implementation of changes to the operational organization of the Maine Drug Enforcement Agency resulting in the abolishment of one Secretary position, one Clerk Stenographer III position, one M.D.E.A. Property Officer position and one M.D.E.A. Assistant Director position along with 7 contract agent positions and operating expenses.			General Fund support for the commission.		
State Police			ST. CROIX INTERNATIONAL WATERWAY COMMISSION		
Personal Services	(6,221,443)	(5,169,213)	TOTAL	(10,000)	(10,000)
All Other	(1,292,750)	(1,099,435)	TECHNICAL COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE		
Capital Expenditures	(916,368)	(312,550)	Maine Technical College System - Board of Trustees		
TOTAL	(8,430,561)	(6,581,198)	All Other	(1,000,000)	(1,000,000)
Provides for the deappropriation of funds from the State Police operational account by establishing the matching level for fiscal year 1995-96 at 20% General Fund and 80% Highway Fund and for fiscal year 1996-97 at 25% General Fund and 75% Highway Fund.			Provides for the deappropriation of funds for the Maine Technical College System.		
Administration - Public Safety			Maine Technical College System - Board of Trustees		
Personal Services	(77,857)	(82,140)	All Other	(320,000)	(320,000)
Provides for the deappropriation of funds from salary savings related to the Commissioner of Public Safety and Chief of State Police positions.			Provides for the deappropriation of funds from the reduction in All Other expenditures.		
DEPARTMENT OF PUBLIC SAFETY			Maine Technical College System - Board of Trustees		
TOTAL	(9,265,502)	(7,444,415)	All Other	320,000	320,000
ST. CROIX INTERNATIONAL WATERWAY COMMISSION			Provides funds to be applied to the June 1993 deferred payment.		
St. Croix International Waterway Commission			BOARD OF TRUSTEES OF THE MAINE TECHNICAL COLLEGE SYSTEM		
All Other	(10,000)	(10,000)	TOTAL	(1,000,000)	(1,000,000)
Provides for the deappropriation of funds from the elimination of			UNIVERSITY OF MAINE, BOARD OF TRUSTEES OF THE		
			Educational and General Activities - University of Maine		
			All Other	(4,328,139)	(6,612,638)
			Provides for the deappropriation of funds to limit the budget to a 1% and 2% growth, respectively, for fiscal year 1995-96 and fiscal year 1996-97.		
			BOARD OF TRUSTEES OF THE UNIVERSITY OF MAINE		
			TOTAL	(4,328,139)	(6,612,638)
			TREASURY DEPARTMENT		
			Debt Service - Treasury		

All Other	(3,802,750)	902,800
Provides funds to adjust Part A, section 25 amounts to reflect revised issuance dates.		
TREASURY DEPARTMENT TOTAL	(3,802,750)	902,800
SECTION TOTAL APPROPRIATIONS	(54,719,078)	(66,364,728)

Sec. B-2. Allocation. The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Personal Services	6,221,443	5,169,214
All Other	1,292,750	1,099,434
Capital Expenditures	916,368	312,550
Provides for the allocation of funds from the changing of the State Police funding ratio to 20% General Fund and 80% Highway Fund for fiscal year 1995-96 and 25% General Fund and 75% Highway Fund for fiscal year 1996-97.		
DEPARTMENT OF PUBLIC SAFETY TOTAL	8,430,561	6,581,198
SECTION TOTAL ALLOCATIONS	8,430,561	6,581,198

Sec. B-3. Allocation. The following funds are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Administration - Income Maintenance		
All Other	(200,000)	(200,000)
Provides for the deallocation of funds from data processing rebates.		
Administration - Income Maintenance		

Positions - Other Count	(31.0)	(31.0)
Personal Services	795,210	834,971
All Other	1,293,110	1,300,210
Capital Expenditures	119,000	
TOTAL	2,207,320	2,135,181
Provides for the allocation of federal matching funds for 2 Support Enforcement District Supervisor positions, 2 Clerk Typist III positions, 4 Clerk Typist II positions, 16 Human Services Aide III positions, 6 Human Services Enforcement Agent positions and one Paralegal position in the support enforcement division.		
Aid to Families with Dependent Children		
All Other	(862,697)	(3,449,591)
Provides for the deallocation of funds through the elimination of Aid to Families with Dependent Children gap payments for unearned income.		
Aid to Families with Dependent Children		
All Other		(1,724,759)
Provides for the deallocation of funds based on anticipated increases in revenue for child support collections.		
Aid to Families with Dependent Children		
All Other	(1,293,596)	(1,724,759)
Provides for the deallocation of funds through the elimination of Aid to Families with Dependent Children housing special needs.		
Aid to Families with Dependent Children		
All Other	(3,194,322)	(4,663,847)
Provides for a reduction in Aid to Families with Dependent Children		

allocation due to an anticipated reduction in estimated Aid to Families with Dependent Children caseloads.			faster implementation of managed care.		
Aid to Families with Dependent Children			Medical Care Administration		
All Other	(2,069,754)	(3,449,590)	All Other	(200,000)	(200,000)
Provides for the deallocation of funds due to anticipated revenues generated by aggressive collections by additional staff.			Provides for the deallocation of federal matching funds from data processing rebates.		
Intermediate Care - Payments to Providers			Welfare Employment, Education and Training		
All Other	(3,449,591)	(5,174,387)	All Other	500,000	1,000,000
Provides for the deallocation of federal matching funds from the modification of nursing facilities principles of reimbursement.			Provides for the allocations of funds in the ASPIRE program from savings generated in the Aid to Families with Dependent Children account due to caseload reductions.		
Intermediate Care - Payments to Providers			Medical Care - Payments to Providers		
All Other	(1,233,228)	(3,513,609)	All Other	16,337,000	16,932,000
Provides for the deallocation of federal matching funds from nursing facilities diversion.			Provides for the allocation of funds in order to recognize the hospital tax as a Medicare allowable cost.		
Medical Care - Payments to Providers			DEPARTMENT OF HUMAN SERVICES		
All Other	(3,052,888)	(4,355,109)	TOTAL	3,488,244	(9,100,810)
Provides for the deallocation of federal matching funds from 3rd-party recoveries for same-day eligibility, fees for the Certified Nurses Assistant Registry, a paper claims surcharge and through the issuance of Medicaid Management Information Systems plastic eligibility cards.			PUBLIC SAFETY, DEPARTMENT OF		
Medical Care - Payments to Providers			State Police		
All Other		(712,340)	Positions - Other Count	(0.5)	(0.5)
Provides for the deallocation of federal matching funds from			Personal Services	16,362	17,014
			All Other	327	341
			Provides for the continued federal funding of one part-time Clerk Typist II position that was established by Public Law 1993, chapter 425 under the Missing Children Information Clearinghouse.		
			DEPARTMENT OF PUBLIC SAFETY		
			TOTAL	16,689	17,355
			SECTION		
			TOTAL ALLOCATIONS	3,504,933	(9,083,455)

Sec. B-4. Allocation. The following funds are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97			
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF			Provides for the transfer of funds for one Assistant Attorney General position to provide legal services for the State Board of Property Tax Review and the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services.		
Public Improvements - Planning - Construction - Administration					
Positions - Other Count	(2.0)	(2.0)	DEPARTMENT OF THE ATTORNEY GENERAL TOTAL	417,426	421,994
Personal Services	140,857	135,642			
All Other	5,000	5,000	CORRECTIONS, DEPARTMENT OF		
Provides for the allocation of funds through the transfer of one Civil Engineer IV position and one Architect position and related All Other costs from the General Fund.			Vocational Training and Industries		
			Positions - Other Count	(1.0)	(1.0)
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	145,857	140,642	Personal Services	35,289	35,327
ATTORNEY GENERAL, DEPARTMENT OF THE			Provides for the allocation of funds for the transfer of one Industrial Shop Supervisor position from the General Fund Correctional Center program.		
Administration - Attorney General			DEPARTMENT OF CORRECTIONS TOTAL	35,289	35,327
Positions - Other Count	(5.0)	(5.0)	ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Personal Services	316,129	323,194	Administration - Environmental Protection		
All Other	25,737	25,822	Positions - Other Count	(1.0)	(1.0)
Capital Expenditures	4,400		Personal Services	57,853	55,748
TOTAL	346,266	349,016	All Other	(57,853)	(55,748)
Provides for the transfer of funds from the General Fund for one Senior Attorney General position, 3 Assistant Attorney General positions and one Senior Legal Secretary position to provide legal services to the Bureau of Taxation, Department of Administrative and Financial Services.			TOTAL	-0-	-0-
Administration - Attorney General			Provides for the allocation of funds through a line category transfer for the transfer of one Senior Programmer Analyst position from the Administration - Environmental Protection program, General Fund.		
Positions - Other Count	(1.0)	(1.0)	Board of Environmental Protection Fund		
Personal Services	65,953	67,715	Personal Services	(9,611)	(10,205)
All Other	5,207	5,263			
TOTAL	71,160	72,978			

Provides for the deallocation of funds through the transfer of one Deputy Commissioner position from the Administration - Environmental Protection program, General Fund and the elimination of one Executive Director, Board of Environmental Protection position.			Oil and Hazardous Materials Control		
Maine Environmental Protection Fund			Personal Services		
Positions - Other Count			4,754		
Personal Services			4,941		
Provides for the allocation of funds through the transfer of one Environmental Specialist III position and one Environmental Engineering Specialist position from the Air Quality Control program, General Fund.			Provides for the transfer of one Environmental Specialist II position from the Oil and Hazardous Materials Control program, General Fund and the elimination of one Environmental Specialist II position.		
Maine Environmental Protection Fund			Maine Environmental Protection Fund		
Positions - Other Count			All Other		
Personal Services			(168,000)		
Provides for the deallocation of funds to reflect the December 31, 1995 repeal of the Dioxin Monitoring Program.			Provides for the deallocation of funds to reflect the December 31, 1995 repeal of the Dioxin Monitoring Program.		
Maine Environmental Protection Fund			DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL		
Positions - Other Count			(2,549)		
Personal Services			(172,956)		
TOTAL			FUND INSURANCE REVIEW BOARD		
Provides for the deallocation of funds through the elimination of one Environmental Specialist III position and one Civil Engineer position.			Fund Insurance Review Board		
Maine Environmental Protection Fund			All Other		
Positions - Other Count			(50,000)		
Personal Services			(50,000)		
TOTAL			Provides for the deallocation of funds no longer required.		
Provides for the deallocation of funds through the elimination of one Environmental Specialist III position and one Civil Engineer position.			FUND INSURANCE REVIEW BOARD TOTAL		
Oil and Hazardous Materials Control			(50,000)		
Personal Services			HUMAN SERVICES, DEPARTMENT OF		
All Other			Aid to Families with Dependent Children		
TOTAL			All Other		
Provides for the allocation of funds through the elimination of one Environmental Specialist III position and the transfer of one Geologist position from the Oil and Hazardous Materials Control program, General Fund.			2,724,759		
Oil and Hazardous Materials Control			Provides for the allocation of funds to increase child support revenue due to proposed legislation for administrative rule changes.		
Personal Services			Aid to Families with Dependent Children		
All Other			All Other		
TOTAL			1,250,000		
Provides for the allocation of funds through the elimination of one Environmental Specialist III position and the transfer of one Geologist position from the Oil and Hazardous Materials Control program, General Fund.			1,250,000		
Oil and Hazardous Materials Control			Provides for the allocation of funds for anticipated revenue through fees		
Personal Services					
All Other					
TOTAL					

charged nonwelfare support cases.		
Aid to Families with Dependent Children		
All Other	100,000	100,000
Provides for the allocation of funds to collect child support from parents of children, with financial resources, in Department of Human Services custody.		
Aid to Families with Dependent Children		
All Other	3,269,754	5,449,590
Provides for the allocation of funds for anticipated increases in revenue due to additional child support enforcement staff.		
Health - Bureau of		
All Other	400,000	400,000
Provides for the allocation of funds in the health and environmental testing lab due to increasing fees for lab services.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>5,019,754</u>	<u>9,924,349</u>
PUBLIC SAFETY, DEPARTMENT OF		
Drug Enforcement Agency		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(33,906)	(34,972)
All Other	33,906	34,972
Provides for the allocation of funds through the operational reorganization of the Maine Drug Enforcement Agency resulting in the elimination of one vacant Special Agent Investigator position in order to increase funding for contract agents.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	<u>-0-</u>	<u>-0-</u>
SECTION TOTAL ALLOCATIONS	<u>5,565,777</u>	<u>10,299,356</u>

Sec. B-5. Allocation. The following funds are allocated from the Bureau of Data Processing fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Data Processing Services		
Positions - Other Count	(1.0)	(1.0)
Personal Services	58,711	60,426
All Other	1,866	1,906
Provides for the allocation of funds for the transfer of one Programmer Analyst position from the General Fund.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>60,577</u>	<u>62,332</u>
SECTION TOTAL ALLOCATIONS	<u>60,577</u>	<u>62,332</u>

Sec. B-6. Allocation. The following funds are allocated from the Real Property Lease Internal Service Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Buildings and Grounds Operations		
Positions - Other Count	(1.0)	(1.0)
Personal Services	49,630	47,791
Provides for the allocation of funds through the transfer of one Space Management Specialist position from the General Fund.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>49,630</u>	<u>47,791</u>
SECTION TOTAL ALLOCATIONS	<u>49,630</u>	<u>47,791</u>

Sec. B-7. Allocations. In order to provide the necessary expenses of operation and administration of the Bureau of Alcoholic Beverages and Lottery

Operations and the Maine State Liquor and Lottery Commission, the following amounts are allocated from the revenues derived from operations of the State Lottery Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Lottery Operations		
All Other	(92,592)	(98,970)
Provides for the deallocation of funds from the reduction in All Other expenses regarding rent of office space.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>(92,592)</u>	<u>(98,970)</u>
SECTION TOTAL ALLOCATIONS	<u>(\$92,592)</u>	<u>(\$98,970)</u>

PART C

Sec. C-1. 20-A MRSA §8606-A, sub-§3, as repealed and replaced by PL 1993, c. 349, §49, is further amended to read:

3. State reimbursement. State reimbursement for expenditures on adult education programs must be based on each unit's actual adult education program costs in the foundation year, except that in fiscal years 1991-92 and 1992-93 available state funding is limited to the fiscal year 1990-91 level, and in fiscal years 1995-96 and 1996-97 available state funding is limited to the fiscal year 1994-95 level.

A. The state reimbursement must be based on the unit's expenditures for the foundation year in accordance with the maximum allowable expenditures and the local program cost adjustment to the equivalent of the year prior to the year of the allocation.

B. State reimbursement must be paid to each eligible unit during the 2nd quarter of the State's fiscal year.

PART D

Sec. D-1. 12 MRSA §7910, sub-§13, as amended by PL 1993, c. 574, §27, is further amended to read:

13. Nonlapsing appropriations. All General Fund appropriations to the department may not lapse but must be carried forward in a separate General Fund program and appropriated by the Legislature to be used by the department for the purposes described in section 7074. ~~Funds in this program are revenues collected by the department and must be added to the sum of all other revenues collected, received and recovered by the department in calculating the amount of funds that must be appropriated to the department pursuant to the Constitution of Maine, Article IX, Section 22. The department, pursuant to the Constitution of Maine, Article IX, Section 22, shall seek legislatively authorized transfers from this program to meet the various costs associated with the department's other programs.~~

PART E

Sec. E-1. 30-A MRSA §5682, as amended by PL 1989, c. 295, is repealed.

PART F

Sec. F-1. PL 1993, c. 707, Pt. Q, §1 is amended to read:

Sec. Q-1. Transfer of funds. ~~The Maine State Retirement System shall transfer \$4,000,000 from the surplus in the State Retiree Health Insurance Fund and the State Retired Teachers' Health Insurance Fund to the Retirement Allowance Fund. The Executive Director of the Maine State Retirement System shall notify the State Controller of the transfer by July 1, 1995. The State Controller shall reduce the payments to the Maine State Retirement System in July 1995 by the same \$4,000,000 that must be transferred by the State Controller to the Blue Cross and Blue Shield Withholding Fund on or before July 31, 1995. The June 1995 payment to Blue Cross and Blue Shield of Maine or the insurance carrier of record as of that date must be reduced by \$4,000,000 and transferred by the State Controller from the Blue Cross and Blue Shield Withholding Fund to the General Fund on or before June 30, 1995. The July 1995 payment to Blue Cross and Blue Shield of Maine or the insurance carrier of record must be increased by \$4,000,000.~~

~~It is the intent of the Legislature that \$4,000,000 be deappropriated from funds that would otherwise be appropriated to or for the Maine State Retirement System within the 1996-97 General Fund "Current Services" budget bill in order to ensure that identified surplus funds within the health insurance funds of the Maine State Retirement System are returned to the General Fund, as originally identified in Public Law 1991, chapter 780, Part W, section 1 and Public Law 1993, chapter 6, Part E, section 2.~~

Sec. F-2. Calculation and transfer. The State Budget Officer shall calculate the amounts in sections 4 and 5 of this Part that apply against each General Fund and Highway Fund account for all departments and agencies based on the proportionate share of employer retirement costs in the Personal Services appropriations and allocations of the affected accounts. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer shall distribute the calculated amounts resulting from sections 4 and 5 of this Part among all affected accounts as appropriated or allocated adjustments and provide the Joint Standing Committee on Appropriations and Financial Affairs with a report no later than September 30, 1995 on the appropriated or allocated adjustments.

Sec. F-3. Employer retirement rates. The State Budget Officer shall adjust the employer retirement rates for all accounts and funds in fiscal year 1995-96 in cooperation with the Maine State Retirement System so that the actual employer retirement costs in each account affected by section 2 of this Part approximate the net appropriations and allocations to each account after the adjustments required by section 2 of this Part.

Sec. F-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide

Personal Services (\$1,874,000)

Provides for the deappropriation of funds to reflect Public Law 1993, chapter 707, Part Q, section 1, which expected the General Fund to benefit from identified surplus funds within the health insurance funds of the Maine State Retirement System.

Blue Cross and Blue Shield Withholding Fund

All Other 4,000,000

Provides for the appropriation of funds to restore the July

1995 payment to Blue Cross and Blue Shield of Maine in accordance with Public Law 1993, chapter 707, Part Q, section 1.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

\$2,126,000

Sec. F-5. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

1995-96

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide

Personal Services (\$620,400)

Provides for the deallocation of funds to reflect Public Law 1993, chapter 707, Part Q, section 1.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

(\$620,400)

PART G

Sec. G-1. 5 MRSA §285, sub-§5, as amended by PL 1991, c. 780, Pt. Y, §24, is further amended to read:

5. Purchase of policies. The commission shall purchase, by competitive bidding, from one or more insurance companies, nonprofit organizations, 3rd-party administrators or any organization necessary to administer and provide a health plan, a policy or policies or contract, to provide the benefits specified by this section. The purchase of policies by the commission must be accomplished by use of a written contract that must be fully executed within 90 calendar days of notification of bid acceptance from the commission to the insurer. In extenuating circumstances, the Commissioner of Administrative and Financial Services may grant a waiver to that 90-day limit. Notwithstanding this subsection, with the consent of the policyholder and of the insurer and

at the sole discretion of the commission, existing policies of insurance covering at least 1,000 of the employees defined as eligible by this section may be amended to provide the benefits specified by this section and assigned to the Commissioner of Administrative and Financial Services for the benefit of all those eligible under this section. The company or companies or nonprofit organizations must be licensed under the laws of the State, when applicable. The policy provisions are subject to and as provided for by the insurance laws of this State, when applicable. Notwithstanding any other provisions of law, the term of a contract executed with a successful bidder may not exceed 3 years.

Sec. G-2. 5 MRSA §285, sub-§7, as amended by PL 1989, c. 776, §1, is further amended to read:

7. Payment by State. Except as otherwise provided in this subsection, the State, through the commission, shall pay 100% of only the employee's share of this health plan, except for Legislators, for whom the State shall pay 50% of the health plan premium for dependent coverage. For any person appointed to a position after November 1, 1981, who is employed less than full time, the State shall pay a share of the employee's share reduced pro rata to reflect the reduced number of work hours.

For persons who were first employed before July 1, 1991, the State shall pay 100% of only the retiree's share of the premiums for this health plan for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G.

For persons who were first employed by the State after July 1, 1991, the State shall pay a pro rata share portion of only the retiree's share of the premiums, as described in this section, for this health plan for persons who were previously eligible for this health plan pursuant to subsection 1, paragraph A and who have subsequently become eligible pursuant to subsection 1, paragraph G based on the total number of years of participation in the group health plan prior to retirement as follows:

<u>Years of Participation</u>	<u>State Portion</u>
10 or more years	100% group health plan premium
9 but less than 10 years	90% group health plan premium
8 but less than 9 years	80% group health plan premium
7 but less than 8 years	70% group health plan premium

6 but less than 7 years	60% group health plan premium
5 but less than 6 years	50% group health plan premium
Less than 5 years	No contribution

Sec. G-3. 5 MRSA §285, sub-§8, as corrected by RR 1991, c. 2, §7, is repealed.

Sec. G-4. 5 MRSA §285, sub-§8-A, as enacted by PL 1991, c. 527, §2, is repealed.

Sec. G-5. 5 MRSA §17105, sub-§1, ¶G is enacted to read:

G. The executive director shall calculate amounts periodically due and payable by the State for premium payments for health insurance for retired state employees in accordance with section 285, subsection 7 and for retired teachers in accordance with Title 20-A, section 13451, and shall inform the State of the amounts for payment by the State Controller.

Sec. G-6. 5 MRSA §17152, as amended by PL 1989, c. 409, §§3 and 12, is further amended to read:

§17152. Funds

All of the assets of the retirement system ~~shall~~ must be credited according to the purpose for which they are held among ~~7~~ the several funds created by this section, namely:

1. Members' Contribution Fund. The Members' Contribution Fund;

2. Retirement Allowance Fund. The Retirement Allowance Fund;

3. Expense Fund. The Expense Fund;

4. Survivors' Benefit Fund. The Survivors' Benefit Fund;

5. State Retiree Health Insurance Fund. The State Retiree Health Insurance Fund, except that after June 30, 1995, no additional assets may be credited to the fund beyond the balance in the fund as of that date and, after the balance in the fund as of June 30, 1995 has been exhausted, the fund may no longer be utilized;

6. State Retired Teachers' Health Insurance Fund. The State Retired Teachers' Health Insurance Fund, except that after June 30, 1995, no additional assets may be credited to the fund beyond the balance in the fund as of that date and, after the balance in the fund as of June 30, 1995 has been exhausted, the fund may no longer be utilized; and

7. Disability Retirement Benefit Fund. The Disability Retirement Benefit Fund.

Sec. G-7. 5 MRSA §17154, sub-§2, as amended by PL 1993, c. 410, Pt. L, §26, is further amended to read:

2. Budget estimates. The board shall submit budget estimates of contributions required to fund benefits for state employees and teachers to the State Budget Officer in accordance with section 1665, except that after July 1, 1995, the board may not submit estimates of contributions required to pay premiums for health insurance for retired state employees and retired teachers.

Sec. G-8. 5 MRSA §17401, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17401. Establishment and limitation of fund

The State Retiree Health Insurance Fund is established to which ~~shall~~ must be credited all money provided by the State to pay premiums for group accident insurance and group sickness or health insurance for persons eligible for these payments under section 285, subsection 8 7. After June 30, 1995, the State may not provide money to be credited to the fund and, after the balance in the fund as of June 30, 1995 has been exhausted, the fund may no longer be utilized.

Sec. G-9. 5 MRSA §17402, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17402. Payment of premium

All premiums for group accident insurance or group sickness or health insurance paid by the retirement system ~~shall~~ must be paid from the State Retiree Health Insurance Fund, until the balance in the fund as of June 30, 1995 has been exhausted. After June 30, 1995, these premiums may not be paid by the retirement system.

Sec. G-10. 5 MRSA §17403, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. G-11. 5 MRSA §17411, as enacted by PL 1987, c. 450, §§1 and 3, is amended to read:

§17411. Establishment and limitation of fund

The State Retired Teachers' Health Insurance Fund is established to which ~~shall~~ must be credited all money provided by the State to pay premiums for group accident insurance and group sickness or health insurance for persons eligible for these payments under Title 20-A, section 13451. After June 30, 1995, the State may not provide money to be credited to the fund and, after the balance in the fund as of June 30,

1995 has been exhausted, the fund may no longer be utilized.

Sec. G-12. 5 MRSA §17412, as enacted by PL 1987, c. 450, §§1 and 3, is amended to read:

§17412. Payment of premium

All premiums for group accident insurance or group sickness or health insurance paid by the retirement system for retired teachers ~~shall~~ must be paid from the State Retired Teachers' Health Insurance Fund, until the balance in the fund as of June 30, 1995 has been exhausted. After June 30, 1995, these premiums may not be paid by the retirement system.

Sec. G-13. 5 MRSA §17413, as enacted by PL 1987, c. 450, §§1 and 3, is repealed.

Sec. G-14. 20-A MRSA §13451, sub-§3, as repealed and replaced by PL 1991, c. 447, §2, is amended to read:

3. Payment by State. The State ~~through the Maine State Retirement System~~ shall pay 25% of the retired teacher members' share of this insurance.

Sec. G-15. Bidding. In accordance with the Maine Revised Statutes, Title 5, section 285, subsection 5, the State Employee Health Commission is directed to seek competitive bids for the health plan to be offered effective July 1, 1996. This process must begin no later than January 1, 1996.

Sec. G-16. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Personal Services	(\$253,422)	(\$176,675)
Deappropriates funds from savings realized from a less than anticipated increase in state employees' health insurance.		
Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each General Fund		

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide

	1995-96	1996-97
Personal Services	(\$253,422)	(\$176,675)

Deappropriates funds from savings realized from a less than anticipated increase in state employees' health insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each General Fund

account and shall cause the amounts to be transferred from each account by financial order.

**Departments and Agencies -
Statewide**

Personal Services	(1,187,424)	(146,009)
Deappropriates funds from savings realized from budgeted surpluses in the Retired State Employees' Health Insurance Account. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each General Fund account and shall cause the amounts to be transferred from each account by financial order.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(1,440,846)	(322,684)
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**EDUCATION,
DEPARTMENT OF**

Teacher Retirement

All Other	(1,409,000)	(2,944,000)
Deappropriates funds to reflect a revised assumption of 3% teacher salary growth in each year of the biennium.		

Teacher Retirement

All Other	(792,791)	
Deappropriates funds from savings realized from budgeted surpluses in the State Retired Teachers' Health Insurance Account.		

**DEPARTMENT OF
EDUCATION
TOTAL**

(2,201,791)	(2,944,000)
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SECTION

TOTAL APPROPRIATIONS	(\$3,642,637)	(\$3,266,684)
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Sec. G-15. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

1995-96	1996-97
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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services	(\$109,000)	(\$200,050)
Deallocates funds from savings realized from a less than anticipated increase in employer's cost for state employees' health insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each Highway Fund account and shall cause the amounts to be transferred from each account by financial order.		

**Departments and Agencies -
Statewide**

Personal Services	(393,105)	(48,337)
Deallocates funds from savings realized from budgeted surpluses in the Retired State Employees' Health Insurance Account. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each Highway Fund account and shall cause the amounts to be transferred from each account by financial order.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(\$502,105) (\$248,387)

PART H

Sec. H-1. PL 1995, c. 99, Pt. D, §1 is amended to read:

Sec. D-1. Productivity initiatives. The intent of the productivity initiative is to expedite and facilitate the implementation of improvements in State Government operations through the realization of cost savings from increased productivity of state employees, more efficient delivery of services and the elimination of waste, duplication and unnecessary programs. The initiative is designed to provide incentives to state agencies and employees to participate through the sharing of any savings realized among the General Fund, state department budgets and employees according to a predetermined formula. The intent of this Part is to develop a mechanism so as to achieve ~~\$45,346,780~~ \$45,186,783 in savings to the General Fund in the 1996-97 biennium as identified in the 1996-97 General Fund current services budget Act.

Sec. H-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Executive Departments and Agencies - Statewide		
Personal Services	(\$11,879,022)	(\$23,378,811)
All Other	(1,195,687)	(2,346,094)
TOTAL	(13,074,709)	(25,724,905)
Provides for the deappropriation of funds to be identified under the provisions of Public Law 1995, chapter 99, Part D as a result of improvements in efficiency.		

**Productivity Realization
Task Force**

All Other 250,000

Provides for the necessary expenses, including consulting fees, of the

Productivity Realization
Task Force.

**Executive Departments and
Agencies - Statewide**

All Other 1,855,081 3,675,780

Provides for training needs, job restructuring initiatives and necessary equipment and technology upgrades.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(11,219,628) (21,799,125)

LEGISLATURE

Departmentwide

Personal Services (543,015) (1,193,706)

All Other (54,302) (119,371)

TOTAL (597,317) (1,313,077)

Provides for the deappropriation of funds to be identified by the Legislature as savings from improvements in efficiency.

Departmentwide

All Other 73,474 162,809

Provides for the training needs, job restructuring initiatives and necessary equipment and technology upgrades.

**LEGISLATURE
TOTAL**

(523,843) (1,150,268)

SECTION

TOTAL APPROPRIATIONS (\$11,743,471) (\$22,949,393)

PART I

Sec. I-1. 22 MRSA §3760-D, as amended by PL 1993, c. 410, Pt. I, §§13 and 14, is repealed.

PART J

Sec. J-1. 5 MRSA c. 151-B is enacted to read:

CHAPTER 151-B

CONSENSUS REVENUE FORECASTING

§1710. Consensus Economic Forecasting Commission; membership

The Consensus Economic Forecasting Commission established by Title 5, section 12004-I, subsection 29-B, to provide the Governor, the Legislature and the Revenue Forecasting Committee with analyses, findings and recommendations representing state economic assumptions relevant to revenue forecasting, and referred to in this chapter as the "commission," consists of 5 members appointed as follows: two members appointed by the Governor; one member recommended for appointment to the Governor by the President of the Senate; one member recommended for appointment to the Governor by the Speaker of the House of Representatives; and one member appointed by the other members of the commission. One of the 5 members must be selected by a majority vote of the committee members to serve as the chair of the commission. Commission members must be appointed within 15 days of the effective date of this section and serve until January 1997. Thereafter, the commission members are appointed in January of odd-numbered years. A member may not be a Legislator or an employee of the Executive Department, the Legislature or the Judicial Department. Each commission member must have professional credentials and demonstrated expertise in economic forecasting.

All members are appointed for terms to coincide with the legislative biennium. Vacancies must be filled in the same manner as the original appointments for the balance of the unexpired term, except as otherwise provided in this section.

If one or more positions on the commission remains unfilled on the 16th day after the effective date of this section or the expeditious filling of a vacancy is required to enable the commission to perform its duties in an efficient and timely manner, the Governor shall make those appointments at such times and in such a manner as the Governor determines necessary.

§1710-A. Duties of commission

1. Duties. The Consensus Economic Forecasting Commission shall develop 5-year and 10-year macroeconomic secular trend forecasts and one-year, 2-year and 4-year economic forecasts.

2. Biennial economic assumptions. The commission shall submit recommendations for state economic assumptions for the next fiscal biennium and analyze economic assumptions for the current fiscal biennium, which must be approved by a majority of the commission members. No later than November 1st of each even-numbered year, the commission shall submit to the Governor, the Legislative Council and the Revenue Forecasting

Committee a report that presents the analyses, findings and recommendations for economic assumptions related to revenue forecasting for the next fiscal biennium. In its report, the commission shall fully describe the methodology employed in reaching its recommendations.

3. Current biennium adjustments. No later than February 1st and November 1st annually the commission shall submit to the Governor, the Legislative Council and the Revenue Forecasting Committee a report that presents the commission's findings and recommendations for adjustments to the economic assumptions for the current fiscal biennium. In each report the commission shall fully describe the methodology employed in reaching its recommendations.

§1710-B. Contracts

The commission may enter into contractual arrangements subject to state purchasing procedures for the procurement of economic forecasting models, data, assumptions and assistance in analyzing the data.

§1710-C. Meetings

The commission shall meet at least 4 times a year. Additional meetings may be called by the chair or by any 3 members. All meetings are open to the public.

§1710-D. Staffing

The commission may receive staff support from the State Planning Office.

§1710-E. Revenue Forecasting Committee; established; membership

There is established the Revenue Forecasting Committee, referred to in this chapter as the "committee," for the purpose of providing the Governor, the Legislature and the State Budget Officer with analyses, findings and recommendations relating to the projection of revenues for the General Fund and the Highway Fund based on economic assumptions recommended by the Consensus Economic Forecasting Commission. The committee includes the State Budget Officer, the State Tax Assessor, the State Economist and an economist on the faculty of the University of Maine System selected by the chancellor and the Director of the Office of Fiscal and Program Review. One of the 5 members must be selected by a majority vote of the committee members to serve as the chair of the committee.

§1710-F. Duties of committee

1. Duties; use of economic assumptions. The committee shall develop current fiscal biennium and ensuing fiscal biennium revenue projections using the

economic assumptions recommended by the Consensus Economic Forecasting Commission.

2. Biennial revenue projections. The committee shall submit recommendations for state revenue projections for the next fiscal biennium and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next fiscal biennium. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds of the State may be included in the report at the discretion of the committee.

3. Current biennium adjustments. No later than March 1st and December 1st annually the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for adjustments to General Fund revenue and Highway Fund revenue for the current fiscal biennium. In each report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue adjustments for other funds of the State may be included in the report at the discretion of the committee.

§1710-G. Use of revenue forecasts

The State Budget Officer shall consider the revenue projections recommended by the committee in setting revenue estimates in accordance with section 1665, subsection 3. If the State Budget Officer adjusts the revenue projections recommended by the committee, the State Budget Officer shall submit to the Governor, the Legislative Council and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report that presents the analyses, findings and recommendations by revenue line and explains the variances from the revenue projections recommended by the committee.

§1710-H. Meetings

The committee shall meet at least 4 times a year. Additional meetings may be called by a majority vote of the committee.

§1710-I. Staffing

The committee may receive staff assistance from the Bureau of the Budget, the State Planning Office, the Bureau of Taxation and, at the discretion of the Legislature, the Office of Fiscal and Program Review. The committee may also utilize other professionals having revenue forecasting, economic and fiscal expertise.

§1710-J. Access to information

In order to assist the committee, the Department of Administrative and Financial Services shall provide information and data to the committee on request. The committee members are bound by the confidentiality restrictions concerning certain tax records described in Title 36, chapter 7. The State Tax Assessor may disclose any corporate or individualized income tax data, sales and use tax data, business tax data, property tax data or other tax data to the committee or its staff. This information may be requested in any form, including paper records, computerized data or summary statistics, but may not be transmitted with any identification by taxpayer name, number or address and must be aggregated to include at least 3 taxpayers.

Sec. J-2. 5 MRSA §12004-I, sub-§29-B is enacted to read:

<u>29-B.</u>	<u>Consensus</u>	<u>Not</u>	<u>5</u>
<u>Finance</u>	<u>Economic</u>	<u>Authorized</u>	<u>MRSA</u>
	<u>Forecasting</u>		<u>§1710</u>
	<u>Commission</u>		

Sec. J-3. 30-A MRSA §5252, sub-§2-B, as enacted by PL 1993, c. 429, §1, is amended to read:

2-B. Committee. "Committee" means the Revenue Forecasting Committee ~~consisting of the State Budget Officer, State Planning Officer, State Tax Assessor, Director of the Office of Fiscal and Program Review and a university economist appointed by the Governor~~ established in Title 5, section 1710-E.

PART K

Sec. K-1. 5 MRSA §13066-B, sub-§3, as enacted by PL 1993, c. 471, is amended to read:

3. Tourism Marketing and Development Fund. The Tourism Marketing and Development Fund is established within the Department of Economic and Community Development. The fund must be used for the development and administration of a tourism marketing and development strategy. All receipts of taxes pursuant to Title 36, section 1811, 3rd paragraph must be credited to the fund in an aggregate amount not to exceed the legislatively authorized allocations for fiscal ~~year~~ years 1993-94

~~and fiscal year, 1994-95, 1995-96 and 1996-97. This subsection is repealed July 1, 1995 1997.~~

Sec. K-2. 26 MRSA §2159-F, as enacted by PL 1993, c. 410, Pt. T, §2, is amended to read:

§2159-F. Repeal

This chapter is repealed October 1, ~~1995~~ 1998.

Sec. K-3. 34-A MRSA §1210, sub-§2, as amended by PL 1993, c. 410, Pt. P, §1, is further amended to read:

2. Reimbursement. Except as provided in subsection 6-A, the department shall, under this section, reimburse each county quarterly for each actual day served at that county correctional facility by:

A. Persons convicted of a Class A, Class B or Class C crime sentenced after March 31, 1987, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1; or section 1252, subsection 1; and

B. Persons convicted of a Class A, Class B or Class C crime sentenced after December 31, 1988, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1 or section 1252, subsection 1.

Reimbursement for periods after June 30, 1987 may not be authorized until the reimbursable costs for the operations of the jail are agreed upon by the commissioner and the county commissioners for that county. Reimbursable costs for the operations of the jail must, to the extent practicable, be mutually agreed upon prior to the actual expenditures of funds for those costs. Prior approval of all capital expenditures is required for reimbursement of that expense item. If the commissioner and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision is final and both the commissioner and the county commissioners are bound by that decision.

The obligation of the Department of Corrections to reimburse counties pursuant to this section may not exceed the actual amount appropriated during fiscal ~~year years 1993-94 and fiscal year, 1994-95, 1995-96 and 1996-97.~~

Sec. K-4. 36 MRSA §4641-B, as amended by PL 1993, c. 410, Pt. C, §5, is further amended by adding at the end a new paragraph to read:

For fiscal years 1995-96 and 1996-97, the State Tax Assessor shall pay all net receipts to the Treasurer of State, who shall credit 3/4 of the revenue to the General Fund and who shall monthly pay the remain-

ing 1/4 to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853. This paragraph is repealed June 30, 1997.

Sec. K-5. PL 1993, c. 410, Pt. A, §16, first ¶ is amended by adding before the last sentence a new sentence to read:

The State Cost Allocation Program may provide for the separate assessment of certain statewide single audit costs to federally funded programs.

Sec. K-6. PL 1993, c. 471, §4, first 2 sentences are amended to read:

All unencumbered balances remaining in the Tourism Marketing and Development Fund on June 30, ~~1995~~ 1997 lapse to the General Fund to be credited as sales tax revenue pursuant to the Maine Revised Statutes, Title 36, section 1811. All balances of accrued encumbrances, expenditures, assets or liabilities in the Tourism Marketing and Development Fund on June 30, ~~1995~~ 1997 must be transferred to the Office of Tourism program in the General Fund by the State Controller upon the request of the State Budget Officer and with approval of the Governor.

Sec. K-7. PL 1993, c. 735, §9 is amended to read:

Sec. 9. Transfer of funds. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1585, the Commissioner of Environmental Protection shall transfer \$184,000 from the Maine Environmental Protection Fund program to the Ground Water Oil Clean-up Fund ~~during fiscal year 1995-96 in 4 annual payments of \$46,000 beginning in fiscal year 1995-96.~~

Sec. K-8. Transfer. The Department of Inland Fisheries and Wildlife is authorized to transfer by financial order an amount of \$760,240 in fiscal year 1995-96 and \$550,201 in fiscal year 1996-97 from the Carrying Balances - Inland Fisheries and Wildlife program, General Fund to the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund, for the purpose of increasing funding to current services levels.

PART L

Sec. L-1. 35-A MRSA §116, sub-§8, as amended by PL 1993, c. 633, §§1 and 2 and affected by §3, is further amended to read:

8. Public Advocate assessment. Every utility subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce ~~\$557,307~~ \$617,680 in revenues for fiscal year ~~1993-94~~ 1995-96 and

~~\$571,615~~ \$625,781 in fiscal year ~~1994-95~~ 1996-97 for operating the Office of Public Advocate. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used to fulfill the duties specified in chapter 17. The assessments charged to utilities under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility regulation and the percentage of time devoted to other duties that may be required by law.

A. The assessments and expenditures provided in this section are subject to legislative approval in the same manner as the budget of the Public Advocate is approved. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

B. The Public Advocate may use the revenues provided in accordance with this section to fund 7 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

C-1. Except as specified in this subsection, funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years; but unexpended funds in excess of 10% of the total annual assessment authorized in this section must, at the option of the Public Advocate, either be presented to the Legislature in accordance with paragraph A for reallocation and expenditure or used to reduce the utility assessment in the following fiscal year.

D. Any utility, subject to this section, that willfully fails to pay the assessments in accordance with this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged per day for which payment is not made following the due date.

Sec. L-2. Adjustments to allocations.

Allocations from the Maine Nuclear Emergency Planning Fund, the Public Utilities Commission Regulatory Fund, the Public Utilities Commission Reimbursement Fund, the Public Advocate Regulatory Fund, the Ground Water Oil Clean-up Fund, the

Maine Coastal and Inland Surface Oil Clean-up Fund, the Maine Hazardous Waste Fund, the Intergovernmental Telecommunications Fund, the Alcoholic Beverages Fund and the State Lottery Fund and all federal block grant allocations may be increased or adjusted by the State Budget Officer, with the approval of the Governor, to specifically cover those adjustments determined to be necessary under any salary plan approved by the Legislature and those reclassifications and range changes that have been approved by the Department of Administrative and Financial Services and submitted for legislative review prior to the effective date of this Act.

Sec. L-3. Allotments required - Bureau of Alcoholic Beverages and Lottery Operations.

Upon receipt of allotments duly approved by the Governor, based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures from allocations from the Alcoholic Beverages Fund and the State Lottery Fund in Part A of this Act, on the basis of these allotments and not on any other basis.

Sec. L-4. Block grant additional funds.

Any additional funds that might become available due to implementation of the block grants and the possible overlapping of other grants may be carried forward for future allocations by the Legislature or may be used to offset any possible reductions in the block grants.

Sec. L-5. Block grant encumbered balances at year end. At the end of each fiscal year, all encumbered balances in the block grants may not be carried more than once, except that encumbered balances in the Community Development Block Grant may be carried twice and encumbered balances of grant awards for capital construction projects may carry until the completion of the project, as long as the construction is started prior to the end of the year for which the allocation was made.

Sec. L-6. Capital expenditures. Notwithstanding the allocations in Part A of this Act and the provisions of section 2 of this Part, up to \$100,000 in the Alcoholic Beverages Fund and up to \$90,000 in the State Lottery Fund may be expended for capital expenditures in each fiscal year of the biennium.

Sec. L-7. Intergovernmental Telecommunications Fund; exclusion. Notwithstanding the allocation in Part A of this Act and the provisions of section 2 of this Part, up to \$750,000 for capital expenditures may be expended from the Intergovernmental Telecommunications Fund in each fiscal year of the biennium, exclusive of capital items obtained through lease-purchases or other similar agreements consistent with the Maine Revised Statutes, Title 5, section 1587 and other applicable laws. It is the intent of the Legislature that no capital items purchased

through the Intergovernmental Telecommunications Fund may be given, transferred, sold or otherwise conveyed to any other department, agency or account, unless the transaction has received specific prior legislative authorization through the budgetary process.

Sec. L-8. Intergovernmental Telecommunications Fund; encumbered balance at year end. At the end of each fiscal year, all encumbered balances in the Intergovernmental Telecommunications Fund may not be carried more than once.

Sec. L-9. Intergovernmental Telecommunications Fund; legislative intent. It is the intent of the Legislature that all departments and agencies be assessed telecommunication charges on the basis of uniform billing procedures and in direct proportion to the services they are provided. However, during fiscal years 1995-96 and 1996-97, a department or an agency may not be required to utilize resources in excess of levels that have historically been found to be necessary and available to it in order to maintain the level of service currently being received to satisfy those assessments.

Sec. L-10. Legislative intent. It is the intent of the Legislature that allocations by the Legislature from the Alcoholic Beverages Fund and the State Lottery Fund in Part A of this Act apply to administrative expenses only and that these allocations must be allotted and approved under the Maine Revised Statutes, Title 5. It is not the intent of the Legislature to affect the use of the working capital provided for under Title 28-A or other activities required of the State Liquor and Lottery Commission under Title 28-A.

PART M

Sec. M-1. Voluntary employee incentive programs. Notwithstanding the Maine Revised Statutes, Title 5, section 903, subsections 1 and 2, the Commissioner of Administrative and Financial Services shall offer for use prior to July 1, 1997 special voluntary employee incentive programs, including a 50% work-week option, flexible position staffing and time off without pay. Employee participation in the voluntary incentive program is subject to the approval of the employee's appointing authority.

Sec. M-2. Continuation of health insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 285, subsection 7 and section 903, for state employees who apply to prior to July 1, 1997 to participate in voluntary cost-savings programs, the State shall continue to pay health and dental insurance benefits based upon the scheduled workweek in effect prior to the participation in the voluntary program.

Sec. M-3. Continuation of group life insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 903; Title 5, section 18056, subsection 1, paragraph A; and the rules of the Maine State Retirement System, the life, accidental death and dismemberment, supplemental and dependent insurance amounts for state employees who apply prior to July 1, 1997 to participate in voluntary cost-savings programs are based upon the scheduled hours of the employees prior to the participation in the voluntary programs.

Sec. M-4. General Fund savings. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, General Fund savings as a result of the voluntary employee incentive program may not be used to fund other state programs but must be used to offset the deappropriation in section 5 of this Part. The State Budget Officer shall submit a report to the First Regular Session and the Second Regular Session of the 118th Legislature.

Sec. M-5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Salary Plan		
Personal Services	(\$400,000)	(\$400,000)
Provides for the deappropriation of funds from voluntary employee incentive programs.		

PART N

Sec. N-1. Calculation and transfer. The State Budget Officer shall calculate the amounts in sections 3 to 9 of this Part that apply against each account for all departments and agencies based on the proportionate share of employer retirement costs in the Personal Services appropriations or allocations of the affected accounts. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provisions of law, the State Budget Officer shall distribute the calculated amounts resulting from sections 3 to 9 of this Part among the affected accounts as appropriated or allocated adjustments.

Sec. N-2. Employer retirement rates. The State Budget Officer shall adjust the employer retirement rates in fiscal years 1995-96 and 1996-97 based on the calculated rate provided by the Maine State Retirement System that reflects section 1 of this Part and the cost of administration of the Maine State

Retirement System in fiscal years 1995-96 and 1996-97 as provided for in sections 3 to 9 of this Part. The adjusted retirement rates must be applied by the State Budget Officer to each affected account so that the actual employer retirement costs in each account affected by section 1 of this Part approximate the net appropriation or allocation to each account after the adjustments required by section 1.

Sec. N-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Personal Services	\$4,700,000	\$4,700,000
Provides funds for the General Fund share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after 1994-95.		

Sec. N-4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Personal Services	530,000	530,000
Provides funds for the Highway Fund share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and		

1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after 1994-95.

Sec. N-5. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Personal Services	639,495	639,495
Provides funds for the Federal Expenditures Fund share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after fiscal year 1994-95.		

Sec. N-6. Allocation. The following funds are allocated from the Federal Block Grant Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Departments and Agencies - Statewide		
Personal Services	38,332	38,332

Provides funds for the Federal Block Grant Fund share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after fiscal year 1994-95.

Sec. N-7. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		

Departments and Agencies - Statewide

Personal Services	495,437	495,437
Provides funds for Other Special Revenue funds share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after fiscal year 1994-95.		

Sec. N-8. Allocation. The following funds are allocated from various internal service funds to carry out the purposes of this Part.

	1995-96	1996-97
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ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Departments and Agencies - Statewide

Personal Services	117,937	117,937
Provides funds for various internal service funds share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after fiscal year 1994-95.		

Sec. N-9. Allocation. The following funds are allocated from various enterprise funds to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		

Departments and Agencies - Statewide

Personal Services	\$51,630	\$51,630
Provides funds for various enterprise funds share of the administrative costs of the Maine State Retirement System for fiscal years 1995-96 and 1996-97. The Maine State Retirement System may not fund its administrative costs from the retirement trust funds or cause or allow the administrative costs to become a part of the unfunded actuarial liability of the Maine State Retirement System in any fiscal year after fiscal year 1994-95.		

PART O

Sec. O-1. Calculation and transfer. The State Budget Officer shall calculate the amounts in section 2 of this Part that apply against each General Fund account for all departments and agencies based on the proportionate share of out-of-state travel costs in the All Other appropriations of the affected accounts. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provisions of law, the State Budget Officer shall distribute the calculated amounts resulting from section 2 of this Part as appropriated adjustments.

Sec. O-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide - Out-of-state
Travel**

All Other	(\$100,000)	(\$120,000)
Provides for the deappropriation of funds from savings in out-of- state travel.		

PART P

Sec. P-1. Transfer of unexpended balance. Notwithstanding Private and Special Law 1987, chapter 126, section 3, on or before June 30, 1996, the Treasurer of State shall transfer \$1,200,000 of the unexpended balance in the Maine State Housing Authority's oil storage and removal bond fund, authorized by Private and Special Law 1987, chapter 126, to the debt service earnings account in the office of the Treasurer of State.

Sec. P-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

TREASURY DEPARTMENT**Debt Service - Treasury**

All Other	(\$1,400,000)
Provides for the deappropriation of funds in conjunction with the transfer of	

funds from the oil storage and removal bond fund in the Maine State Housing Authority in the amount of \$1,200,000 in fiscal year 1995-96 as specified in section 1 of this Part. Transfers will be made from the General Fund Debt Service Account, the account set up for the retirement of bonds and notes authorized under the Maine Revised Statutes, Title 5, section 151-A, which will provide sufficient funds to cover the projected debt service requirement.

PART Q

Sec. Q-1. Calculation and transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount in section 2 of this Part that applies against each General Fund account for all departments and agencies based on the total General Fund appropriations to these accounts. The State Budget Officer shall cause the calculated amount to be transferred from each account.

Sec. Q-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Departments and Agencies - Statewide

Personal Services	(\$9,700,000)
Provides for the deappropriation of funds no longer needed for the deferred payroll, which will be paid in fiscal year 1994-95.	

PART R

Sec. R-1. 15 MRSA §1710, as repealed and replaced by PL 1989, c. 887, §1, is repealed.

Sec. R-2. 17-A MRSA §1204, sub-§1-A, as enacted by PL 1989, c. 875, Pt. E, §23 and affected by §24, is amended to read:

1-A. The court shall attach as a condition of probation that the convicted person pay, through the Division of Probation and Parole, a supervision fee of between \$10 and \$50 per month, as determined by the Court court, for the term of probation, ~~unless the Court determines that the convicted person does not have the financial resources to pay this fee.~~ In determining the amount of the fee, the court shall take into account the financial resources of the convicted person and the nature of the burden its payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fee. When a person on probation fails to pay the supervision fee, the court may revoke probation as specified in section 1206, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fee and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fee has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fee to as low as \$10 per month, but may not revoke the requirement to pay the fee unless the remaining period of probation is 30 days or less.

Sec. R-3. 17-A MRSA §1204, sub-§1-B, as amended by PL 1993, c. 511, §1, is further amended to read:

1-B. Upon the request of the Department of Corrections, the court shall attach as a condition of probation ~~or intensive supervision~~ that the convicted person pay, through the Division of Probation and Parole, an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation ~~or intensive supervision unless the court determines that the convicted person does not have the financial resources to pay these fees.~~ Funds In determining the amount of the fees, the court shall take into account the financial resources of the convicted person and the nature of the burden the payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fees. When a person on probation fails to pay the fees, the court may revoke probation as specified in section 1206, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fees and shall issue an order attaching a specified portion of money received by or owed to the

person on probation until the total amount of the fees has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fees, but may not revoke the requirement to pay the fees unless the remaining period of probation is 30 days or less. Fees received from probationers ~~or those sentenced to intensive supervision~~ must be deposited into the department's Correctional Program Improvement Fund, except that ~~where~~ when authorized by the Department of Corrections, a person on probation ~~or sentenced to intensive supervision~~ may be required to pay fees directly to a provider of electronic monitoring, ~~drug~~ substance testing or other services. Funds from this account, which may not lapse, must be used to defray costs associated with the purchase and operation of electronic monitoring and substance testing programs, ~~including costs associated with those programs for people who do not have the financial resources to pay the fees.~~

Sec. R-4. 17-A MRSA §1208 is enacted to read:

§1208. In lieu of probation revocation proceedings

Whenever a probation officer has probable cause to believe that a person under the supervision of the probation officer has violated a condition of probation but the violation does not constitute a crime or constitutes only a Class E crime, the probation officer, instead of commencing probation revocation proceedings under section 1205, may offer to the person on probation the option of adding one or more of the following conditions to the person's probation:

1. Daily reporting program. Participation in a daily reporting program;

2. Public restitution program; treatment program. Participation in a public restitution program or treatment program administered through a Department of Corrections' prerelease center; or

3. Residing at prerelease center. Residing at a Department of Corrections' prerelease center for a period of time not to exceed 90 days.

If the person on probation agrees, in writing, to the additional conditions, the conditions must be implemented. If the person on probation does not agree or if the person fails to fulfill the additional conditions to the satisfaction of the probation officer, the probation officer may commence probation revocation proceedings under section 1205 for the violation that the probation officer had probable cause to believe occurred.

Sec. R-5. 17-A MRSA §1268 is enacted to read:

§1268. Application

Section 1204, subsections 1-A and 1-B apply to both the intensive supervision portion and the probation portion of a sentence imposed under this chapter.

Sec. R-6. 30-A MRSA §1557, as amended by PL 1989, c. 887, §§2 and 3, is repealed and the following enacted in its place:

§1557. Transfer from jails

1. Transfer. A sheriff may transfer a prisoner serving a sentence in a county jail from one jail to another to serve any part of that sentence, upon the request of the sheriff of the sending jail and the approval of the sheriff of the receiving jail. A sheriff may transfer a prisoner serving a sentence in a county jail to the Department of Corrections to serve any part of that sentence, upon the request of the sheriff and the approval of the Commissioner of Corrections.

2. Transfer cost. The county of the sending jail shall pay the cost of the transfer or return of the prisoner.

3. Reimbursement. The county responsible for the support of a prisoner transferred under this section while the prisoner was incarcerated in the county jail shall pay directly to the receiving county jail or the Department of Corrections upon the request of the sheriff of the receiving jail or the department an amount computed at a per diem per capita rate established by the receiving county jail or the department. The county also shall reimburse the receiving county jail or the department for any costs incurred in the provision of extraordinary medical or surgical treatment to the person transferred. The payment amount provided for in this section may be adjusted or dispensed with upon terms mutually agreeable to the sheriff of the sending jail and the sheriff of the receiving jail or the department if the sending jail houses any prisoners for the receiving jail or the department.

4. Transferee subject to rules. A person transferred under this section is subject to the general rules of the facility to which the person is transferred, except that:

A. The term of the original sentence remains the same unless altered by the court;

B. The person becomes eligible for meritorious good time as provided in Title 17-A, section 1253 for a person sentenced to imprisonment in a county jail;

C. The person becomes eligible for release and discharge as provided in Title 17-A, section 1254

for a person sentenced to imprisonment in a county jail;

D. The person is entitled to have the time served in the facility under this section deducted from the sentence; and

E. A person transferred under this section becomes eligible for furloughs, work or other release programs, participation in public works and charitable projects and home-release monitoring as authorized by sections 1556, 1605, 1606 and 1659 and may apply pursuant to the rules governing the sending jail.

5. Return of prisoner. A prisoner transferred pursuant to this section must be returned to the sending jail upon the request of the sheriff of the sending jail, the sheriff of the receiving jail or the Commissioner of Corrections.

Sec. R-7. 30-A MRSA §1656, sub-§§1 and 2, as amended by PL 1989, c. 887, §4, are further amended to read:

1. Transfer of prisoners when jail unfit or insecure. Whenever complaint on oath is made to a Justice of the Superior Court that a prisoner or prisoners should be removed from a jail to another jail or to a state correctional facility because that jail is unfit for occupation or is insufficient for the secure keeping of any a person charged with a crime and committed to await trial, or awaiting sentencing or serving a sentence in that jail, the Justice of the Superior Court shall:

A. Schedule the time and place for a hearing on this complaint;

B. Have not less than 3 days' notice of that hearing given to the sheriff or sheriffs of the county jail or jails involved and, if transfer to a state correctional facility is anticipated, to the Commissioner of Corrections;

C. Order removal, at the expense of the sending county, of the prisoner or prisoners to a state correctional facility pending hearing, ~~provided that~~ as long as the Commissioner of Corrections and the sending sheriff agree; and

D. Conduct a hearing and if the matter complained of is found true:

(1) Issue a warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to any jail; or

(2) Issue a warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to a state correctional facility, ~~provided that~~ if the Justice of the Supe-

rior Court finds that the receiving institution is able to resolve the problem causing the need to transfer, the nature of the offense committed or alleged to have been committed by the prisoner is so severe that it requires sending to the receiving institution and the security of the sending facility is inadequate to handle the problem.

2. Emergency. In the event of an emergency, regardless of whether a complaint on oath has been made to a Justice of the Superior Court, the sheriff, with the agreement of the Commissioner of Corrections, may immediately, at the expense of the sending county, remove ~~any prisoner~~ a person charged with a crime and committed to await trial or awaiting sentencing from the county jail to a state correctional facility. If removal is made under this section, a complaint on oath must be made to a Justice of the Superior Court within 24 hours and a hearing must be conducted in accordance with the requirements in subsection 1, paragraph D, subparagraph (2).

Sec. R-8. 34-A MRSA §3003, sub-§1, ¶C, as amended by PL 1987, c. 633, §2, is further amended to read:

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; ~~and~~

Sec. R-9. 34-A MRSA §3003, sub-§1, ¶D, as enacted by PL 1987, c. 633, §3, is amended to read:

D. To any criminal justice agency if necessary to carry out the administration of criminal justice, the administration of juvenile criminal justice or for criminal justice agency employment; ~~and~~

Sec. R-10. 34-A MRSA §3003, sub-§1, ¶E is enacted to read:

E. To persons engaged in research if:

(1) The research plan is first submitted to and approved by the commissioner;

(2) The disclosure is approved by the commissioner; and

(3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name, number or in any other way that might lead to the person's identification.

Sec. R-11. 34-A MRSA §3063, as amended by PL 1991, c. 314, §56, is repealed and the following enacted in its place:

§3063. Transfer to jails

1. Transfer of prisoner. The commissioner may transfer a prisoner serving a sentence in a correctional facility to a county jail, upon the request of the commissioner and the approval of the sheriff of the jail.

2. Cost of transfer. The department shall pay the cost of the transfer or the return of the prisoner.

3. Reimbursement. Upon the request of the sheriff of the jail receiving a prisoner pursuant to this section, the department shall pay directly to the jail an amount computed at a per diem per capita rate established by the jail. The department shall reimburse the jail for costs incurred in the provision of extraordinary medical or surgical treatment to the person transferred. The payment amount provided for in this section may be adjusted or dispensed with on terms mutually agreeable to the department and the sheriff, if the department houses any prisoners for the jail.

4. Transferee subject to rules. A person transferred under this section is subject to the general rules of the facility to which the person is transferred, except that:

A. The term of the original sentence remains the same unless altered by the court;

B. The person becomes eligible for meritorious good time as provided in Title 17-A, section 1253 for a person committed to the department;

C. The person becomes eligible for release and discharge as provided in Title 17-A, section 1254 for a person committed to the department;

D. The person is entitled to have the time served in the jail under this section deducted from the sentence; and

E. A person transferred under this section becomes eligible for furloughs, work or other release programs, and supervised community confinement as authorized by sections 3035 and 3036-A and may apply pursuant to the rules governing the correctional facility from which the prisoner was transferred.

5. Return of prisoner. A prisoner transferred pursuant to this section must be returned to the department upon the request of the commissioner or the sheriff.

Sec. R-12. 34-A MRSA §3063-A is enacted to read:

§3063-A. Transfer from jails

The commissioner may accept custody of prisoners transferred to the department from county jails under Title 30-A, section 1557.

PART S

Sec. S-1. Transfer of funds. Notwithstanding any other provision of law, the High-Risk Insurance Organization shall transfer from surplus funds \$1,000,000 in fiscal year 1995-96 and \$1,000,000 in fiscal year 1996-97 to the General Fund as undedicated revenue by June 30th of each fiscal year.

PART T

Sec. T-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
General Assistance		
All Other	(\$247,000)	
Provides for the deappropriation of funds due to the availability of Stripper Well funds to support energy-related costs.		
Medical Care - Payments to Providers		
All Other		(\$354,791)
Provides for the deappropriation of funds as a partial offset to an appropriation in Part B, to properly reflect the cost of recognizing the hospital tax as a Medicare allowable cost.		
DEPARTMENT OF HUMAN SERVICES TOTAL	<hr/> (247,000)	<hr/> (354,791)

Sec. T-2. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

1996-97

**HUMAN SERVICES,
DEPARTMENT OF**

Medical Care - Payments to Providers

All Other (612,469)

Provides for the deallocation of funds as a partial offset to an allocation in Part B, to properly reflect the cost of recognizing the hospital tax as a Medicare allowable cost.

Sec. T-3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1995-96

**HUMAN SERVICES,
DEPARTMENT OF**

General Assistance

All Other \$247,000

Provides for the allocation of funds from the Stripper Well Fund to support energy-related costs.

PART U

Sec. U-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Telecommunications Fund		
All Other	\$3,500,000	
Provides funds to pay outstanding bills as soon as possible.		
Notwithstanding any other provision of law, the Commissioner of Administrative and Financial Services shall work with the State Controller to transfer the		

sum of \$3,500,000, with interest at 5%, from the Telecommunications Fund as undedicated revenue to the General Fund on a monthly basis no later than February 1, 1997.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

3,500,000

**TREASURER OF STATE
(OFFICE OF)**

Debt Service - Treasury

All Other (276,214) 276,214

Provides funds to more accurately reflect debt service payments.

**OFFICE OF TREASURER
OF STATE
TOTAL**

(276,214) 276,214

SECTION

TOTAL APPROPRIATIONS \$3,223,786 \$276,214

PART V

Sec. V-1. 5 MRSA §150, 2nd ¶, as amended by PL 1993, c. 707, Pt. P, §1, is further amended to read:

The Treasurer of State, with the approval of the Governor, may negotiate a temporary loan or loans in anticipation of taxes levied for that fiscal year, but not exceeding a total of that amount of taxes estimated by the Treasurer of State to be collected in the fiscal year in which the temporary loan or loans, or renewal of the temporary loan or loans, is made, provided that the temporary loans or renewals of the temporary loans do not exceed any limitation set forth in the Constitution of Maine, Article IX, Section 14. Any such loans may be renewed from time to time as the Treasurer of State, with the approval of the Governor, determines, except that each loan or renewal of the loan must be retired not later than the close of the fiscal year in which the loan was originally made and for which were levied the taxes in anticipation of the collection of which the loan was originally made; and that each loan or renewal of the loan must comply with the provisions of this section and the Constitution of Maine, Article IX, Section 14. The Treasurer of State shall pay the loan or loans in anticipation of taxes during the year and there is appropriated for any year in which the Treasurer of State and the Governor determine it necessary to borrow in anticipation of

taxes the sum of \$30,000,000; except that for fiscal year 1991-92, the sum may not exceed \$150,000,000; for fiscal year 1992-93, the sum may not exceed \$170,000,000; for fiscal year 1993-94, the sum may not exceed \$170,000,000; and for fiscal year 1994-95, the sum may not exceed \$175,000,000; and for fiscal year 1995-96, the sum may not exceed \$182,000,000.

Sec. V-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

**TREASURER OF STATE
(OFFICE OF)**

Debt Service - Treasury

All Other \$8,190,000

Provides funds to meet the debt service payments related to a \$182,000,000 tax anticipation note for fiscal year 1995-96.

PART W

Sec. W-1. 22 MRSA §391, sub-§1, as amended by PL 1993, c. 410, Pt. UUU, §1, is further amended to read:

1. Assessments. Every hospital subject to regulation under this chapter is subject to an assessment of not more than .15% of its gross patient service revenues. Notwithstanding any other provision of law, the commission shall reduce the assessment to hospitals by \$159,077 in fiscal year 1993-94 and by \$276,106 in fiscal year 1994-95. ~~For the period of October 1, 1983, to June 30, 1984, each hospital shall pay an assessment equal to 75% of the total annual dues and fees for which it was liable to a voluntary budget review organization during its most recent fiscal year which ended prior to July 1, 1983. Each hospital shall pay this assessment in 3 equal installments, with payments due on or before November 1, 1983, January 1, 1984, and April 1, 1984. Thereafter, the~~ The commission shall determine the assessments annually prior to July 1st and shall assess each hospital for its pro rata share. Each hospital shall pay the assessment charged to it on a quarterly basis, with payments due on or before July 1st, October 1st, January 1st and April 1st of each year. For fiscal year 1995-96, the assessments may not exceed in total \$1,600,000.

Sec. W-2. 22 MRSA §391, sub-§§4 and 5, as enacted by PL 1983, c. 579, §10, are repealed.

Sec. W-3. 22 MRSA §391, sub-§6, as amended by PL 1991, c. 622, Pt. Z, §1, is repealed.

Sec. W-4. 22 MRSA §395-B is enacted to read:

§395-B. Charity care

1. Charity care guidelines. The department shall adopt reasonable guidelines for policies to be adopted and implemented by hospitals with respect to the provision of health care services to patients who are determined unable to pay for the services received. The department shall adopt income guidelines that are consistent with the guidelines applicable to the Hill-Burton Program established under 42 United States Code, Section 291, et seq. (1988). The guidelines and policies must include the requirement that upon admission or, in cases of emergency admission, before discharge of a patient, hospitals must investigate the coverage of the patient by any insurance or state or federal programs of medical assistance.

2. Charity care requirement. If the hospital's services to the patients are not covered by insurance or a medical assistance program and the patient meets the financial guidelines established by the organization, the services must be provided as charitable care. This section does not prevent a hospital from establishing a policy of charitable care that includes services not included in this subsection if permitted by the organization's guidelines. Hospital services provided to a person who meets the financial eligibility guidelines adopted pursuant to this section may not be billed to the patient or to a municipality.

Sec. W-5. 22 MRSA §3174-O is enacted to read:

§3174-O. Establish rules

The department shall establish rules recognizing the Medicaid hospital assessment as a reimbursable cost to providers participating in the State's medical assistance program.

Sec. W-6. 36 MRSA §191, sub-§2, ¶P, as amended by PL 1995, c. 178, §2, is further amended to read:

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under sec-

tion 151 or the Maine Administrative Procedure Act; ~~and~~

Sec. W-7. 36 MRSA §191, sub-§2, ¶Q, as enacted by PL 1995, c. 178, §3, is amended to read:

Q. The listing of special fuel suppliers possessing certificates under section 3204-; and

Sec. W-8. 36 MRSA §191, sub-§2, ¶R is enacted to read:

R. The disclosure to the Department of Human Services, Bureau of Medical Services of information relating to the administration and collection of the tax imposed by chapter 369.

Sec. W-9. 36 MRSA §2801-A, sub-§1, as amended by PL 1991, c. 780, Pt. R, §6, is further amended to read:

1. Initial assessment. For hospital payment years as defined in Title 22, section 382 that end in state fiscal year 1991-92 and thereafter, each hospital licensed under Title 22, chapter 405, excluding state hospitals, must be assessed 6% of the hospital's final gross patient service revenue limit as established by the Maine Health Care Finance Commission or, on or after January 1, 1996, by the Department of Human Services.

The joint standing committee of the Legislature having jurisdiction over taxation matters shall evaluate annually the method used to levy the Medicaid hospital assessment.

Sec. W-10. Elimination of regulatory functions; successor to the Maine Health Care Finance Commission.

1. Beginning July 1, 1995 and until January 1, 1996, the Maine Health Care Finance Commission shall establish gross patient service revenue limits in accordance with the Maine Revised Statutes, Title 22, chapter 107 for the sole purpose of calculating the hospital assessment required by Title 22, section 391 and the tax required by Title 36, chapter 369, and for determining final settlement and payment of obligations with respect to previously established revenue limits.

Except for the calculation of the hospital assessment required under Title 22, section 391 and the determination of settlements and payment obligations as described in this section and notwithstanding Title 22, chapter 107 or any provision of law to the contrary, beginning July 1, 1995, the Maine Health Care Finance Commission may not enforce the provisions of Title 22, chapter 107, except that the commission shall continue its clinical and financial data collection and data and financial analysis functions, until, after

submission of the recommendations of the Task Force to Monitor Deregulation of Hospitals to the Second Regular Session of the 117th Legislature, the Maine Health Care Finance Commission is replaced. By December 31, 1995, the commission shall calculate and settle, to the greatest extent possible, open, unresolved or otherwise incomplete proceedings related to the tax imposed by Title 36, section 2801-A, subsections 1 to 4.

2. Beginning January 1, 1996, the Department of Human Services shall establish gross patient service revenue limits in accordance with Title 22, chapter 107 for the sole purpose of calculating the hospital assessment required by Title 22, section 391 and the tax required by Title 36, chapter 369.

Beginning January 1, 1996, the Department of Human Services shall calculate and settle any open, unresolved or otherwise incomplete proceedings related to the tax imposed by Title 36, section 2801-A, subsections 1 to 4.

3. In all proceedings conducted by the Maine Health Care Finance Commission or the Department of Human Services under subsection 1 or subsection 2, revenue limits, settlements, and payment obligations must be determined in accordance with the rules, methods, and practices of the Maine Health Care Finance Commission in effect on June 30, 1995, as modified by all additional or amended rules adopted by the commission as a result of rulemaking proceedings commenced prior to June 30, 1995, or commenced to adopt a permanent rule with respect to any emergency rule, or commenced to clarify that revenue limits may be reduced on application of a hospital to reflect the actual amount charged by a hospital when that amount is less than the otherwise applicable limit.

Sec. W-11. Monitor restructuring. Beginning July 1, 1995, the Maine Health Care Finance Commission or its successor, in conjunction with the Task Force to Monitor Deregulation of Hospitals, shall monitor restructuring of hospitals and hospital services, including mergers, acquisitions, and spin-offs of services to subsidiaries, for-profit or not-for-profit organizations. The commission shall report its findings to the Office of the Attorney General and to the joint standing committee of the Legislature having jurisdiction over human resource matters.

Sec. W-12. Report to the Legislature; monitor deregulation.

1. The Task Force to Monitor Deregulation of Hospitals, referred to in this section as the "task force," is established and may review the recommendations of the Maine Health Care Reform Commission. The task force shall monitor the impact of deregulation on health care providers and consumers, propose recommendations concerning data collection

and financial analysis and recommend statutory changes to implement the elimination of regulatory functions of the Maine Health Care Finance Commission.

The task force shall report to the Legislature no later than December 15, 1995 its findings and recommendations concerning the collection of clinical and financial data and the development of a financial analysis capability.

2. The task force consists of 14 members selected as follows:

A. Six members appointed by the Governor as follows: Three to represent the Department of Human Services, 2 to represent the Maine Health Care Finance Commission and one to represent the Bureau of Insurance;

B. Three members appointed by the Speaker of the House as follows: Two members from the Joint Standing Committee on Human Resources and one member from the Joint Standing Committee on Banking and Insurance. At least one member must represent the minority party;

C. Three members appointed by the President of the Senate as follows: Two members from the Joint Standing Committee on Human Resources and one member from the Joint Standing Committee on Banking and Insurance. At least one member must represent the minority party; and

D. Two representatives of the Maine Hospital Association of which one shall be appointed by the Speaker of the House and one shall be appointed by the President of the Senate.

Appointments must be made not later than 30 days after the effective date of this Part.

3. The Chair of the Legislative Council shall call the first meeting of the task force no later than 45 days after the effective date of this Part, at which the members shall elect a chair from among the members.

4. The task force may review the recommendations of the Maine Health Care Reform Commission. The task force shall monitor the impact of deregulation on providers and consumers. In addition, the task force shall review the need for data collection and financial analysis and determine the means by which these functions can be best achieved. At a minimum, the task force shall:

A. Monitor the impact of deregulation on providers and consumers and make recommendations to the Legislature with respect to addressing any needs or problems arising from deregulation;

B. Recommend any statutory changes necessary to further implement the elimination of the regulatory functions of the Maine Health Care Finance Commission and the recommendations of the task force with respect to data collection and analysis and the impact of deregulation;

C. Recommend any transitional provisions, including contracts and agreements, records, property and equipment, rules and procedures and any other transitional provisions needed to implement the proposals and recommendations of the task force; and

D. Recommend reasonable guidelines for policies to be adopted and implemented to ensure the provision of health care services to patients who are determined unable to pay for the services received.

5. The task force shall report its findings and recommendations concerning the statutory and rule changes necessary to further implement the elimination of the regulatory functions of the Maine Health Care Finance Commission, including any necessary implementing legislation in completed form, to the Legislature no later than December 15, 1995. Any necessary implementing legislation concerning the elimination of regulatory functions or replacement of the Maine Health Care Finance Commission must be drafted so as to take effect no later than July 1, 1996.

6. The task force may report its findings and recommendations, including any necessary implementing legislation, to the 118th Legislature with respect to the impact of deregulation on providers and consumers.

7. Legislative members of the task force are entitled to receive the legislative per diem and expenses for attendance at meetings.

8. The Maine Health Care Finance Commission, the Department of Human Services and the Legislative Council shall provide staffing as necessary to complete the study.

Sec. W-13. Review and report; elimination of regulatory functions. The Maine Health Care Finance Commission shall review the laws and rules governing the commission as of June 30, 1995 and report its findings and recommendations, including any necessary legislation, to eliminate the regulatory functions and accomplish the purposes of this Part to the Task Force to Monitor Deregulation of Hospitals by September 1, 1995.

Sec. W-14. Transitional provisions.

1. With respect to the setting of gross patient service revenue limits, the Department of Human

Services is the successor to the Maine Health Care Finance Commission, effective January 1, 1996. The functions of data collection and data analysis, including financial data, remain with the Maine Health Care Finance Commission.

2. Beginning January 1, 1996, the Department of Human Services shall establish gross patient service revenue limits for the sake of applying the hospital tax as provided in this Part.

3. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Maine Health Care Finance Commission to be transferred to the Department of Human Services must be transferred to the proper accounts by the State Controller upon the request of the State Budget Officer and with the approval of the Governor.

4. All existing rules and procedures in effect, in operation or adopted by the Maine Health Care Finance Commission on or before the effective date of this Part are hereby declared in effect and continue in effect for the purposes of clinical and financial data collection, for analysis, for monitoring restructuring and for establishing gross patient service revenue limits for the limited purposes stated in section 10 of this Part until rescinded, revised or amended.

5. All existing contracts, agreements and compacts currently in effect, in operation or adopted by the Maine Health Care Finance Commission prior to January 1, 1996 governing clinical and financial data collection, data analysis and the establishment of gross patient service revenue limits remain in effect and continue in effect until rescinded, revised or amended.

Sec. W-15. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Part.

	1995-96	1996-97
MAINE HEALTH CARE FINANCE COMMISSION		
Health Care Finance Commission		
Positions - Other Count	(-12.0)	(-12.0)
Personal Services	(\$395,673)	(\$643,138)
All Other	(81,918)	(112,417)
Capital Expenditures	(5,880)	(7,777)
TOTAL	(\$483,471)	(\$763,332)
Deallocates funds due to the elimination of the		

regulatory functions of the Maine Health Care Finance Commission effective July 1, 1995: including the elimination of 5 positions July 1, 1995: one Legal Secretary position, one Counsel position, one Deputy Director, MHCFC position, one Health Care Financial Analyst position and one Research Data Division Director position; the elimination of 7 positions effective January 1, 1996: one Clerk Stenographer III position, one Administrative Secretary position, one Counsel position, one Senior Health Care Financial Analyst position, one Senior Counsel position, one Health Care Financial Analyst position and one Legal Secretary position.

Management Support Fund

All Other	(\$235,000)	(\$235,000)
Deallocates funds due to the elimination of the regulatory functions of the Maine Health Care Finance Commission.		

**MAINE HEALTH CARE
FINANCE COMMISSION
TOTAL**

	(\$718,471)	(\$998,332)
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PART X

Sec. X-1. 37-B MRSA §956, sub-§1, as amended by PL 1993, c. 102, §1, is further amended to read:

1. Fee. The license holder for any nuclear power reactor operating in this State is assessed a fee of \$201,614 for fiscal year 1993-94 and \$180,406 for fiscal year 1994-95 and annually thereafter, except that no fee may be charged for fiscal year 1995-96. License fees must be paid to the committee and, upon receipt by it, credited to the fund. The committee may waive all or part of this fee if a reactor is shut down for extended periods of time.

PART Y

Sec. Y-1. 20-A MRSA §15602, sub-§10 is enacted to read:

10. Transportation operating adjustment in fiscal year 1995-96. In fiscal year 1995-96, the operating cost mill rate must be raised to 4.93 mills in order to recover \$1,500,000. These recovered funds must be used to lower the reduction percentage for the transportation operating allocation from 19.30% to 16.50%.

Sec. Y-2. Basic elementary and secondary per pupil operating rate. The basic elementary per pupil operating rate for 1995-96 is \$2,797 and the basic secondary per pupil operating rate for 1995-96 is \$3,763. The foundation per pupil operating rate for 1995-96 is \$3,067.

Sec. Y-3. Basic education allocation. The basic allocation of state and local funds for 1995-96 for the purposes listed in this section is follows:

1995-96
**EDUCATION,
DEPARTMENT OF**
BASIC EDUCATION ALLOCATIONS**Operating Costs**

Elementary and Secondary Operating Costs, adjusted	\$815,359,640
Less Public Law 81-874, Federal Impact Funds	-0-

Operating Costs

Total	815,359,640
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Less percentage reduction, pursuant to the Maine Revised Statutes, Title 20-A, section 15603, subsection 26-A, paragraph F	(157,397,029)
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Less amount shifted to Transportation Operating, pursuant to the Maine Revised Statutes, Title 20-A, section 15602, subsection 10	(1,500,000)
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Adjusted Operating Costs	656,462,611
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Program Costs

Early Childhood	338,292
Special Education, Local	106,574,766

Special Education, Tuition and Board	11,270,559
Vocational Education	22,574,098
Transportation Operating	56,287,476
Bus Purchases	4,500,000
Program Costs	
Total	<u>201,545,191</u>
Less percentage reduction, pursuant to the Maine Revised , Statutes Title 20-A, section 15603, subsection 26-A, paragraph F	(38,906,285)
Plus amount shifted to Transportation Operating pursuant to the Maine Revised Statutes, Title 20-A, section 15602, subsection 10	1,500,000
Adjusted Program Costs	
Total	<u>164,138,906</u>
Debt Service Costs	
Principal and Interest	64,051,493
Approved Leases	5,143,906
Insured Value Factor	1,994,388
Debt Service Costs	
Total	<u>71,189,787</u>
Less percentage reduction of insured value factor pursuant to the Maine Revised Statutes, Title 20-A, section 15603, subsection 26-A, paragraph F	(384,997)
Adjusted Debt Service Costs	
Total	<u>70,804,790</u>
Combined Allocations	891,406,307
Minimum State Allocation	900,000
BASIC EDUCATION ALLOCATION	
TOTAL	<u>\$892,306,307</u>

Sec. Y-4. Subsidy indexes. The following mill rates are established: operating cost millage - 4.93 mills; program millage limit - 1.00 mills; and debt service millage 0.49 mills.

Sec. Y-5. Appropriation. The appropriation provided for General Purpose Aid for Local Schools

for the fiscal year beginning July 1, 1995 and ending June 30, 1996 is calculated as follows.

	1995-96
STATE ALLOCATION	\$507,287,669
Adjustment to Maintain State Share of Operating Cost Allocation	3,085,874
ADJUSTED STATE ALLOCATION	
TOTAL	<u>510,373,543</u>
ADJUSTMENTS AND MISCELLANEOUS COSTS	
Cost of Geographic Isolation Adjustments	250,000
Cost of Quality Incentive Adjustments	-0-
Audit Adjustments	-0-
Cost of Reimbursement for Private School Services	201,000
Special Education Hardship Grants	-0-
Special Education Tuition and Board for State Wards and Other Pupils Placed Directly by the State	8,760,605
State Agency Clients	10,962,748
Out-of-District Placements	1,474,000
Long-term Drug Treatment Centers	126,500
Fiscal Year 1995-96 "Cushion"	2,000,000
TOTAL ADJUSTMENTS	<u>23,774,853</u>
RECOMMENDED FUNDING LEVEL	
TOTAL	<u>534,148,396</u>
Estimated Construction	
Audit Recoveries	-0-
APPROPRIATION FOR FISCAL YEAR 1995-96	
TOTAL	<u>\$534,148,396</u>

Sec. Y-6. Limit of State's obligation. If the State's continued obligation for any individual

program contained in sections 3 and 5 exceeds the level of funding provided for that program, any unexpended balances occurring in other programs may be applied to avoid proration of payments for any individual program. Any unexpended balances from sections 3 and 5 may not lapse but must be carried forward for the same purpose.

Sec. Y-7. Appropriation. Nothing in sections 2 to 6 may be construed to require the State to provide payments that exceed the appropriation of funds for General Purpose Aid for Local Schools for the fiscal year beginning July 1, 1995 and ending June 30, 1996.

Sec. Y-8. Adjustment in fiscal year 1995-96. In fiscal year 1995-96, eligible school administrative units must receive a cushion in an amount not to exceed the amounts used in Plan 8 as presented by the Department of Education to the Joint Standing Committee on Education and Cultural Affairs on June 16, 1995. In order to be an eligible school administration unit, the following requirements must be met:

1. The fiscal year 1995-96 state share of the foundation allocation for a school administrative unit as defined in section 15603, subsection 12 plus the minimum state allocation as described in section 15613, subsection 13 and excluding the state subsidy for bus purchases is less than the corresponding amount plus or minus the fiscal year 1994-95 hardship for fiscal year 1994-95;
2. The school administrative unit must raise must raise 7.00 mills or over excluding debt service in fiscal year 1994-95;
3. The loss calculated in subsection 1 must exceed 3.077% of the school administrative unit's fiscal year 1994-95 budget excluding debt service and buses; and
4. The school administrative unit may not receive \$100,000 or more in restored Impact Aid in fiscal year 1995-96.

PART Z

Sec. Z-1. 20-A MRSA c. 606-A is enacted to read:

CHAPTER 606-A

SCHOOL FINANCE ACT OF 1995

§15651. Short title

This chapter is known and may be cited as the "School Finance Act of 1995."

§15652. Definitions

1. Elementary grades. "Elementary grades" means kindergarten to grade 8 and includes children enrolled in early kindergarten programs and 4-year-old children enrolled in a 2-year childhood education program prior to grade one.

2. Income weight. "Income weight" means a value between zero and one that is used to adjust a municipality's ratio of local median household income to the statewide median household income. The income weight plus the property weight, as defined in subsection 7, must equal one.

3. Municipality. "Municipality" means a city, town or organized plantation.

4. Normalized regional cost adjustment. "Normalized regional cost adjustment" means a factor that is used to adjust a median household income value up or down to reflect variations in regional costs. The statewide normalized regional cost adjustment is one.

5. Per pupil guarantee. "Per pupil guarantee" means the total amount of funds that is made available for each subsidizable pupil.

6. Property fiscal capacity. "Property fiscal capacity" means the lesser of the average of the state valuation amounts for the 2 most recent years prior to the year of funding or the state valuation amount for the most recent year.

7. Property weight. "Property weight" means a value between zero and one that is used to adjust a municipality's ratio of local per pupil property fiscal capacity to the statewide per pupil property fiscal capacity. The income weight, as defined in subsection 2, plus the property weight must equal one.

8. School administrative unit local contribution to the per pupil guarantee. "School administrative unit local contribution to the per pupil guarantee" means the funds that a school administrative unit provides for each subsidizable pupil who resides in that unit.

9. School administrative unit state contribution to the per pupil guarantee. "School administrative unit state contribution to the per pupil guarantee" means the funds that the State provides to a school administrative unit for each subsidizable pupil who resides in that unit.

10. Secondary grades. "Secondary grades" means grades 9 to 12.

11. Subsidizable pupils. "Subsidizable pupils" means all kindergarten to grade 12 pupils who reside

in a school administrative unit and who are educated at public expense.

12. Year. "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year.

13. Year of funding. "Year of funding" means the fiscal year during which state subsidies are disbursed to school administrative units, except as specified in section 15005, subsection 1.

§15653. Per pupil guarantee; statewide features

1. Per pupil guarantee. The Legislature shall annually establish a per pupil guarantee.

2. Contribution to per pupil guarantee. The Legislature and each school administrative unit are jointly responsible for contributing to the per pupil guarantee. For each school administrative unit, the per pupil guarantee is the sum of the school administrative unit local contribution to the per pupil guarantee and the school administrative unit state contribution to the per pupil guarantee.

3. Legislature's contribution. The commissioner's recommendation for an appropriation for the Legislature's contribution to the per pupil guarantee for all subsidizable pupils in all school administrative units must be at least the amount of the corresponding appropriation for the prior fiscal year, unless a lesser amount is necessary to ensure compliance with section 15607, subsection 1. The appropriation may not exceed 105% of the corresponding appropriation for the prior fiscal year.

4. Statewide local share. The statewide local share amount of the operating costs allocation is based on the sum of the amounts determined by multiplying for each unit 6.06 mills times the unit's property fiscal capacity.

§15654. School administrative unit state and local contributions to the per pupil guarantee

1. Unit's local share percentage. For each school administrative unit, the commissioner shall annually determine the unit's local share percentage of the per pupil guarantee. Except as described in subsection 2, the local share percentage of the per pupil guarantee is the product of the amounts in paragraphs A and B:

A. The school administrative unit's weighted relative fiscal capacity, as defined in section 15657; and

B. A statewide adjustment factor to be established annually by the commissioner.

2. Special cases. Special cases for the local share percentage of the per pupil guarantee are as follows.

A. The local share percentage for a school administrative district or a community school district is calculated as a weighted average of the local share percentages of each member municipality, as if each member municipality were a separate school administrative unit. The weight for each municipality is the proportion of the district's subsidizable students who reside in the municipality.

B. The local share percentage for a school administrative unit or a municipality in a school administrative district or a community school district may not exceed 100%. If the local share percentage calculation is performed for a municipality in accordance with paragraph A, then the local share percentage for the municipality may not exceed 100%.

3. School administrative unit; contribution. For each school administrative unit, the commissioner shall annually determine the following.

A. The school administrative unit local contribution to the per pupil guarantee is the product of the per pupil guarantee and the school administrative unit's local share percentage of the per pupil guarantee.

B. The school administrative unit state contribution to the per pupil guarantee is the per pupil guarantee less the school administrative unit local contribution to the per pupil guarantee.

§15655. Allocation for per pupil guarantee

1. School administrative unit; allocation; local share; state share. For each school administrative unit, the commissioner shall annually determine the following.

A. The school administrative unit's total allocation for the per pupil guarantee is the product determined by multiplying the per pupil guarantee by the number of subsidizable pupils in the unit.

B. The school administrative unit's local share of the allocation for the per pupil guarantee is the product determined by multiplying the school administrative unit local contribution to the per pupil guarantee and the number of subsidizable pupils in the unit.

C. Except as described in paragraph D, the school administrative unit's state share of the al-

location for the per pupil guarantee is the amount in paragraph A less the amount in paragraph B.

D. If a school administrative unit chooses to raise less than 100% of its local share of the allocation for the per pupil guarantee, then the State shall contribute the same percentage of the state share as the reduced local share, as computed by the commissioner.

2. Statewide allocation; local share; state share. The commissioner shall annually determine the following.

A. The statewide total allocation for the per pupil guarantee is the sum of the total allocation for the per pupil guarantee for all school administrative units.

B. The statewide local share of the allocation for the per pupil guarantee is the sum of the local share allocation for the per pupil guarantee for all school administrative units.

C. The statewide state share of the allocation for the per pupil guarantee is the sum of the state share allocation for the per pupil guarantee for all school administrative units.

§15656. Pupil counts

For each school administrative unit, the number of subsidizable pupils is the average number of subsidizable students in that school administrative unit on April 1st and October 1st of the most recent calendar year prior to the year of funding.

§15657. Weighted relative property fiscal capacity

For each school administrative unit, the commissioner shall annually determine the unit's weighted relative fiscal capacity. This determination is the result of the following steps.

1. Fiscal capacity. The local per pupil property fiscal capacity divided by the statewide per pupil property fiscal capacity as computed by the commissioner is multiplied by a property weight of 0.85.

2. Local median household income. The most recent local median household income is divided by the statewide average median household income. That amount is divided by the normalized regional cost adjustment as defined in section 15652, subsection 4. The final result is multiplied by an income weight of 0.15. The department shall use local median household income data, updated annually from the Federal Decennial Census. The department shall contract for the acquisition of annual normalized regional cost adjustment data, based on the National Chamber of Commerce model.

3. Weighted relative property fiscal capacity.

The results of subsection 1 and subsection 2 are added and the sum represents the weighted relative property fiscal capacity.

§15658. Relationship to the School Finance Act of 1985

The provisions of chapter 606 apply except as described in this section.

1. Operating costs mill rate. The operating costs mill rate, as described in chapter 606, is in effect for the limited purposes of determining the state and local shares of each school administrative unit's program costs allocation and its debt service allocation, and for determining the amount required to provide the statewide state share of the allocation for the per pupil guarantee. For each individual school administrative unit, the amounts described in section 15655, subsection 1 are used rather than the amounts in section 15608, subsection 1; section 15609, subsection 1, paragraph A; and section 15610, subsection 1, paragraph A.

§15659. Hardship cushion

The following hardship cushion is established for fiscal year 1996-97.

1. Subsidy change. A subsidy change from fiscal year 1995-96 to fiscal year 1996-97 is calculated for each school administrative unit as the amount in paragraph A less the amount in paragraph B:

A. The State's share for fiscal year 1996-97 for the allocation of the per pupil guarantee as determined in this chapter, plus the State's share for program costs and the minimum subsidy allocation as determined in chapter 606, less subsidies provided for bus purchases, divided by the subsidizable pupils, as defined in this chapter; and

B. The State's share for fiscal year 1995-96 of the foundation allocation, plus the minimum subsidy allocation and the fiscal year 1995-96 cushion, less subsidies provided for bus purchases, divided by the number of subsidizable pupils as determined under section 15656.

2. Cushion-adjusted loss. If the subsidy change calculated in subsection 1 represents a loss from fiscal year 1995-96 to fiscal year 1996-97 that exceeds 5% of the amount in subsection 1, paragraph B multiplied by the subsidizable pupils for the most recent year, a hardship cushion is provided to ensure that the cushion-adjusted loss, with the amount of the cushion added to the amount in subsection 1, paragraph A, is a 5% loss.

3. Maximum allowable percentage of gain.

The department shall determine a maximum allowable percentage of gain from fiscal year 1995-96 to fiscal year 1996-97. The fiscal year 1996-97 subsidy for a school administrative unit calculated in accordance with subsection 1, paragraph A that exceeds the maximum allowable percentage of gain must be reduced by an amount sufficient to ensure that the unit's gain does not exceed the maximum allowable percentage of gain. The statewide total of the reduced subsidies obtained in this manner is used to fund the cushion amounts described in subsection 2.

Sec. Z-2. Effective date. This Part takes effect July 1, 1996.

PART AA

Sec. AA-1. Supplemental appropriations from the General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the following sums.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Accounts and Control - Bureau of		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	\$46,569	\$50,102
Provides for the appropriation of funds for the transfer of one Auditor III position from the Division of Financial and Personnel Services, Other Special Revenue account.		
Buildings and Grounds Operations		
Positions - Legislative Count		(3.0)
Personal Services		73,695
Provides for the appropriation of funds through a transfer of positions from Pineland Center. The positions are one Building Maintenance Supervisor position, one Carpenter position and one Plant Maintenance Engineer III position.		
Financial and Personnel Services - Division of		
Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(57,265)	(58,935)

Provides for the deappropriation of funds from the transfer of one Chief Accountant position to the division's dedicated account.

Retirement - Federal Recovery

All Other 6,650,000

Provides for the appropriation of funds to comply with an audit finding regarding excess retirement withheld from federal funds.

Taxation - Bureau of

Positions - Legislative Count (-2.0) (-2.0)
Personal Services (41,261) (42,607)

Provides for the deappropriation of funds through the elimination of one Clerk Typist I position and one Receptionist position no longer required.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
TOTAL

(51,957) 6,672,255

AUDIT, DEPARTMENT OF

Audit - Departmental Bureau

Capital Expenditures 22,000 15,000

Provides for the appropriation of funds for 10 laptop computers.

DEPARTMENT OF AUDIT
TOTAL

22,000 15,000

CONSERVATION, DEPARTMENT OF

Parks - General Operations

All Other 300,000 360,000

Provides for the appropriation of funds for the replacement of operating costs of the state park system.

DEPARTMENT OF CONSERVATION
TOTAL

300,000 360,000

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**Administration - Economic and
Community Development

All Other 250,000 250,000

Provides for the
appropriation of matching
funds for the continued
support of the Loring
Development Authority of
Maine.**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

250,000 250,000

**EDUCATION, DEPARTMENT
OF**Blind and Visually Impaired -
Division for the

All Other 416,825 416,825

Provides for the
appropriation of funds
transferred from the
Rehabilitation Services
program to the Blind and
Visually Impaired
program to provide for a
required federal grant
award match.Education in Unorganized
Territory

Capital Expenditures 2,200 2,200

Provides for the
appropriation of funds for
the purchase of
snowblower attachments
for the lawn and garden
tractors at the Connor
School and Rockwood
School.Governor Baxter School for the
DeafPositions - Legislative Count (1.0) (1.0)
Positions - Other Count (-1.0) (-1.0)Provides for the
appropriation of funds to
increase one Light
Equipment Operator
position from 48 weeks to
52 weeks and decreaseone Custodial Worker I
position's weekly hours
from 35 hours to 30
hours.

Preschool Handicapped

All Other 652,192 671,758

Provides for the
appropriation of funds to
support childfind
provisions of location,
identification and
evaluation of children
from birth to age 6, and
the provision of free,
appropriate public
education services for
children identified as
eligible for these services.

Rehabilitation Services

All Other (416,825) (416,825)

Provides for the
deappropriation of funds
to transfer Rehabilitation
Services funds to the
Division for the Blind and
Visually Impaired to
provide for a required
federal grant match.**DEPARTMENT OF
EDUCATION
TOTAL**

654,392 673,958

EXECUTIVE DEPARTMENTDriver Education and Evaluation
Program - Substance AbusePositions - Legislative Count (1.0) (1.0)
Personal Services 51,670 50,469
All Other (51,670) (50,469)

TOTAL -0- -0-

Provides for the
appropriation of funds for
one Alcoholism Regional
Planning Coordinator
position through the
transfer of funds from All
Other to Personal
Services.Office of State Quality
ManagementPositions - Legislative Count (-2.0) (-2.0)
Personal Services 17,900Provides for the
elimination of one

Executive Director position and one Administrative Assistant position due to the elimination of the Office of State Quality Management. Also provides funds for accumulated vacation pay and unemployment costs resulting from a layoff.			Elder and Adult Services - Bureau of		
			All Other	60,000	60,000
			Provides for the appropriation of funds for regional adult services previously funded through the Bureau of Child and Family Services.		
EXECUTIVE DEPARTMENT TOTAL	17,900	-0-	Health - Bureau of		
HUMAN SERVICES, DEPARTMENT OF			All Other		278,421
Administration - Human Services			Provides for the appropriation of funds to plan, implement and evaluate a pilot project for the Healthy Start Program for Maine as detailed in the November 1994 Healthy Start Task Force study. This amount delays the start-up of this pilot project to January 1997.		
Positions - Legislative Count	(-1.0)	(-1.0)			
Personal Services	(26,105)	(26,971)	Intermediate Care - Payments to Providers		
Provides for the deappropriation of funds to transfer one Clerk Typist III position to the Regional Administration account.			All Other	(85,062)	(89,315)
Administration - Regional - Human Services			Provides for the deappropriation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.		
Positions - Legislative Count	(1.0)	(1.0)	Medical Care - Payments to Providers		
Personal Services	26,105	26,971	All Other	(42,658)	(44,791)
Provides for the appropriation of funds to transfer one Clerk Typist III position from the Bureau of Administration account and to reclassify the position from Clerk Typist III to Account Clerk II.			Provides for the deappropriation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.		
Elder and Adult Services - Bureau of			Medical Care Administration		
Positions - Legislative Count	(3.0)	(3.0)	Positions - Legislative Count	(1.0)	(1.0)
Personal Services	107,955	107,955	Personal Services	60,000	63,000
All Other	35,949	35,949	All Other	20,000	21,000
TOTAL	143,904	143,904	TOTAL	80,000	84,000
Provides for the appropriation of funds for one Director, Division of Residential Care position, one Medical Social Worker Consultant position and one Clerk Typist III position being transferred from the Medical Care Administration account.			Provides for the appropriation of funds for one part-time Physician position, Medical Director		

of the bureau's quality assurance programs.			Personnel Specialist position.		
Medical Care Administration			Fisheries and Hatcheries Operations		
Positions - Legislative Count	(1.0)	(1.0)	Positions - Legislative Count	(1.0)	(2.0)
Personal Services	35,800	37,590	Positions - Other Count	(-1.0)	(-2.0)
All Other	11,920	12,516	Personal Services	11,895	24,017
			All Other		(11,403)
TOTAL	47,720	50,106	TOTAL	11,895	12,614
Provides for the appropriation of funds for one Quality Assurance Supervisor position for the Medicaid managed care initiative.			Provides for the appropriation of funds to increase one Fish Culturist position from seasonal to year-round in fiscal year 1995-96 and fiscal year 1996-97 and to increase one Fish Culturist position from seasonal to year-round in fiscal year 1996-97.		
Medical Care Administration			Fisheries and Hatcheries Operations		
Positions - Legislative Count	(-3.0)	(-3.0)	Positions - Legislative Count	(3.0)	(3.0)
Personal Services	(107,955)	(107,955)	Personal Services	43,431	44,920
All Other	(35,949)	(35,949)	All Other	(43,431)	(44,920)
TOTAL	(143,904)	(143,904)	TOTAL	-0-	-0-
Provides for the deappropriation of funds for the transfer of one Director, Division of Residential Care position, one Medical Social Worker Consultant position and one Clerk Typist III position to the Bureau of Elder and Adult Services account.			Provides for the appropriation of funds for the General Fund matching portion to continue 3 full-time Fish and Wildlife Technician positions through a line category transfer. The positions were originally approved through fiscal year 1994-95 by Public Law 1993, chapter 707, Part A.		
Medical Care Administration			Public Information and Education, Division of		
All Other	(60,000)	(60,000)	All Other	(13,000)	
Provides for the deappropriation of funds by reducing the unit cost and total number of nursing home preadmission assessments.			Capital Expenditures	13,000	
			TOTAL	-0-	
DEPARTMENT OF HUMAN SERVICES			Provides for the appropriation of funds through a line category transfer for acquisition of a computer system for use in circulation and subscription activities of the Maine Fish and Wildlife Magazine.		
TOTAL	-0-	278,421			
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF					
Administrative Services - Inland Fisheries and Wildlife					
Personal Services	3,148	5,109			
Provides for the appropriation of funds to reorganize one Personnel Assistant position to one					

Public Information and Education,
Division of

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(18,377)	(17,723)

Provides for the deappropriation of funds through the transfer of one seasonal Gamekeeper position to the Other Special Revenue fund of this program.

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

(3,334)	-0-
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LABOR, DEPARTMENT OFTwelve County SDA - Job
Training Partnership Program

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(59,777)	(58,980)
All Other	(4,364)	(4,409)

TOTAL	(64,141)	(63,389)
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Provides for the deappropriation of funds through the transfer of the Maine Conservation Corps, including one Director, Maine Conservation Corps position, to its own Maine Conservation Corps program, General Fund.

Maine Conservation Corps

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	59,777	58,980
All Other	4,364	4,409

TOTAL	64,141	63,389
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Provides for the appropriation of funds through the transfer of the Maine Conservation Corps, including one Director, Maine Conservation Corps position, to its own Maine Conservation Corps program from the Twelve County SDA - Job Training Partnership Program, General Fund.

**DEPARTMENT OF LABOR
TOTAL**

-0-	-0-
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LIBRARY, MAINE STATE

Library Development Services

Personal Services	1,352	1,495
All Other	(1,352)	(1,495)

TOTAL	-0-	-0-
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Provides for the appropriation of funds for the continuation of approved reclassification and range changes.

Library Development Services

Personal Services	2,982	4,914
All Other	(2,982)	(4,914)

TOTAL	-0-	-0-
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Provides for the appropriation of funds for the continuation of approved reclassification and range changes.

MAINE STATE LIBRARY

TOTAL	-0-	-0-
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**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**Administration - Mental Health
and Mental Retardation

Positions - Legislative Count	(3.0)	(7.0)
Personal Services	112,000	227,000
All Other	105,000	105,000
Capital Expenditures	111,200	50,000

TOTAL	328,200	382,000
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Provides for the appropriation of funds to increase the department's central program management capacity in order to establish the necessary automation system essential for the Augusta Mental Health Institute, Portland and the Department of Mental Health and Mental Retardation community consent decree compliance. New positions recommended include one Systems Analyst position, one Information Systems Support Specialist position and one Data Communication Technician position in

fiscal year 1995-96 and one Programmer position, one Management Analyst I position, one Staff Development Specialist position and one Data Control Specialist position in fiscal year 1996-97.			1, 1997, eliminating 109 positions, contingent upon expanded community development. A total of 148 Other Special Revenue headcount would be eliminated. Positions are on file with the Bureau of the Budget.		
Administration - Mental Health and Mental Retardation			Disproportionate Share - Augusta Mental Health Institute		
Positions - Legislative Count	(-1.0)	(-1.0)	Personal Services	(679,535)	(679,535)
Personal Services	(100,000)	(100,000)	All Other	(20,465)	(20,465)
Provides for the deappropriation of funds by eliminating one Associate Commissioner of Programs position and reappropriating funds in order to meet the terms of the Augusta Mental Health Institute consent decree.			TOTAL	(700,000)	(700,000)
Office of Advocacy - Mental Health and Mental Retardation			Provides for the deappropriation of funds by eliminating 43.5 Other Special Revenue positions within the hospital to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute consent decree. Positions are on file with the Bureau of the Budget.		
Positions - Legislative Count	(-8.5)	(-8.5)	Disproportionate Share - Augusta Mental Health Institute		
Personal Services	(456,617)	(453,803)	Personal Services	(214,351)	(453,831)
All Other	321,827	321,185	Provides for the deappropriation of funds due to the closing of one long-stay unit in January 1996. Position headcounts are in Other Special Revenue and on file with the Bureau of the Budget.		
TOTAL	(134,790)	(132,618)	Disproportionate Share - Bangor Mental Health Institute		
Provides for the deappropriation of funds by reducing the Office of Advocacy through the elimination of 8.5 Advocate positions, reducing contracting services and reappropriating funds in order to meet the terms of the Augusta Mental Health Institute consent decree.			Personal Services	(119,168)	(250,295)
Disproportionate Share - Augusta Mental Health Institute			All Other	(27,525)	(65,398)
Personal Services		(936,189)	TOTAL	(146,693)	(315,693)
All Other		(18,569)	Provides for the deappropriation of funds from the closing of one long-term psychiatric unit in January 1996. Position headcounts are in Other Special Revenue and on file with the Bureau of the Budget.		
TOTAL		(954,758)			
Provides for the deappropriation of funds to close the geropsychiatric unit on July 1, 1996, eliminating 39 positions, and an admissions unit on March					

Freeport Towne Square			Provides for the appropriation of funds for the state match for 15 children with mental retardation to be included in the Medicaid home and community-based waiver.	
Positions - Legislative Count	(23.0)	(23.0)		
Personal Services	936,315	904,493		
All Other	87,293	88,480		
Capital Expenditures	3,500			
TOTAL	1,027,108	992,973		
Provides for the appropriation of funds through the transfer of 23 positions from the Pineland Center to establish the Freeport Towne Square as a separate organizational structure. Positions are on file with the Bureau of the Budget.			Mental Health Services - Child Medicaid	
			All Other	(119,787) (131,864)
			Provides for the deappropriation of funds by eliminating cost-of-living adjustments in fiscal year 1995-96 in order to reappropriate funds for the state match of a federal grant and seed for the home and community-based services waiver for 15 identified children.	
Medicaid Services - Mental Retardation			Mental Health Services - Community Medicaid	
All Other	509,285	1,459,447	All Other	226,020 1,546,320
Provides for the appropriation of funds for seed for additional waiver slots for class members, Department of Mental Health and Mental Retardation community consent decree, in the home and community-based waiver program.			Provides for the appropriation of Medicaid seed funds for the development of necessary services for class members in the Augusta Mental Health Institute consent decree.	
Medicaid Services - Mental Retardation			Mental Health Services - Community Medicaid	
All Other	(1,644,790)	(3,378,399)	All Other	(273,692)
Provides for the deappropriation of funds by eliminating cost-of-living adjustments in order to reappropriate funds to meet the terms of the community consent decree.			Provides for the deappropriation of funds by eliminating cost-of-living adjustments in fiscal year 1996-97 in order to expand community mental health services in compliance with the Augusta Mental Health Institute consent decree.	
Medicaid Services - Mental Retardation			Mental Health Services - Community Medicaid	
All Other	1,400,000	3,700,000	All Other	361,044 769,524
Provides for the appropriation of funds due to the savings from the downsizing of Pineland Center.			Provides for the appropriation of funds from savings from the closing of one long-stay	
Mental Health Services - Child Medicaid				
All Other	206,899	218,071		

unit at the Augusta Mental Health Institute and one long-term psychiatric unit at the Bangor Mental Health Institute in January 1996 to continue community development.			Mental Health Services - Community		
Mental Health Services - Community Medicaid			All Other		
All Other			(1,075,707) (2,274,225)		
Provides for the appropriation of funds for "bridging" dollars to allow for the development of acute community hospital psychiatric beds.			Provides for the deappropriation of funds by reducing outpatient services and contracted community inpatient services and eliminating cost-of-living adjustments for fiscal year 1996-97 in order to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute consent decree.		
Mental Health Services - Children			Mental Retardation Services - Community		
All Other			Positions - Legislative Count		
All Other			(25.0) (25.0)		
Provides for the appropriation of state matching funds for building a comprehensive system of care for children with severe emotional disturbance in a 4 county area of northern Maine.			Personal Services		
			792,953 963,726		
			All Other		
			495,047 1,500,000		
			Capital Expenditures		
			12,000		
			TOTAL		
			1,300,000 2,463,726		
			Provides for the appropriation of funds to meet the terms of the community consent decree, including staffing, computer equipment, crisis capacity and community services. Positions are on file with the Bureau of the Budget.		
Mental Health Services - Children			Mental Retardation Services - Community		
All Other			All Other		
(423,594) (467,518)			(371,394) (762,845)		
Provides for the deappropriation of funds by eliminating cost-of-living adjustments for fiscal year 1995-96 in order to reappropriate funds for the state match on a federal grant and seed for the home and community-based services waiver for 15 identified children.			Provides for the deappropriation of funds to eliminate cost-of-living adjustments in order to reappropriate funds to meet the terms of the community consent decree.		
Mental Health Services - Community			Pineland Center		
All Other			Positions - Legislative Count		
1,049,687 2,656,355			(-23.0) (-23.0)		
Provides for the appropriation of non-Medicaid seed funds for the development of necessary services for class members in the Augusta Mental Health Institute consent decree.			Personal Services		
			(936,315) (904,493)		
			All Other		
			(87,293) (88,480)		
			Capital Expenditures		
			(3,500)		
			TOTAL		
			(1,027,108) (992,973)		

Provides for the deappropriation of funds to establish Freeport Towne Square as a separate organizational structure through a transfer to a new account.			Maine Technical College System - Maine Quality Centers		
Pineland Center			All Other	2,000,000	1,500,000
Positions - Legislative Count	(-3.0)		Provides for the appropriation of funds for continued development of the Maine Quality Centers.		
Personal Services	(73,695)		BOARD OF TRUSTEES OF THE MAINE TECHNICAL COLLEGE SYSTEM		
Provides for the deappropriation of funds through a transfer of positions to the Bureau of General Services, Department of Administrative and Financial Services.			TOTAL	2,000,000	1,500,000
			SECTION		
			TOTAL APPROPRIATIONS	2,442,497	7,072,935
Pineland Center			Sec. AA-2. Allocation. The following funds are allocated from the Federal Expenditure Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.		
Positions - Legislative Count	(-57.5)	(-183.0)		1995-96	1996-97
Personal Services	(2,346,533)	(6,303,004)	AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
All Other	(200,000)	(400,000)	Administration - Agriculture		
TOTAL	(2,546,533)	(6,703,004)	Personal Services	(90,000)	(90,000)
Provides for the deappropriation of funds due to the downsizing of Pineland Center. Positions are on file with the Bureau of the Budget.			All Other	(74,347)	(71,201)
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION			TOTAL	(164,347)	(161,201)
TOTAL	(1,146,504)	(3,076,699)	Provides for the deallocation of funds to establish the temporary emergency food assistance program, TEFAP, as part of a reorganization to more accurately reflect program operations.		
SCIENCE AND TECHNOLOGY FOUNDATION, MAINE			Food Assistance Program		
Maine Science and Technology Foundation			Personal Services	90,000	90,000
All Other	400,000	400,000	All Other	74,347	71,201
Provides for the appropriation of funds for the Maine Science and Technology Foundation investment fund.			TOTAL	164,347	161,201
MAINE SCIENCE AND TECHNOLOGY FOUNDATION			Provides for the allocation of funds to establish the temporary emergency food assistance program, TEFAP, as part of a reorganization to more accurately reflect program operations.		
TOTAL	400,000	400,000	Pesticides Control - Board of		
MAINE TECHNICAL COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE			Capital Expenditures	15,000	13,750

Provides for the allocation of funds to purchase geographical positioning system equipment and laptop computers.			Stenographer III position from a federal fund account to the Other Special Revenue fund account to accurately reflect the cost of the program.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES					
TOTAL	15,000	13,750	Human Services Division		
ARTS COMMISSION, MAINE			Positions - Other Count	(-1.0)	(-1.0)
Arts - Sponsored Program			Personal Services	(47,392)	(48,906)
Personal Services	3,441	5,178	All Other	47,392	48,906
All Other	(3,441)	(5,178)	TOTAL	-0-	-0-
Provides for the allocation of funds for the continuation of approved reclassification and range changes.			Provides for the transfer of funds from Personal Services to All Other for the purposes of contracting for legal services for recoveries from liable third parties and estates for medical costs per Public Law 1993, chapter 508, and for the elimination of one Assistant Attorney General position.		
MAINE ARTS COMMISSION					
TOTAL	-0-	-0-	Victims' Compensation Board		
ATLANTIC SEA RUN SALMON COMMISSION			All Other	30,000	120,000
Atlantic Sea Run Salmon Commission			Provides for the allocation of funds for victim compensation payments from a federal matching grant.		
All Other	55,709	56,307	DEPARTMENT OF THE ATTORNEY GENERAL		
Provides for the allocation of funds to provide for the restoration of lost populations and rehabilitation of depleted populations of Atlantic salmon.			TOTAL	(250,256)	(166,067)
ATLANTIC SEA RUN SALMON COMMISSION			CONSERVATION, DEPARTMENT OF		
TOTAL	55,709	56,307	Administration - Forestry		
ATTORNEY GENERAL, DEPARTMENT OF THE			Positions - Other Count	(-1.0)	(-1.0)
Administration - Attorney General			Personal Services	(13,009)	(12,589)
Positions - Other Count	(-5.0)	(-5.0)	Provides for the deallocation of funds through the transfer of one part-time Laborer I position to the Division of Forest Fire Control program, Federal Expenditure Fund and one part-time Laborer I position to the Insect and Disease Management program, Federal Expenditure Fund.		
Personal Services	(266,620)	(272,201)			
All Other	(13,636)	(13,866)			
TOTAL	(280,256)	(286,067)			
Provides for the transfer of the entire federally funded Department of Labor legal services program, including 3 Assistant Attorney General positions, one Senior Legal Secretary position and one Clerk					

Administrative Services - Conservation			transfer of one part-time Laborer I position from the Administration - Forestry program, Federal Expenditure Fund.		
All Other	20,244	20,244			
Provides for the allocation of funds for training and the purchase of systems software for the programming of large departmental databases to assist users of the information systems.			Policy Planning and Information		
			Positions - Other Count	(0.5)	(0.5)
			Personal Services	14,757	15,248
			All Other	5,651	5,904
			TOTAL	20,408	21,152
Administrative Services - Conservation			Provides for the allocation of funds through the transfer of one part-time Clerk Typist II position from the Forest Planning, Evaluation and Research program, Federal Expenditure Fund.		
All Other	37,971	40,435			
Capital Expenditures	2,500				
TOTAL	40,471	40,435			
Provides for the allocation of funds to assist the department in programming and maintaining its computer system.			DEPARTMENT OF CONSERVATION TOTAL	60,715	60,679
Forest Fire Control - Division of			CORRECTIONS, DEPARTMENT OF		
Positions - Other Count	(0.5)	(0.5)	Administration - Corrections		
Personal Services	6,504	6,294	Positions - Other Count	(1.0)	(1.0)
Provides for the allocation of funds through the transfer of one part-time Laborer I position from the Administration - Forestry program, Federal Expenditure Fund.			Personal Services	38,704	38,888
			All Other	11,296	11,112
			TOTAL	50,000	50,000
Forest Planning, Evaluation and Research			Provides for the allocation of funds for the transfer of one Management Analyst II position from the Justice - Planning, Projects and Statistics program.		
Positions - Other Count	(-0.5)	(-0.5)	Justice - Planning, Projects and Statistics		
Personal Services	(14,757)	(15,248)	Positions - Other Count	(-1.0)	(-1.0)
All Other	(5,651)	(5,904)	Personal Services	(38,704)	(38,888)
TOTAL	(20,408)	(21,152)	All Other	(11,296)	(11,112)
Provides for the deallocation of funds through the transfer of one part-time Clerk Typist II position to the Policy Planning and Information program, Federal Expenditure Fund.			TOTAL	(50,000)	(50,000)
Insect and Disease Management			Provides for the deallocation of funds through the transfer of one Management Analyst II position and associated support costs to the Administration - Corrections program.		
Positions - Other Count	(0.5)	(0.5)			
Personal Services	6,505	6,295			
Provides for the allocation of funds through the					

**DEPARTMENT OF
CORRECTIONS
TOTAL**

	<u>-0-</u>	<u>-0-</u>
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**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**Office of Community
Development

Personal Services	88,600	93,825
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Provides for the allocation of funds in Personal Services for legislatively authorized positions. Funding levels vary from year to year in regard to the matching ratio of federal funds and Other Special Revenue funds.

Economic Conversion Division

Positions - Other Count	(1.0)	
Personal Services	45,000	
All Other	5,055,000	
TOTAL	<u>5,100,000</u>	

Provides for allocation of Department of Defense funds for one Development Project Officer position, operating expenses and grant funds.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

	<u>5,188,600</u>	<u>93,825</u>
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**EDUCATION, DEPARTMENT
OF**Blind and Visually Impaired -
Division for the

All Other	300,000	400,000
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Provides for the allocation of funds for grant awards.

Division of Instruction

All Other	1,396,283	2,498,675
Capital Expenditures		18,000

TOTAL	<u>1,396,283</u>	<u>2,516,675</u>
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Provides for the allocation of funds into All Other and Capital Expenditures line categories.

Division of Instruction

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(218,289)	(217,296)
All Other	(66,904)	(68,480)

TOTAL	<u>(285,193)</u>	<u>(285,776)</u>
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Provides for the transfer of all allocations and authorized positions to the Division of Special Services program in order to properly align the account for administrative and programmatic purposes.

Division of Instruction

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(47,621)	(46,963)
All Other	(1,572)	(1,550)

TOTAL	<u>(49,193)</u>	<u>(48,513)</u>
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Provides for the transfer of all allocations and authorized positions to the Division of Special Services program in order to properly align the account for administrative and programmatic purposes.

Rehabilitation Services

All Other	197,251	410,290
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Provides for the allocation of funds in All Other.

Rehabilitation Services

All Other	(147,800)	(147,800)
Capital Expenditures	147,800	147,800

TOTAL	<u>-0-</u>	<u>-0-</u>
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Provides for the allocation of funds through a line category transfer from All Other to Capital Expenditures for office equipment in 10 offices across the State.

School to Work Transition

All Other	2,000,000	1,000,000
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Provides for the allocation of funds for school-to-work opportunities grants to educational institutions.

Division of Special Services			collection and assembly, file organization and routine public assistance.		
Positions - Other Count	(1.0)	(1.0)			
Personal Services	47,621	46,963			
All Other	1,572	1,550	Oil and Hazardous Materials Control		
TOTAL	49,193	48,513			
Provides for the allocation of funds through the transfer of all allocations and positions from the Division of Instruction program in order to properly align the account for administrative and programmatic purposes.			Positions - Other Count	(-1.0)	(-1.0)
			Personal Services	(35,326)	(33,198)
			All Other	(954)	(896)
			TOTAL	(36,280)	(34,094)
			Provides for the allocation of funds through the transfer of one Environmental Specialist II position to the Maine Environmental Protection Fund program, Other Special Revenue fund, to support landfill remediation and closure.		
Division of Special Services			Pollution Prevention		
Positions - Other Count	(5.0)	(5.0)	All Other	44,126	45,027
Personal Services	218,289	217,296	Capital Expenditures	3,000	
All Other	66,904	68,480	TOTAL	47,126	45,027
TOTAL	285,193	285,776	Provides for the allocation of funds for the development and promotion of cleaner technologies in Maine and New England.		
Provides for the transfer of all allocations and positions from the Division of Instruction program in order to properly align the account for administrative and programmatic purposes.			Solid Waste Management		
Division of Special Services			All Other	20,750	20,895
All Other	120,000	150,000	Provides for the allocation of funds for removal notifications and removal contractor certifications, and to conduct asbestos removal inspections.		
Capital Expenditures	30,000		DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	37,215	37,416
TOTAL	150,000	150,000	HEALTH CARE FINANCE COMMISSION, MAINE		
Provides for the allocation of additional Maine Consumer Information and Technology Exchange, CITE, funds in All Other for increased grant awards and in Capital Expenditures for augmentative devices.			Health Care Finance Commission		
DEPARTMENT OF EDUCATION TOTAL	4,043,534	4,476,965	All Other	91,953	
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			Capital Expenditures	2,500	
Oil and Hazardous Materials Control			Provides for the allocation of funds from a grant for the implementation and evaluation of ambulatory patient groups as		
All Other	5,619	5,588			
Provides for the allocation of funds for data					

outpatient measurement and financing methodology.			Provides for the allocation of all requested funds as All Other expenditures.		
MAINE HEALTH CARE FINANCE COMMISSION TOTAL	<hr/>	94,453	Disability Determination - Division of		
HUMAN SERVICES, DEPARTMENT OF			All Other	60,060	61,862
Administration - Human Services			Provides for the allocation of all requested funds as All Other expenditures.		
All Other	938,102	1,031,912	Elder and Adult Services - Bureau of		
Provides for the allocation of funds to continue a contract with the University of Southern Maine to provide training for agency personnel.			All Other	80,000	40,000
Administration - Income Maintenance			Provides for the allocation of all requested funds as All Other expenditures.		
Positions - Other Count	(1.0)	(1.0)	Elder and Adult Services - Bureau of		
Personal Services	23,362	23,362	Positions - Other Count	(2.0)	(2.0)
All Other	4,000	4,000	Personal Services	75,923	77,985
TOTAL	<hr/>	<hr/> 27,362	Provides for the allocation of funds for the transfer of one Health Services Consultant position and one Microbiologist position from the Bureau of Medical Services.		
Provides for the allocation of funds for the transfer of one Human Services Aide III position from the Other Special Revenue account.			Health - Bureau of		
Administration - Social Services			All Other	38,055	37,347
All Other	80,000		Provides for the allocation of all requested funds as All Other expenditures.		
Provides for the allocation of funds for the continuance of the cross-disciplinary project demonstration grant.			Health - Bureau of		
Aid to Families With Dependent Children - Foster Care			All Other	38,005	35,347
All Other	164,962	169,384	Provides for the allocation of all requested funds as All Other expenditures.		
Provides for the allocation of all requested funds as All Other expenditures.			Health - Bureau of		
Child Welfare Services			All Other	40,612	38,009
All Other	100,000	100,000	Provides for the allocation of all requested funds as All Other expenditures.		
Provides for the allocation of funds for the expansion of emergency assistance for child welfare clients, Title IV-A.			Health - Bureau of		
Child Welfare Services			All Other	84,018	79,445
All Other	87,016	88,990	Provides for the allocation of all requested funds as All Other expenditures.		
			Health - Bureau of		

All Other	43,802	41,200	Provides for the allocation of all requested funds as All Other expenditures.		
Health - Bureau of			Health - Bureau of		
All Other			All Other	451,014	289,038
Provides for the allocation of all requested funds as All Other expenditures.			Provides for the allocation of all requested funds as All Other expenditures.		
Health - Bureau of			Health - Bureau of		
All Other	45,437	43,125	Provides for the allocation of all requested funds as All Other expenditures.		
Provides for the allocation of all requested funds as All Other expenditures.			Health - Bureau of		
Health - Bureau of			Personal Services	3,278	3,157
Personal Services	10,000	10,000	Provides for the allocation of funds for the reorganization of one Clerk Typist II position to one Clerk Typist III position in the ASSIST program.		
All Other	4,000	4,000	Health - Bureau of		
TOTAL	14,000	14,000	Personal Services	4,792	4,614
Provides for the allocation of funds for 4 summer interns in the Maine State Government internship program and the Margaret Chase Smith Center for Public Policy in the drinking water program.			Provides for the allocation of funds to increase the work time of one Public Health Educator II position by 12 hours per week in the ASSIST program.		
Health - Bureau of			Intermediate Care - Payments to Providers		
All Other	37,110	32,367	All Other	(127,975)	(134,374)
Provides for the allocation of all requested funds as All Other expenditures.			Provides for the deallocation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.		
Health - Bureau of			Maternal and Child Health		
All Other	17,626	14,626	All Other	163,795	168,873
Provides for the allocation of all requested funds as All Other expenditures.			Provides for the allocation of all requested funds as All Other expenditures.		
Health - Bureau of			Maternal and Child Health		
Personal Services	3,894	3,921	All Other	4,929	
Provides for the allocation of funds to change one Public Health Educator III position to one Health Program Manager position in the immunization program.			Provides for the allocation of federal special project funds for the continuation of home visitations for the at-risk families initiative.		
Health - Bureau of					
All Other	38,720	40,153			
Provides for the allocation of all requested funds as All Other expenditures.					
Health - Bureau of					
All Other	1,001,536	1,010,042			

Medical Care - Payments to Providers			Medical Care Administration		
			Positions - Other Count	(1.0)	(1.0)
All Other	(64,179)	(67,388)	Personal Services	41,380	43,449
Provides for the deallocation of funds through improved quality of care and greater capacity to detect and prevent inappropriate services.			All Other	12,414	13,035
			TOTAL	53,794	56,484
Medical Care Administration			Provides for the allocation of federal funds for one Director, Division of Information Management position to supervise the implementation and ongoing operation of the department's new Medicaid management information system.		
All Other	4,200,000	5,500,000	Medical Care Administration		
Provides for the allocation of funds for the early, periodic screening, diagnostic and training program, EPSDT.			Positions - Other Count	(-2.0)	(-2.0)
Medical Care Administration			Personal Services	(75,923)	(77,985)
All Other	25,000	26,250	Provides for the deallocation of funds to transfer one Health Services Consultant position and one Microbiologist position to the Bureau of Elder and Adult Services program account.		
Provides for the allocation of federal funds to contract with medical specialist consultants to support the bureau's quality assurance programs.			Medical Care Administration		
Medical Care Administration			All Other	(60,000)	(60,000)
Positions - Other Count	(2.0)	(2.0)	Provides for the deallocation of federal funds through the elimination of contracts with area agencies on aging for nursing home preadmission screenings.		
Personal Services	64,400	67,620	Welfare Employment, Education and Training		
All Other	19,320	20,286	All Other	1,791,325	1,970,457
TOTAL	83,720	87,906	Provides for the allocation of all requested funds as All Other expenditures.		
Provides for the allocation of funds for one Systems Analyst position and one Programmer Analyst position to support the bureau's new Medicaid management information system.			DEPARTMENT OF HUMAN SERVICES		
Medical Care Administration			TOTAL	9,499,450	10,784,889
Positions - Other Count	(1.0)	(1.0)	INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Personal Services	22,800	23,940	Office of the Commissioner - Inland Fisheries and Wildlife		
All Other	6,840	6,840	All Other	120,000	120,000
TOTAL	29,640	30,780			
Provides for the allocation of federal funds for one Research Associate I position to perform analysis of nursing home eligibility and continued-stay assessments.					

Provides for the allocation of funds for conducting surveys of hunters, anglers and nonconsumptive wildlife users.			from the United States Department of Interior, Fish and Wildlife Service.		
			Waterfowl Habitat Acquisition and Management		
Boating Access Sites			Capital Expenditures	700,000	
All Other	30,000	30,000	Provides for the allocation of funds for the acquisition of coastal lands for migratory bird habitat.		
Provides for the allocation of funds for cooperative agreements with the United States Fish and Wildlife Service for the maintenance of boating access sites.					
			DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	<u>1,830,203</u>	<u>551,043</u>
Endangered Nongame Operations			LABOR, DEPARTMENT OF		
Capital Expenditures	5,000	5,000	Administration - Bureau Labor Standards		
Provides for the allocation of funds for equipment needed to implement recovery programs for endangered and threatened species.			Positions - Other Count	(-1.0)	(-1.0)
			Personal Services	(45,354)	(46,643)
Fisheries and Hatcheries Operations			Provides for the deallocation of funds through the transfer of one Occupational Health Specialist position to the Regulation and Enforcement program, Federal Expenditures Fund to promote safety and health in high-hazard establishments.		
Personal Services	59,603	61,611	Employment Security Services		
Provides for the allocation of funds for the Federal Expenditure Fund matching portion of 3 full-time Fish and Wildlife Technician positions originally approved through fiscal year 1994-95 by Public Law 1993, chapter 707, Part A.			Capital Expenditures	2,616,500	1,871,000
Resource Management Services - Inland Fisheries and Wildlife			Provides for the allocation of funds for equipment associated with automation projects within employment security programs and for building improvements.		
Capital Expenditures	840,000	250,000	Job Training Partnership Program		
Provides for the allocation of funds for the acquisition of wildlife habitats and expansion of existing wildlife management areas.			Capital Expenditures	67,700	67,572
			Provides for the allocation of funds associated with automation and office improvement projects.		
Resource Management Services - Inland Fisheries and Wildlife			Twelve County SDA - Job Training Partnership Program		
All Other	75,600	84,432	Positions - Other Count	(-5.0)	(-5.0)
Provides for the allocation of funds for an increased level of reimbursement			Personal Services	(147,674)	(147,319)
			All Other	(1,609,485)	(1,687,241)
			TOTAL	<u>(1,757,159)</u>	<u>(1,834,560)</u>

Provides for the deallocation of funds through the transfer of the Maine Conservation Corps, including one Clerk Typist II position, 3 Volunteer Service Assistant positions and one Volunteer Services Coordinator position to its own Maine Conservation Corps program in the Federal Expenditures Fund.			occupational safety and health consultation services.		
Maine Conservation Corps			DEPARTMENT OF LABOR		
Positions - Other Count	(5.0)	(5.0)	TOTAL	2,698,818	1,938,572
Personal Services	147,674	147,319	MARINE RESOURCES,		
All Other	1,609,485	1,687,241	DEPARTMENT OF		
TOTAL	1,757,159	1,834,560	Marine Sciences - Bureau of		
Provides for the allocation of funds through the transfer of the Maine Conservation Corps, including one Clerk Typist II position, 3 Volunteer Services Assistant positions and one Volunteer Services Coordinator position to its own Maine Conservation Corps program from the Twelve County SDA - Job Training Partnership Fund program, Federal Expenditures Fund.			All Other	200,000	200,000
Regulation and Enforcement			Capital Expenditures	100,000	100,000
Positions - Other Count	(1.0)	(1.0)	Provides for the allocation of funds for allotments necessary to carry out the legislative intent of the Federal Expenditures Fund.		
Personal Services	45,354	46,643	DEPARTMENT OF MARINE RESOURCES		
Provides for the allocation of funds for the transfer of one Occupational Health Specialist position from the Administration - Bureau of Labor Standards program, Federal Expenditures Fund to promote safety and health in high-hazard establishments.			TOTAL	300,000	300,000
Regulation and Enforcement			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Capital Expenditures	14,618		Mental Health Services - Community		
Provides for the allocation of funds for the purchase of testing and video equipment to improve			All Other	110,000	75,000
			Capital Expenditures	2,500	
			Provides for the allocation of funds to establish Maine Connections, an informed and organized statewide network of consumers of mental health services in Maine.		
			DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
			TOTAL	112,500	75,000
			MUSEUM, MAINE STATE		
			Research and Collection - Museum		
			All Other	72,000	72,000
			Provides for the allocation of funds for the continuation of a new grant award from the National Park Service to support the proposed Native American Graves Protection and Repatriation Act.		
			MAINE STATE MUSEUM		
			TOTAL	72,000	72,000

**PUBLIC SAFETY,
DEPARTMENT OF**Highway Safety - Department of
Public Safety

All Other	855,000	855,000
Capital Expenditures	500,000	500,000

Provides for the allocation of funds for highway safety programs including impaired driving countermeasures, child safety seat and seat belt use, Emergency Medical Services, traffic records and pedestrian and bicycle safety. These funds are made available pursuant to Section 153 of the Intermodal Transportation Act of 1991.

**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

1,355,000	1,355,000
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**TRANSPORTATION,
DEPARTMENT OF**

Railroad Assistance Program

Personal Services	85,000	85,000
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Provides for the allocation of funds for the administration charge billable to the Federal Rail Administration.

Transportation Services

Personal Services	(85,000)	(85,000)
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Provides for the deallocation of funds for which the obligated authority has been redefined to the federal Rail Administration program.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

-0-	-0-
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SECTION**TOTAL ALLOCATIONS**

25,112,941	19,649,379
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Sec. AA-3. Allocation. The following funds are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**Accident - Sickness - Health
Insurance

Positions - Other Count	(1.0)	(1.0)
Personal Services	38,125	34,052

Provides for the allocation of funds through the transfer of one Clerk Stenographer III position from the Employee Health Services program to The State Employee Health Insurance program. The additional allocation will fund this transfer.

Capital Construction/Repairs/
Improvements - Administration

All Other	2,000,000
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Provides for the allocation of funds to All Other from the Ground Water Oil Clean-up Fund for the purpose of removing underground oil storage tanks that are owned by the State.

Employee Health Services

Positions - Other Count	(-9.0)	(-9.0)
Personal Services	(490,126)	(484,026)
All Other	(669,384)	(704,251)

TOTAL	(1,159,510)	(1,188,277)
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Provides for the deallocation of funds to abolish the Employee Health account. This program will be replaced by the new Workers' Compensation Self-Insurance account that is authorized in the Maine Revised Statutes, Title 5, section 1833. The positions and all assets and liabilities will become part of the new program.

Financial and Personnel Services -
Division of

Positions - Other Count	(1.0)	(1.0)
Personal Services	57,265	58,935

Provides for the allocation of funds for the transfer of one Chief Accountant position from the division's General Fund account.			restructuring of accounts to more accurately reflect program operations.		
Financial and Personnel Services - Division of			Dairy Promotions Board		
Positions - Other Count	(-1.0)	(-1.0)	All Other	50,000	50,000
Personal Services	(46,569)	(50,102)	Provides for the allocation of funds for a national network TV pool for the United Dairy Industry Association's fluid milk advertising campaign.		
Provides for the deallocation of funds from the transfer of one Auditor III position to the Bureau of Accounts and Control, within the General Fund.			Pesticides Control - Board of		
			Personal Services	5,180	5,390
			Provides for the allocation of funds to extend by 8 weeks the period of work of one Pesticide Control Technician position.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>889,311</u>	<u>(1,145,392)</u>	Pesticides Control - Board of		
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF			Capital Expenditures	12,200	4,000
Agricultural Production			Provides for the allocation of funds to enable the board to purchase equipment that would improve its educational activities.		
All Other	10,320	10,320	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL	<u>219,700</u>	<u>211,710</u>
Provides for the allocation of funds to support response activities to complaints involving agriculture or agricultural practices.			ATTORNEY GENERAL, DEPARTMENT OF THE		
Public Services - Agriculture			Administration - Attorney General		
All Other	46,092	46,092	Positions - Other Count	(5.0)	(5.0)
Provides for the allocation of funds to accommodate a restructuring of accounts to more accurately reflect program operations.			Personal Services	266,620	272,201
			All Other	13,636	13,866
Aroostook Water and Soil Management Fund			Provides for the transfer of the entire federally funded Department of Labor legal services program, including 3 Assistant Attorney General positions, one Senior Legal Secretary position and one Clerk Stenographer III position from a Federal Expenditures Fund account to an Other Special Revenue account to accurately reflect the costs of the program.		
All Other	142,000	142,000			
Provides for the allocation of funds for the continuation of the Aroostook Water and Soil Management Board.					
Consumer Services - Agriculture					
All Other	(46,092)	(46,092)			
Provides for the deallocation of funds to accommodate a					

**DEPARTMENT OF THE
ATTORNEY GENERAL
TOTAL**

280,256	286,067
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IV position to provide funds for capital improvements to state boat facilities.

AUDIT, DEPARTMENT OF

Audit - Departmental Bureau

Positions - Other Count	(8.0)	(8.0)
Personal Services	373,765	371,489
All Other	26,235	28,511

Provides for the allocation of funds for 3 Auditor IV positions, 2 Auditor III positions and 3 Auditor II positions to provide adequate audit coverage for the State of Maine single audit.

Forest Fire Control - Division of

All Other	25,000	25,000
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Provides for the allocation of funds to permit towns in the State to purchase specialized forest fire fighting equipment at cost.

Land Management and Planning

All Other	60,848	61,080
Capital Expenditures	4,000	

**DEPARTMENT OF AUDIT
TOTAL**

400,000	400,000
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TOTAL	64,848	61,080
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Provides for the allocation of funds to facilitate information on and use of public lands.

**BAXTER STATE PARK
AUTHORITY**

Baxter State Park Authority

All Other	(750,000)	(750,000)
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Provides for the deallocation of funds through a transfer to a newly established Tree Harvesting Fund. This is a new enterprise fund to be utilized in the sale of park trees.

Mining Operations

All Other	9,891	11,004
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Provides for the allocation of funds to upgrade and complete the legislatively mandated statewide sand and gravel aquifer mapping program.

Baxter State Park Authority

All Other	12,000	12,000
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Provides for the allocation of funds for All Other to purchase miscellaneous park equipment.

**DEPARTMENT OF
CONSERVATION
TOTAL**

99,739	97,084
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**CORRECTIONS,
DEPARTMENT OF**

Charleston Correctional Facility

Personal Services	18,624	18,665
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Provides for the allocation of funds for Personal Services costs associated with wood harvesting and sawyer vocational programs.

**BAXTER STATE PARK
AUTHORITY
TOTAL**

(738,000)	(738,000)
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**CONSERVATION,
DEPARTMENT OF**

Boating Facilities Fund

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(41,935)	(43,343)
Capital Expenditures	41,935	43,343

TOTAL	-0-	-0-
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Provides for the allocation of funds through the elimination of one Engineering Technician

State Prison

Capital Expenditures	8,834	
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Provides for the allocation of funds for capital equipment for the Bolduc Correctional Facility vocational training program.

State Prison - Farm Program			Maine Environmental Protection Fund		
Personal Services	2,079	2,185	Positions - Other Count	(1.0)	(1.0)
Provides for the allocation of funds for overtime.			Personal Services	35,326	33,198
			All Other	50,292	54,218
State Prison - Farm Program			Capital Expenditures	6,000	
Capital Expenditures	17,000	15,000	TOTAL	91,618	87,416
Provides for the allocation of funds for an irrigation system, one plow and one planter.			Provides for the allocation of funds through the transfer of one Environmental Specialist II position from the Oil and Hazardous Materials Control program, Federal Expenditures Fund, to support landfill closure and remediation.		
Youth Center - Maine			Oil and Hazardous Materials Control		
Capital Expenditures	2,500		Capital Expenditures	87,500	36,000
Provides for the allocation of funds for the garden program.			Provides for the allocation of funds for a southern Maine spill response storage facility and equipment for response to hazardous materials petroleum spills.		
DEPARTMENT OF CORRECTIONS			Oil and Hazardous Materials Control		
TOTAL	49,037	35,850	Capital Expenditures	87,500	36,000
EDUCATION, DEPARTMENT OF			Provides for the allocation of funds for a southern Maine spill response storage facility and equipment for response to hazardous materials petroleum spills.		
Governor Baxter School for the Deaf			Oil and Hazardous Materials Control		
Personal Services	59,395	59,525	All Other	48,021	52,002
All Other	122,167	122,167	Capital Expenditures	18,250	8,155
Provides for the allocation of funds for support activities centering on deaf culture and education for children and families.			TOTAL	66,271	60,157
DEPARTMENT OF EDUCATION			Provides for the allocation of funds to review soil and ground water remediation plans and equipment for sampling, analysis and monitoring activities.		
TOTAL	181,562	181,692	Oil and Hazardous Materials Control		
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			All Other	12,653	13,075
Administration - Environmental Protection			Capital Expenditures	505,100	258,400
All Other	88,183	89,976	TOTAL	517,753	271,475
Capital Expenditures	6,000		Provides allocation of funds for office maintenance, data gathering, a southern Maine spill response storage facility and emergency response and other equipment.		
TOTAL	94,183	89,976			
Provides for the allocation of funds to enhance training, job classification management and recruitment selection services and permit, compliance and complaint tracking.					

Oil and Hazardous Materials Control			Personal Services	(23,362)	(23,362)
			All Other	(4,000)	(4,000)
All Other	41,415	42,300	TOTAL	(27,362)	(27,362)
Capital Expenditures	306,100	70,500			
TOTAL	347,515	112,800	Provides for the deallocation of funds to transfer one Human Services Aide III position from the Other Special Revenue account to the Federal Expenditures Fund account in the Bureau of Income Maintenance.		
Provides for the allocation of funds for the administration of 3rd-party claims, a southern Maine spill response storage facility and equipment.			Administration - Income Maintenance		
DEPARTMENT OF ENVIRONMENTAL PROTECTION					
TOTAL	1,204,840	657,824	All Other	1,800,000	1,800,000
EXECUTIVE DEPARTMENT			Provides for the allocation of funds for interim assistance reimbursement to Supplemental Security Income program applicants.		
Public Advocate			Health - Bureau of		
All Other	50,000		All Other	7,000	7,000
Provides for the allocation of funds to cover the cost of remand proceedings to be attended by the Superintendent of Insurance.			Provides for the allocation of funds for well child clinic services.		
EXECUTIVE DEPARTMENT			Health - Bureau of		
TOTAL	50,000	-0-	Positions - Other Count	(1.0)	(1.0)
HEALTH CARE FINANCE COMMISSION, MAINE			Personal Services	41,837	43,117
Health Care Finance Commission			All Other	35,392	36,502
Personal Services	7,514	10,400	TOTAL	77,229	79,619
Provides for the allocation of funds to reclassify three positions: one Legal Secretary position to one Paralegal position; one Administrative Secretary position to one Administrative Assistant position; and one Financial Analyst position to one Senior Financial Analyst position.			Provides for the allocation of funds to transfer one Engineering Technician III position from the nuclear safety program.		
MAINE HEALTH CARE FINANCE COMMISSION			Health - Bureau of		
TOTAL	7,514	10,400	All Other	300,000	300,000
HUMAN SERVICES, DEPARTMENT OF			Capital Expenditures	86,300	156,800
Administration - Income Maintenance			TOTAL	386,300	456,800
Positions - Other Count	(-1.0)	(-1.0)	Provides for the allocation of funds for increased costs of laboratory equipment and supplies and for new capital equipment.		
			Health - Bureau of		
			All Other	39,000	39,000

Provides for the allocation of funds to be transferred from the Department of Agriculture, Food and Rural Resources, as a state match (30%) for the Women, Infants and Children program's federal farmer's market nutrition grant.			Provides for the allocation of funds for equipment needed to implement recovery programs for endangered and threatened species.		
Health - Bureau of			Endangered Nongame Operations		
Personal Services	7,243	6,975	All Other	58,139	57,426
Provides for the allocation of funds to upgrade one Comprehensive Health Planner I position to one Health Program Manager position.			Provides for the allocation of funds for operating costs of the Endangered Nongame Operations program.		
Nuclear Safety Program			Public Information and Education, Division of		
Positions - Other Count	(-1.0)	(-1.0)	All Other	15,479	15,942
Personal Services	(41,837)	(43,117)	Provides for the allocation of funds for wildlife and exhibit care at the game farm and exhibit center.		
All Other	(35,392)	(36,502)	Public Information and Education, Division of		
TOTAL	(77,229)	(79,619)	Capital Expenditures		4,000
Provides for the deallocation of funds for the transfer of one Engineering Technician III position to the Other Special Revenue, Bureau of Health program.			Provides for the allocation of funds for a mechanical sand spreader for winter maintenance of the game farm and visitors center road system.		
DEPARTMENT OF HUMAN SERVICES			Public Information and Education, Division of		
TOTAL	2,212,181	2,282,413	Positions - Other Count	(1.0)	(1.0)
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF			Personal Services	18,377	17,723
Endangered Nongame Operations			Provides for the allocation of funds through the transfer of one seasonal Game Keeper position from the General Fund of this program.		
All Other	36,366	37,831	Waterfowl Habitat Acquisition and Management		
Provides for the allocation of funds to implement a nongame bird monitoring and management system.			All Other	16,952	17,427
Endangered Nongame Operations			Provides for the allocation of funds for purchase and maintenance costs of high-value waterfowl habitats.		
All Other	36,366	37,831	DEPARTMENT OF INLAND FISHERIES AND WILDLIFE		
Provides for the allocation of funds for recovery programs for endangered species.			TOTAL	185,679	190,180
Endangered Nongame Operations					
Capital Expenditures	4,000	2,000			

LABOR, DEPARTMENT OFTwelve County SDA - Job
Training Partnership Program

Personal Services	(70,894)	(72,772)
All Other	(112,333)	(113,688)
TOTAL	(183,227)	(186,460)

Provides for the
deallocation of funds
through the transfer of the
Maine Conservation
Corps to its own Maine
Conservation Corps
program. Funding for 11
Project Laborer II
positions without
headcount is included.

Maine Conservation Corps

Personal Services	70,894	72,772
All Other	112,333	113,688
TOTAL	183,227	186,460

Provides for the allocation
of funds through the
transfer of the Maine
Conservation Corps from
the Twelve County SDA -
Job Training Partnership
Fund program, Other
Special Revenue funds, to
its own Maine
Conservation Corps
program. Personal
Services funding for 11
Project Laborer II
positions without
headcount is included.Safety Education and Training
Programs

Capital Expenditures	27,938	21,828
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Provides for the allocation
of funds for the purchase
of testing and video
equipment to improve
occupational safety and
health consultation
services.**DEPARTMENT OF LABOR
TOTAL**

27,938 21,828

LEGISLATUREMaine Health Care Reform
Commission

Positions - Other Count	(1.0)
Personal Services	43,000

All Other 36,000

Provides for the allocation
of funds to continue one
Policy Analyst position
and All Other for
consulting services and
conducting surveys.**LEGISLATURE
TOTAL**

79,000

**MARINE RESOURCES,
DEPARTMENT OF**Administration - Marine
Resources

All Other 25,000 25,000

Provides for the allocation
of funds for allotments
necessary to carry out the
legislative intent of the
loss prevention and
recovery fund.

Marine Development - Bureau of

All Other 120,000 120,000
Capital Expenditures 10,000 10,000**TOTAL** 130,000 130,000Provides for the allocation
of funds to carry out the
legislative intent of the
aquaculture program.

Marine Development - Bureau of

All Other 10,000 10,000

Provides for the allocation
of funds for allotments
necessary to carry out the
legislative intent of the
education revolving fund.

Marine Development - Bureau of

All Other 40,000 40,000

Provides for the allocation
of funds for allotments
necessary to carry out the
legislative intent of the
publication revolving
fund.

Marine Development - Bureau of

All Other 50,000 50,000

Provides funds for
allotments necessary to
carry out the legislative
intent of the Kennebec
fisheries fund.

Marine Development - Bureau of			Provides for the allocation of funds for creation of the boat sale conversion account.		
All Other	210,000	210,000			
Provides for the allocation of funds for allotments necessary to carry out the legislative intent of the seed lobster fund.			Marine Sciences - Bureau of		
			All Other	100,000	100,000
Marine Development - Bureau of			Provides for the allocation of funds for allotments necessary to carry out the legislative intent of the gas tax fund.		
Personal Services	9,500	6,500	Seafood Market Development		
Provides for the allocation of funds for the upgrade of one Marine Resource Scientist I position to one Marine Resource Scientist II position.			All Other	5,000	5,000
Marine Patrol - Bureau of			Provides for the allocation of funds to carry out the legislative intent of the seafood market development fund.		
All Other	111,000	111,000			
Capital Expenditures	39,000	39,000			
TOTAL	150,000	150,000	DEPARTMENT OF MARINE RESOURCES		
Provides for the allocation of funds to carry out the legislative intent of the watercraft fund.			TOTAL	879,500	876,500
			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Marine Sciences - Bureau of			Augusta Mental Health Institute		
All Other	25,000	25,000	Positions - Other Count		(-148.0)
Provides for the allocation of funds for allotments necessary to carry out the legislative intent of the shellfish fund.			Personal Services		(1,614,736)
			All Other		(32,029)
			TOTAL		(1,646,765)
Marine Sciences - Bureau of			Provides for the deallocation of funds due to the closure of the geropsychiatric unit on July 1, 1996, involving 39 positions, and an admissions unit on March 1, 1997, involving 109 positions, contingent upon expanded community development. A total of 148 positions would be eliminated. Positions are on file with the Bureau of the Budget.		
All Other	5,000	5,000			
Provides for the allocation of funds for allotments necessary to carry out the legislative intent of the toxin monitoring funds.					
Marine Sciences - Bureau of			Augusta Mental Health Institute		
Personal Services	10,000	10,000	Positions - Other Count	(-43.5)	(-43.5)
All Other	10,000	10,000	Personal Services	(1,172,060)	(1,172,060)
TOTAL	20,000	20,000	All Other	(35,298)	(35,298)
Provides for the allocation of funds necessary to carry out the legislative intent of the marine worm funds.			TOTAL	(1,207,358)	(1,207,358)
Marine Sciences - Bureau of			Provides for the deallocation of funds by		
Capital Expenditures	100,000	100,000			

eliminating 43.5 positions within the hospital to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute Consent Decree. Positions are on file with the Bureau of the Budget.

Augusta Mental Health Institute

Positions - Other Count	(-34.0)	(-34.0)
Personal Services	(369,713)	(782,765)

Provides for the deallocation of funds due to the closing of one long-stay unit in January 1996, involving 34 positions. Positions are on file with the Bureau of the Budget.

Bangor Mental Health Institute

Positions - Other Count	(-16.5)	(-16.5)
Personal Services	(205,540)	(431,707)
All Other	(47,475)	(112,799)

TOTAL	(253,015)	(544,506)
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Provides for the deallocation of funds from the closing of one long-term psychiatric unit in January 1996, involving 16.5 positions. Positions are on file with the Bureau of the Budget.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

TOTAL	(1,830,086)	(4,181,394)
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PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation

Positions - Other Count	(1.0)	(1.0)
Personal Services	76,550	73,950
All Other	83,860	64,790
Capital Expenditures	50,000	25,000

TOTAL	210,410	163,740
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Provides for the allocation of funds to defray costs related to the reclassifications of one Receptionist position to

one Clerk Typist III position, one Senior Administrative Secretary position to one Administrative Assistant position, one Account Clerk I position to one Information Systems Support Technician position, one Information Systems Support Specialist position to one Information Systems Support Specialist II position, and the transfer of one Senior Programmer position from the Bureau of Insurance, training supplies and computer equipment to enhance the current network system.

Accountancy - Board of

Personal Services	2,034	2,034
All Other	1,000	1,000
TOTAL	3,034	3,034

Provides for the allocation of funds to reclassify one Clerk Typist III position to one Board Clerk position, Total Quality Management, and to provide advancement career training for employees.

Architects, Landscape Architects, Interior Designers - Board of

Personal Services	2,034	2,034
All Other	19,000	19,000
TOTAL	21,034	21,034

Provides for the allocation of funds to reclassify one Clerk Typist III position to one Board Clerk position, Total Quality Management, career advancement training for employees, dues and out-of-state travel.

Barbering and Cosmetology - Board of

Personal Services	4,068	4,068
All Other	27,586	27,586
TOTAL	31,654	31,654

Provides for the allocation of funds to reclassify 2 Clerk Typist III positions to 2 Board Clerk positions, Total Quality Management, career advancement training for employees, and for an additional allotment for vehicles from central fleet management. The board had to increase the allotment due to the larger number of examinations being administered.			vehicles, Total Quality Management training and advanced career training for employees.		
Chiropractic Licensure - Board of			Engineers - Board of Registration for Professional		
All Other	2,500	2,500	All Other	4,500	4,500
Provides for the allocation of funds for personnel training.			Provides for the allocation of funds for travel expenses for increasing the board membership from 6 to 7.		
Commercial Driver Education			Foresters - Board of Licensure		
All Other	7,000	7,000	All Other	5,000	5,000
Provides for the allocation of funds in All Other for increased services required of the Attorney General's office.			Provides for the allocation of funds to increase the newsletter distribution from annual to quarterly.		
Board of Counseling Professionals Licensure			Funeral Services - Board of		
All Other	1,000	1,000	All Other	1,000	1,000
Provides for the allocation of funds for additional training.			Provides for the allocation of funds for Total Quality Management and career advancement training for employees.		
Dental Examiners - Board of			Insurance - Bureau of		
Positions - Other Count	(0.5)	(0.5)	Positions - Other Count	(-1.0)	(-1.0)
Personal Services	12,205	13,156	Personal Services	72,354	69,672
Provides for the allocation of funds for one part-time Clerk Typist III position for an increased work load.			All Other	5,000	5,000
Electricians Examining Board			Capital Expenditures	6,000	
Personal Services	2,034	2,034	TOTAL	83,354	74,672
All Other	53,000	53,000	Provides for the allocation of funds by increasing the salary ranges of the following: one Managing Examiner position to one Director position, range 28 to 31; 9 Managing Examiner positions, range 28 to 32; 4 Senior Examiner positions, range 24 to 28; 4 Company Examiner positions, range 20 to 24; and the transfer of one Senior Programmer position to the Administrative Services Division.		
TOTAL	55,034	55,034	Licensing of Auctioneers		
Provides for the allocation of funds to reclassify one Clerk Typist III position to one Board Clerk position, increase allotment for leased			All Other	2,000	2,000

Provides for the allocation of funds for increased out-of-state travel.			costs of Central Fleet Management leased vehicles, Total Quality Management and advanced training for employees.		
Licensing and Enforcement			Psychologists - Board of Examiners		
Personal Services	24,970	24,970			
All Other	90,000	90,000			
Capital Expenditures	6,000	6,000			
TOTAL	120,970	120,970	All Other	2,000	2,000
Provides for the allocation of funds for Attorney General services and lease costs due to construction, and to reclassify 5 Clerk Typist III positions to 5 Board Clerk positions and one Account Clerk I position to one Account Clerk II position. Funds are also needed for additional computer equipment.			Provides for the allocation of funds for anticipated increases in hearings.		
Licensure in Medicine - Board of			Radiologic Technology Board of Examiners		
Personal Services	20,680	16,559	All Other	1,000	1,000
Provides for the allocation of funds for one Executive Director position that was filled at a higher step than budgeted.			Provides for the allocation of funds to publish a newsletter.		
Licensure in Medicine - Board of			Real Estate Commission		
Capital Expenditures	6,000	7,200	Personal Services	13,350	14,050
Provides for the allocation of funds for desks and office and computer equipment for current staff needs.			Provides for the allocation of funds for the following range changes and reclassifications: Real Estate Examiner II to range 24; Real Estate Examiner to range 22; and Planning and Research Associate II to Education Specialist III, range 26.		
Licensure in Medicine - Board of			Social Worker Licensure - Board of		
All Other	9,270	9,548	Personal Services	2,634	2,634
Provides for the allocation of funds for Total Quality Management training.			All Other	12,000	12,000
Plumbers Examining Board			TOTAL	14,634	14,634
Personal Services	2,034	2,034	Provides for the allocation of funds to reclassify one Clerk Typist III position to one Board Clerk position and for longevity pay and to allow funding of a Volunteer Social Worker Project and training.		
All Other	19,000	19,000	Veterinary Medicine - Board of		
TOTAL	21,034	21,034	All Other	500	500
Provides for the allocation of funds to reclassify one Clerk Typist III position to one Board Clerk position; for increased			Provides for the allocation of funds for out-of-state travel.		

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

649,163 592,819

SECTION

TOTAL ALLOCATIONS

4,847,334 (220,419)

Sec. AA-4. Allocation. The following funds are allocated from Federal Block Grant funds for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

1995-96 1996-97

EXECUTIVE DEPARTMENT

Office of Substance Abuse

All Other 732,964 735,464
Capital Expenditures 4,500 2,000

Provides for the allocation of funds to meet block grant requirements.

**EXECUTIVE DEPARTMENT
TOTAL**

737,464 737,464

**HUMAN SERVICES,
DEPARTMENT OF**

Community Services Block Grant

All Other 40,748 42,646

Provides for the allocation of all requested funds as All Other expenditures.

Dental Disease Prevention

Personal Services 2,271 2,379

Provides for the allocation of funds to upgrade one Clerk Typist II position to one Clerk Typist III position.

Health - Bureau of

All Other 127,543 119,222

Provides for the allocation of all requested funds as All Other expenditures.

Health - Bureau of

All Other 150,426 150,426

Provides for the allocation of funds for services in adolescent health, lead and community health programs and the Bureau of Health programs

through an increase in block grant funds.

Health - Bureau of

All Other 600,000 600,000

Provides for the allocation of funds for adolescent health, lead and community health programs and Bureau of Health programs from balances from prior fiscal years.

Health - Bureau of

All Other 44,237 41,737

Provides for the allocation of all requested funds as All Other expenditures.

Health - Bureau of

All Other 125,865 117,865

Provides for the allocation of all requested funds as All Other expenditures.

Health - Bureau of

All Other 50,194 45,733

Provides for the allocation of all requested funds as All Other expenditures.

Maternal and Child Health

All Other 911,328 911,328

Provides for the allocation of funds for Maternal and Child Health and coordinated care services programs from carry-over funds from prior years.

Maternal and Child Health

All Other 17,745 36,891

Provides for the allocation of all requested funds as All Other expenditures.

Maternal and Child Health

Personal Services 1,500 1,500

Provides for the allocation of funds to upgrade one Assistant Director position for the teen and young adult health program from one Public Health Nurse II position

to one Comprehensive Health Planner II position.		
Maternal and Child Health		
Personal Services	4,858	4,678
Provides for the allocation of funds to upgrade one Occupational Therapist I position to one Occupational Therapist II position within the coordinated care services for Children with Special Health Needs account.		
Purchased Social Services		
All Other	31,436	28,868
Provides for the allocation of all requested funds as All Other expenditures.		
Purchased Social Services		
All Other	67,798	63,727
Provides for the allocation of all requested funds as All Other expenditures.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>2,175,949</u>	<u>2,167,000</u>
MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Mental Health Services - Children		
All Other	85,171	85,171
Provides for the allocation of funds due to an increase in the Community Mental Health Services block grant.		
Mental Health Services - Community		
All Other	98,385	98,385
Provides for the allocation of funds due to an increase in the Community Mental Health Services block grant.		
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
TOTAL	<u>183,556</u>	<u>183,556</u>

SECTION		
TOTAL ALLOCATIONS	<u>3,096,969</u>	<u>3,088,020</u>
Sec. AA-5. Allocation. The following funds are allocated from the Workers' Compensation Management Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.		
	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Workers' Compensation Management Fund Program		
Positions - Other Count	(13.0)	(13.0)
Personal Services	667,598	670,361
All Other	13,213,707	13,431,368
Capital Expenditures	40,000	5,900
Provides for the allocation of funds to establish the Workers' Compensation Management Fund as authorized by the Maine Revised Statutes, Title 5, section 1833. The allocation provides for the establishment of 13 positions, related All Other and Capital Expenditures and the cost of paying claims expenses. Positions transferred from the Employee Health Services program include: one Director Workers' Compensation Division position; one Director of Employee Health Program position; 3 Workers' Compensation Case Manager positions; one Personnel Assistant position; one Public Health Nurse I position; and one Workers' Compensation Aide position. New positions include: one Return-to-Work Coordinator position; 3 Claims Technician positions; and one Clerk Typist II position.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>13,921,305</u>	<u>14,107,629</u>

SECTION		
TOTAL ALLOCATIONS	13,921,305	14,107,629

Sec. AA-6. Allocation. The following funds are allocated from the Real Property Lease Internal Service Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		

Buildings and Grounds Operations

All Other	8,500,000	9,000,000
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Provides for the allocation of funds in the All Other line category to reflect the centralization of lease payments to landlords.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	8,500,000	9,000,000

SECTION		
TOTAL ALLOCATIONS	8,500,000	9,000,000

Sec. AA-7. Allocation. The following funds are allocated from the Prison Industries Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

	1995-96	1996-97
CORRECTIONS, DEPARTMENT OF		

State Prison

Personal Services	5,622	5,904
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Provides for the allocation of funds for overtime.

DEPARTMENT OF CORRECTIONS		
TOTAL	5,622	5,904

SECTION		
TOTAL ALLOCATIONS	5,622	5,904

Sec. AA-8. Allocation. The following funds are allocated from the Tree Harvesting Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

	1995-96	1996-97
BAXTER STATE PARK AUTHORITY		

Tree Harvesting Fund - Temporary Account

All Other	750,000	750,000
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Provides for the allocation of funds through a transfer from the Baxter State Park Authority account. These funds are for the newly established enterprise fund used in the sale of trees.

BAXTER STATE PARK AUTHORITY		
TOTAL	750,000	750,000

SECTION		
TOTAL ALLOCATIONS	750,000	750,000

PART BB

Sec. BB-1. Appropriation. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		

Accounts and Control - Bureau of

Personal Services	\$6,456	\$6,456
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Buildings and Grounds Operations

Personal Services	14,610	12,443
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	21,066	18,899

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Agricultural Production

Personal Services	10,000	9,600
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Public Services - Agriculture

Personal Services	3,100	3,000
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Marketing Services - Agriculture

Personal Services	7,500	9,600
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DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES			Support Services Unit		
TOTAL	<u>20,600</u>	<u>22,200</u>	Personal Services	4,218	4,938
ATTORNEY GENERAL, DEPARTMENT OF THE			DEPARTMENT OF EDUCATION		
Chief Medical Examiner - Office of			TOTAL	<u>27,100</u>	<u>22,732</u>
Personal Services	8,439	6,037	ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
DEPARTMENT OF THE ATTORNEY GENERAL			Air Quality Control		
TOTAL	<u>8,439</u>	<u>6,037</u>	Personal Services	2,270	2,276
CONSERVATION, DEPARTMENT OF			Land Quality Control		
Forest Fire Control - Division of			Personal Services	3,726	3,665
Personal Services	26,973	15,778	Water Quality Control		
DEPARTMENT OF CONSERVATION			Personal Services	6,005	2,922
TOTAL	<u>26,973</u>	<u>15,778</u>	DEPARTMENT OF ENVIRONMENTAL PROTECTION		
CORRECTIONS, DEPARTMENT OF			TOTAL	<u>12,001</u>	<u>8,863</u>
Administration - Corrections			HUMAN SERVICES, DEPARTMENT OF		
Personal Services	1,430	1,057	Administration - Human Services		
DEPARTMENT OF CORRECTIONS			Personal Services	6,750	6,750
TOTAL	<u>1,430</u>	<u>1,057</u>	Administration - Social Services		
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			Personal Services	7,050	3,925
Administration - Economic and Community Development			Health - Bureau of		
Personal Services	8,584	6,925	Personal Services	8,105	4,040
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			Medical Care Administration		
TOTAL	<u>8,584</u>	<u>6,925</u>	Personal Services	13,482	9,700
EDUCATION, DEPARTMENT OF			DEPARTMENT OF HUMAN SERVICES		
Certification, Placement and Teacher Education			TOTAL	<u>35,387</u>	<u>24,415</u>
Personal Services	4,647	4,475	INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Division of Instruction			Office of the Commissioner - Inland Fisheries and Wildlife		
Personal Services	9,169	8,842	Personal Services	4,674	7,279
Preschool Handicapped			Resource Management Services - Inland Fisheries and Wildlife		
Person Services	9,066	4,477	Personal Services	1,878	2,897
			DEPARTMENT OF INLAND FISHERIES AND WILDLIFE		
			TOTAL	<u>6,552</u>	<u>10,176</u>

LABOR, DEPARTMENT OF

Regulation and Enforcement

Personal Services	4,033	2,210
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**DEPARTMENT OF LABOR
TOTAL**

4,033	2,210
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LIBRARY, MAINE STATE

Administration - Library

Personal Services	4,425	4,265
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**MAINE STATE LIBRARY
TOTAL**

4,425	4,265
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**MARINE RESOURCES,
DEPARTMENT OF**

Marine Patrol - Bureau of

Personal Services	2,743	2,749
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**DEPARTMENT OF MARINE
RESOURCES
TOTAL**

2,743	2,749
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**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**

Bath Children's Home

Personal Services	1,075	1,078
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Mental Health Services -
Community

Personal Services	27,677	28,420
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**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION
TOTAL**

28,752	29,498
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**PUBLIC SAFETY,
DEPARTMENT OF**

Criminal Justice Academy

Personal Services	2,945	2,836
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Liquor Enforcement

Personal Services	12,624	12,829
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**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

15,569	15,665
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**SECRETARY OF STATE,
DEPARTMENT OF THE**Bureau of Administrative Services
and Corporations

Personal Services	2,926	1,808
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**DEPARTMENT OF THE
SECRETARY OF STATE
TOTAL**

2,926	1,808
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SECTION**TOTAL APPROPRIATIONS**

226,580	193,277
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Sec. BB-2. Allocation. There are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

1995-96	1996-97
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**CORRECTIONS,
DEPARTMENT OF**

Correctional Center

Personal Services	4,859	4,679
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**DEPARTMENT OF
CORRECTIONS
TOTAL**

4,859	4,679
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**EDUCATION, DEPARTMENT
OF**

Rehabilitation Services

Personal Services	1,873	1,808
All Other	(1,873)	(1,808)

TOTAL	-0-	-0-
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**DEPARTMENT OF
EDUCATION
TOTAL**

-0-	-0-
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**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**Administration - Environmental
Protection

Personal Services	2,852	2,749
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Oil and Hazardous Materials
Control

Personal Services	4,534	3,694
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Oil and Hazardous Materials
Control

Personal Services	1,645	2,427
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Water Quality Control

Personal Services	1,876	1,808
-------------------	-------	-------

Water Quality Control

Personal Services	8,779	7,591
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				1995-96	1996-97
DEPARTMENT OF ENVIRONMENTAL PROTECTION			ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
TOTAL	19,686	18,269			
HUMAN SERVICES, DEPARTMENT OF			Accident-Sickness-Health Insurance		
Administration - Human Services			Personal Services	1,324	1,450
Personal Services	4,503	4,361	Employee Health Services		
Child Welfare Services			Personal Services	5,770	7,887
Personal Services	3,090	2,006			
Disability Determination - Division of			DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
Personal Services	21,684	11,044	TOTAL	7,094	9,337
Health - Bureau of			AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Personal Services	13,791	12,630			
Medical Care Administration			Pesticides Control - Board of		
Personal Services	28,176	22,356	Personal Services	5,100	7,200
DEPARTMENT OF HUMAN SERVICES			DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	71,244	52,397	TOTAL	5,100	7,200
LABOR, DEPARTMENT OF			BAXTER STATE PARK AUTHORITY		
Occupational Information Coordination			Baxter State Park Authority		
Personal Services	3,238	2,011	Personal Services	23,260	10,602
Twelve County SDA - Job Training Partnership			BAXTER STATE PARK AUTHORITY		
Personal Services	6,455	4,991	TOTAL	23,260	10,602
DEPARTMENT OF LABOR			ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
TOTAL	9,693	7,002	Administration - Environment Protection		
MARINE RESOURCES, DEPARTMENT OF			Personal Services	4,498	5,566
Marine Sciences - Bureau of			Maine Environmental Protection Fund		
Personal Services	4,350	4,360	Personal Services	19,420	18,293
DEPARTMENT OF MARINE RESOURCES					
TOTAL	4,350	4,360	Oil and Hazardous Materials Control		
SECTION			Personal Services	2,323	2,749
TOTAL ALLOCATIONS	109,832	86,707	Oil and Hazardous Materials Control		
			Personal Service	2,882	2,109
			Solid Waste Management		
			Personal Services	4,060	3,912

Sec. BB-3. Allocation. There are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	33,183	32,629
EXECUTIVE DEPARTMENT		
Public Advocate		
Personal Services	3,468	3,476
EXECUTIVE DEPARTMENT TOTAL	3,468	3,476
HEALTH CARE FINANCE COMMISSION, MAINE		
Health Care Finance Commission		
Personal Services	6,640	8,645
MAINE HEALTH CARE FINANCE COMMISSION TOTAL	6,640	8,645
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Insurance - Bureau of		
Personal Services	7,805	7,515
Nursing - Board of		
Personal Services	8,535	8,217
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL	16,340	15,732
PUBLIC SAFETY, DEPARTMENT OF		
Fire Marshal - Office of		
Personal Services	1,762	1,696
DEPARTMENT OF PUBLIC SAFETY TOTAL	1,762	1,696
PUBLIC UTILITIES COMMISSION		
Public Utilities - Administrative Division		
Personal Services	3,961	4,845
All Other	(3,961)	(4,845)
TOTAL	-0-	-0-
PUBLIC UTILITIES COMMISSION TOTAL	-0-	-0-
SECRETARY OF STATE, DEPARTMENT OF THE		

Administration - Motor Vehicles		
Personal Services	4,007	2,700
DEPARTMENT OF THE SECRETARY OF STATE TOTAL	4,007	2,700
SECTION TOTAL ALLOCATIONS	100,854	92,017
Sec. BB-4. Allocation. There are allocated from the Federal Block Grant Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.		
	1995-96	1996-97
ATTORNEY GENERAL, DEPARTMENT OF THE		
Human Services Division		
Personal Services	2,700	2,600
All Other	(2,700)	(2,600)
TOTAL	-0-	-0-
DEPARTMENT OF THE ATTORNEY GENERAL TOTAL	-0-	-0-
EDUCATION, DEPARTMENT OF		
Division of Instruction		
Personal Services	4,578	4,421
All Other	(4,578)	(4,421)
TOTAL	-0-	-0-
DEPARTMENT OF EDUCATION TOTAL	-0-	-0-
HUMAN SERVICES, DEPARTMENT OF		
Risk Reduction		
Personal Services	3,805	4,285
DEPARTMENT OF HUMAN SERVICES TOTAL	3,805	4,285
SECTION TOTAL ALLOCATIONS	3,805	4,285

Sec. BB-5. Allocation. There are allocated from the Statewide Internal Service Funds for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Central Services - Purchases		
Personal Services	14,058	6,363
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>14,058</u>	<u>6,363</u>
SECTION TOTAL ALLOCATIONS	<u>\$14,058</u>	<u>\$6,363</u>

PART CC

Sec. CC-1. Appropriation. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Accounts and Control - Bureau of		
All Other	(\$6,456)	(\$6,456)
Provides funds for approved reclassifications and range changes.		
Buildings and Grounds Operations		
All Other	(14,610)	(12,443)
Provides funds for approved reclassifications and range changes.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>(21,066)</u>	<u>(18,899)</u>
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Agricultural Production		
All Other	(10,000)	(9,600)

Provides funds for approved reclassifications and range changes.

Public Services - Agriculture

Personal Services (3,100) (3,000)

Provides funds from the transfer of 6 hours per week of one Clerk Typist II position to the Public Services - Agriculture Federal program for an approved reclassification.

Marketing Services - Agriculture

All Other (7,500) (9,600)

Provides funds for approved reclassifications and range changes.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL

(20,600) (22,200)

ATTORNEY GENERAL, DEPARTMENT OF THE**Chief Medical Examiner - Office of**

All Other (8,439) (6,037)

Provides funds for approved reclassifications and range changes.

DEPARTMENT OF THE ATTORNEY GENERAL TOTAL

(8,439) (6,037)

CONSERVATION, DEPARTMENT OF**Forest Fire Control - Division of**

All Other (26,973) (15,778)

Provides funds for approved reclassifications and range changes.

DEPARTMENT OF CONSERVATION TOTAL

(26,973) (15,778)

CORRECTIONS, DEPARTMENT OF**Administration - Corrections**

All Other	(1,430)	(1,057)	DEPARTMENT OF EDUCATION TOTAL	(27,100)	(22,732)
Provides funds for approved reclassifications and range changes.					
DEPARTMENT OF CORRECTIONS TOTAL	(1,430)	(1,057)	ENVIRONMENTAL PROTECTION, DEPARTMENT OF Air Quality Control		
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF Business Development			All Other	(2,270)	(2,276)
Personal Services	(8,584)	(6,925)	Provides funds for approved reclassifications and range changes.		
Provides funds from a position downgrade for approved reclassifications in the Administration program.			Land Quality Control		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	(8,584)	(6,925)	All Other	(3,726)	(3,665)
EDUCATION, DEPARTMENT OF Certification, Placement and Teacher Education			Provides funds for approved reclassifications and range changes.		
All Other	(4,647)	(4,475)	Water Quality Control		
Provides funds for approved reclassifications and range changes.			All Other	(6,005)	(2,922)
Division of Instruction			Provides funds for approved reclassifications and range changes.		
All Other	(9,169)	(8,842)	DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	(12,001)	(8,863)
Provides funds for approved reclassifications and range changes.			HUMAN SERVICES, DEPARTMENT OF Administration - Human Services		
Division of Special Services			All Other	(6,750)	(6,750)
All Other	(9,066)	(4,477)	Provides funds for approved reclassifications and range changes.		
Provides funds for approved reclassifications in the Preschool Handicapped program.			Administration - Social Services		
Support Services Unit			All Other	(7,050)	(3,925)
All Other	(4,218)	(4,938)	Provides funds for approved reclassifications and range changes.		
Provides funds for approved reclassifications and range changes.			Health - Bureau of		
			All Other	(8,105)	(4,040)
			Provides funds for approved reclassifications and range changes.		

**Medical Care
Administration**

All Other	(13,482)	(9,700)
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Provides funds for
approved reclassifications
and range changes.

**DEPARTMENT OF
HUMAN SERVICES
TOTAL**

(35,387)	(24,415)
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**INLAND FISHERIES AND
WILDLIFE,
DEPARTMENT OF****Office of the Commissioner -
Inland Fisheries and
Wildlife**

All Other	(4,674)	(7,279)
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Provides funds for
approved reclassifications
and range changes.

**Resource Management
Services - Inland Fisheries
and Wildlife**

All Other	(1,878)	(2,897)
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Provides funds for
approved reclassifications
and range changes.

**DEPARTMENT OF
INLAND FISHERIES AND
WILDLIFE
TOTAL**

(6,552)	(10,176)
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**LABOR, DEPARTMENT
OF****Regulation and Enforcement**

All Other	(4,033)	(2,210)
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Provides funds for
approved reclassifications
and range changes.

**DEPARTMENT OF
LABOR
TOTAL**

(4,033)	(2,210)
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LIBRARY, MAINE STATE**Library Development
Services**

All Other	(4,425)	(4,265)
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Provides funds for an
approved reclassification

in the Administration
program.

**MAINE STATE LIBRARY
TOTAL**

(4,425)	(4,265)
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**MARINE RESOURCES,
DEPARTMENT OF****Marine Patrol - Bureau of**

All Other	(2,743)	(2,749)
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Provides funds for
approved reclassifications
and range changes.

**DEPARTMENT OF
MARINE RESOURCES
TOTAL**

(2,743)	(2,749)
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**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF****Mental Health Services -
Children**

Personal Services	(1,075)	(1,078)
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Provides funds from a
position downgrade for a
reclassification in the
Bath Children's Home
program.

**Mental Health Services -
Community**

All Other	(27,677)	(28,420)
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Provides funds for
approved reclassifications
and range changes.

**DEPARTMENT OF
MENTAL HEALTH AND
MENTAL RETARDATION
TOTAL**

(28,752)	(29,498)
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**PUBLIC SAFETY,
DEPARTMENT OF****Liquor Enforcement**

All Other	(15,569)	(15,665)
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Provides funds for
approved reclassifications
and range changes in the
Liquor Enforcement
program and the Criminal
Justice Academy
program.

**DEPARTMENT OF
PUBLIC SAFETY
TOTAL**

(15,569) (15,665)

**SECRETARY OF STATE,
OFFICE OF THE**

Elections and Commissions

Personal Services (2,926) (1,808)

Provides funds from the reduction in weeks of a seasonal position for an approved reclassification in the Bureau of Administrative Services and Corporation program.

**OFFICE OF THE
SECRETARY OF STATE
TOTAL**

(2,926) (1,808)

SECTION

TOTAL APPROPRIATIONS (226,580) (193,277)

Sec. CC-2. Allocation. There are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

**AGRICULTURE, FOOD
AND RURAL
RESOURCES,
DEPARTMENT OF**

Public Services - Agriculture

Personal Services \$3,100 \$3,000

Provides for the allocation of funds for the transfer of 6 hours per week of one Clerk Typist II position from Public Service - Agriculture General Fund program.

PART DD

Sec. DD-1. Appropriation. In order to provide for the essential maintenance, repair and capital financing needs of state facilities for the biennium, the following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96 1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Public Improvements -
Planning - Construction -
Administration**

All Other \$315,663 \$250,900
Capital Expenditures 5,075,000 6,095,000

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

\$5,390,663 \$6,345,900

Sec. DD-2. Carrying balance. Any balance remaining on June 30, 1996 in the General Fund "Public Improvements - Planning - Construction - Administration" program in the Department of Administrative and Financial Services may not lapse but must be carried forward to June 30, 1997 to be used for the same purpose.

PART EE

Sec. EE-1. 5 MRSA §1664, first ¶, as amended by PL 1993, c. 410, Pt. C, §3, is further amended to read:

The state budget document, setting forth a 4-year financial plan for the State Government for each fiscal year of the ensuing biennium and the following biennium, must be set up in 2 parts, the nature and contents of which must be as follows:

Sec. EE-2. 5 MRSA §1664, 2nd ¶, as amended by PL 1981, c. 702, Pt. N, is further amended to read:

Part 1 ~~shall~~ must consist of a budget message by the Governor-elect, or the Governor, ~~which shall outline that outlines~~ the 4-year financial policy of the State Government for the ensuing biennium and the following biennium, describing in connection therewith the important features of the financial plan. It ~~shall~~ must embrace a general budget summary setting forth the aggregate figures of the budget in such a manner as to show the balanced outlines relations between the total proposed expenditures and the total anticipated revenues together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The following biennium financial plan must include the forecasted Highway Fund and General Fund appropriation requirements and projected revenues and other available resources shown in a budget fund flow statement and a com-

parative statement that presents income source for revenue projections and department or agency appropriation estimates. This forecast must assume the continuation of current laws and include reasonable and predictable estimates of growth in revenues and expenditures based on national and local trends and program operations. General Fund and Highway Fund revenue must be forecasted for the following biennium by income sources as provided in current law. Expenditure forecasts for the General Fund and the Highway Fund must be forecasted on the basis of current law and assumed inflation variables related to program operations. It shall must specifically describe the estimated loss in revenue during the last completed fiscal year and the fiscal year in progress, and the anticipated loss in revenue for each fiscal year of the ensuing biennium, caused by tax expenditures provided in Maine statutes; the term "tax expenditures" means those state tax revenue losses attributable to provisions of Maine tax laws which that allow a special exclusion, exemption or deduction or which provide a special credit, a preferential rate of tax or a deferral of tax liability. The general budget summary shall must be supported by explanatory schedules or statements, classifying the expenditures contained therein by organization units, objects and funds, and the income by organization units, sources and funds.

Sec. EE-3. 5 MRSA §1665, sub-§§6 and 7 are enacted to read:

6. Fiscal impact statements. Fiscal impact statements prepared by departments or agencies at the request of the State Budget Officer in response to legislative documents must include revenue and expenditure forecasts for each fiscal year of the current fiscal biennium and the following fiscal biennium in a form and method prescribed by the State Budget Officer.

7. General Fund and Highway Fund revenue and expenditure forecasts. By December 30th of each year, the State Budget Officer shall prepare and deliver a report to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs containing a forecast of revenue and expenditures for the following biennium. The forecast must assume the continuation of current laws and include reasonable and predictable estimates of growth in revenues and expenditures based on national and local trends and program operations. General Fund and Highway Fund revenue must be forecasted by income source as provided in current law. Expenditure forecasts for the General Fund and the Highway Fund must be forecasted on the basis of current law and assumed inflation variables related to program operations. The forecast for the General Fund and the Highway Fund must be presented in a budget fund flow statement and a comparative statement showing each income source

for revenue projections and expenditure estimates for each department or agency.

PART FF

Sec. FF-1. Performance Budgeting Task Force established. The Performance Budgeting Task Force, referred to in this Part as the "task force," is established to develop systems and procedures that incorporate quantifiable outcome performance measures into the budgeting process. To the greatest extent possible, the methods recommended by the task force must:

1. Be flexible enough to recognize the unique characteristics and missions of individual agencies;
2. Be equitable;
3. Not be punitive;
4. Allow sufficient time for planning, development and implementation; and
5. Dovetail with total quality management efforts.

Sec. FF-2. Duties. In preparing its recommendations, the task force shall consider at least the following:

1. The efforts of other jurisdictions to develop and implement performance-based budgeting;
2. The efforts of the Administrative Costs Task Force, as established by Private and Special Law 1993, chapter 48, concerning the establishment of performance-based agreements for the provision of certain social services;
3. Whether current budgeting procedures can be changed in a manner that provides for the tracking of budget performance, financial performance and program performance;
4. The advisability of implementing a phased-in approach or prototype program approach as part of an implementation strategy;
5. The advisability of including a special technical assistance program or training program as part of the implementation plan; and
6. The advisability of including a hold-harmless provision for agencies for a specific reporting period.

Sec. FF-3. Membership. The task force consists of the following 11 members:

1. One member of the Senate and 2 members of the House of Representatives from the Joint Standing Committee on Appropriations and Financial Affairs,

appointed by the presiding officers of their respective legislative bodies;

2. One member of the Senate and one member of the House of Representatives from the Joint Standing Committee on State and Local Government, appointed by the presiding officers of their respective legislative bodies; and

3. Six members representing state departments, appointed by the Governor, at least one of whom must be the State Budget Officer.

At least one of the legislative members appointed by the President of the Senate and one of the legislative members appointed by the Speaker of the House of Representatives must be from the minority party.

Sec. FF-4. Chair. The President of the Senate and the Speaker of the House of Representatives shall appoint jointly a chair from among the legislative members of the task force.

Sec. FF-5. Appointment deadline; first meeting. Appointments must be made within 30 days of the effective date of this Act. The task force shall hold its first meeting, called by the Executive Director of the Legislative Council, before August 1, 1995.

Sec. FF-6. Staff. Upon request of the task force, the Legislative Council and the Bureau of the Budget shall provide staff to the task force.

Sec. FF-7. Expenses. Members of the task force are not entitled to compensation or reimbursement for expenses. The Legislative Council shall absorb the costs of the task force within existing resources.

Sec. FF-8. Report. The task force shall report its findings, along with any necessary implementing legislation, to the Joint Standing Committee on State and Local Government and the Joint Standing Committee on Appropriations and Financial Affairs no later than November 5, 1995.

PART GG

Sec. GG-1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1993, c. 349, §1, is amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

~~Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;~~

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

~~Associate Commissioner for Institutional Management;~~

Executive Director, Maine Waste Management Agency; and

Deputy Commissioner, Department of Administrative and Financial Services.

Sec. GG-2. 34-B MRSA §1202, sub-§2, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

B. If the office of the commissioner is vacant or if the commissioner is absent or disabled, the associate commissioner for ~~programs administration~~ shall perform the duties and have the powers provided by law for the commissioner.

Sec. GG-3. 34-B MRSA §1202, sub-§2, ¶C, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. GG-4. 34-B MRSA §1204, sub-§2, ¶B, as amended by PL 1993, c. 667, §1, is further amended to read:

B. The commissioner may appoint and set the ~~salaries~~ salary for an associate commissioner for ~~programs and an associate commissioner for~~ administration to assist in carrying out the responsibilities of the department.

(1) ~~Each~~ The appointment must be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(2) ~~To be eligible for appointment as associate commissioner for programs, a person must have training and experience in the planning and administration of human services.~~

(3) To be eligible for appointment as associate commissioner for administration, a person must have training and experience in general management.

Sec. GG-5. 34-B MRSA §5003, sub-§5 is enacted to read:

5. Medicaid savings. Intermediate care facilities for persons with mental retardation and

providers of freestanding day habilitation programs shall submit payment to the department equal to 50% of any Medicaid savings due the State pursuant to the principles of reimbursement, as established under Title 22, sections 3186 and 3187, that are reported in any unaudited cost report for fiscal years ending June 30, 1995 and thereafter. Payment is due with the cost report. After audit, any amount submitted in excess of savings allocated to the facility or provider pursuant to the principles of reimbursement must be returned to the facility or provider. Notwithstanding requirements or conditions contained in the principles of reimbursement, any amount due the State after final audit in excess of savings paid on submission of a cost report must be paid to the State within 90 days following receipt of the department's final audit report.

Sec. GG-6. Augusta Mental Health Institute. Notwithstanding any other provision of law, the Augusta Mental Health Institute is authorized to privatize its dietary, laundry and pharmacy services.

Sec. GG-7. Augusta Mental Health Institute positions. If the Department of Mental Health and Mental Retardation proposes a change to the listing of positions at the Augusta Mental Health Institute that are, as of the effective date of this Part, scheduled for elimination, a copy of which listing is on file at the Bureau of the Budget and the Office of Fiscal and Program Review, and the change affects a position title or an effective date of elimination of any position on that listing, then the Superintendent of the Augusta Mental Health Institute must justify that change to an ad hoc advisory panel composed of the Commissioner of Mental Health and Mental Retardation or the commissioner's designee, a member of the Alliance for the Mentally Ill of Maine and a Legislator who is a member of the Joint Standing Committee on Human Resources or show that a position is vacant and will save a layoff. Any change must be submitted, in writing, to the Bureau of the Budget and the Office of Fiscal and Program Review at least one month before the effective date of the proposed change. All changes must generate equal or greater savings than those savings achieved by the listing.

Sec. GG-8. Pineland Center. Notwithstanding any other provision of law, the Pineland Center is authorized to privatize its dietary, nursing and housekeeping services.

Sec. GG-9. Pineland Center positions. If the Department of Mental Health and Mental Retardation proposes a change to the listing of positions at the Pineland Center that are, as of the effective date of this Part, scheduled for elimination, a copy of which listing is on file at the Bureau of the Budget and the Office of Fiscal and Program Review, and the change affects a position title or an effective date of elimination of any position on that listing, then the Superin-

tendent of the Pineland Center must justify that change to an ad hoc advisory panel comprised of the Commissioner of Mental Health and Mental Retardation or the commissioner's designee, the Chair of the Pineland Center's Board of Visitors and a Legislator who is a member of the Joint Standing Committee on Human Resources or show that a position is vacant and will save a layoff. Any change must be submitted, in writing, to the Bureau of the Budget and the Office of Fiscal and Program Review at least one month before the effective date of the proposed change. All changes must generate equal or greater savings than those savings achieved by the listing.

Sec. GG-10. Reimbursement rates frozen. Notwithstanding the Maine Revised Statutes, Title 22, sections 3186 and 3187, for fiscal year 1995-96 and fiscal year 1996-97 funds for principles of reimbursement established for intermediate care facilities for the mentally retarded and other providers of mental retardation services are frozen at their fiscal year 1994-95 levels. All cost-of-living increases are suspended for the 2-year period.

PART HH

Sec. HH-1. 5 MRSA §49, sub-§6 is enacted to read:

6. Total quality management councils; department; agency. Each department and agency in State Government shall establish a total quality management council that is composed of managers of the department or agency, union representatives and state employees of the department or agency. Each total quality management council shall name an associate member to the Maine Quality Management Council in addition to any associate member named pursuant to subsection 3 and that associate member must be a classified service employee of the department or agency. One of the associate members shall serve as the total quality management coordinator for the department or agency. Total quality management councils shall promote and administer programs for improving departmental and agency processes, programs and services, including the administration of a departmental or agency employee suggestion award program. In addition to any guidelines that are developed by each total quality management council, the employee suggestion program must include the following requirements.

A. Suggestions from employees must identify changes to procedures, equipment or business operations that result in a cost savings or that provide safer or more efficient ways to conduct the business of the State.

B. Major policy-influencing employees identified by sections 932 to 953 and section 958 and

Title 2, section 6 are not eligible to participate in the departmental or agency suggestion program.

C. Each total quality management council shall evaluate eligible employee suggestions and make recommendations to the appointing authority of the department or agency with respect to implementation, cost savings and cash or honorary awards.

D. Cash awards for employee suggestions that have an identifiable cost savings are limited to 10% of the first year's estimated savings or \$2,000, whichever is less. The minimum cash award is \$25.

E. Suggestions that do not have an identifiable cost savings but that provide a safer or more efficient way to conduct the business of the State may be granted a cash award of not more than \$200.

F. The total quality management councils shall cooperate in the evaluation of employee suggestions that cross departmental or agency lines of authority.

G. Each total quality management council shall maintain records of employee suggestions and the disposition of these suggestions.

H. Any cash awards that are payable must be charged to the fund or funds to which the estimated savings apply.

I. If savings for a year can not be reasonably estimated, the appointing authority may approve a partial initial payment and pay any additional amount that is due at the end of the first year.

J. For the fiscal year ending June 30, 1995 and the fiscal year ending June 30, 1996, the maximum cash award is limited to 10% of the first year's estimated savings or \$10,000, whichever is less. The minimum cash award is \$25.

This paragraph applies to all suggestions that are received by a total quality management council on or before July 1, 1996.

This paragraph is repealed on June 30, 1996.

Sec. HH-2. 5 MRSA c. 56, as amended, is repealed.

Sec. HH-3. 5 MRSA §1589, sub-§3, as amended by PL 1993, c. 707, Pt. BB, §4, is further amended to read:

3. Total quality management initiatives. ~~Except as provided in subsection 3-C, available~~ Available balances transferred into each depart-

mentwide and statewide account in accordance with subsection 2 must be used for the payment of nonrecurring expenditures representing total quality management initiatives in the same department or agency or on a statewide basis, respectively.

Sec. HH-4. 5 MRSA §1589, sub-§§3-A to 3-C, as enacted by PL 1993, c. 707, Pt. BB, §5, are repealed.

Sec. HH-5. 5 MRSA §1589, sub-§6, as enacted by PL 1993, c. 476, §2, is repealed.

Sec. HH-6. 5 MRSA §12004-L, sub-§2, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. HH-7. 5 MRSA c. 523, as enacted by PL 1993, c. 707, Pt. BB, §7, is repealed.

PART II

Sec. II-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
LAW AND LEGISLATIVE REFERENCE LIBRARY		
Law and Legislative Reference Library		
All Other	(\$78,555)	(\$50,148)
Deappropriates funds as a further adjustment to Part A, section 25.		
LAW AND LEGISLATIVE REFERENCE LIBRARY		
TOTAL	(78,555)	(50,148)
LEGISLATURE		
Branchwide		
Unallocated	(530,250)	(569,437)
Deappropriates funds as a further adjustment to Part B, section 1.		
LEGISLATURE		
TOTAL	(530,250)	(569,437)
MARITIME ACADEMY, MAINE		
Maritime Academy, Operations		
All Other	(32,361)	(97,730)

Deappropriates funds as a further adjustment to Part B, section 1.

MAINE MARITIME**ACADEMY**

TOTAL	(32,361)	(97,730)
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PUBLIC BROADCASTING CORPORATION, MAINE**Maine Public Broadcasting Corporation**

All Other	(22,302)	(67,351)
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Deappropriates funds to maintain funding at fiscal year 1994-95 levels.

MAINE PUBLIC BROADCASTING CORPORATION

TOTAL	(22,302)	(67,351)
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MAINE TECHNICAL COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE**Maine Technical College System - Board of Trustees**

All Other	700,000	700,000
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Provides funds to offset a deappropriation in Part B, section 1 and to augment fiscal year 1996-97 activities.

BOARD OF TRUSTEES OF THE MAINE TECHNICAL COLLEGE SYSTEM

TOTAL	700,000	700,000
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UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**Educational and General Activities - University of Maine System**

All Other	(400,000)	(600,000)
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Deappropriates funds as a further adjustment to Part B, section 1.

BOARD OF TRUSTEES OF THE UNIVERSITY OF MAINE SYSTEM

TOTAL	(400,000)	(600,000)
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TOTAL APPROPRIATIONS	(\$363,468)	(\$684,666)
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PART JJ

Sec. JJ-1. General Fund salary plan; balances. Notwithstanding any other provisions of law, \$2,000,000 in fiscal year 1995-96 in the salary plan program lapses to the General Fund due to available balances after the close of fiscal year 1994-95.

PART KK

Sec. KK-1. Mental Health and Mental Retardation community-based agencies; administrative costs. The Commissioner of Mental Health and Mental Retardation shall review all agreements entered into during fiscal year 1995-96 with community-based agencies and identify the budgeted amount attributable to those agencies' administrative costs. The commissioner shall report the findings of the review to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters no later than January 15, 1996. The report must identify the total amount of administrative costs, identified by community-based agency, program and fund, and must include specific recommendations to reduce these costs in a manner that generates at least \$1,000,000 in General Fund savings in fiscal year 1996-97.

PART LL

Sec. LL-1. 20-A MRSA §5805, sub-§3, as enacted by PL 1993, c. 706, Pt. A, §3, is repealed.

Sec. LL-2. 20-A MRSA §8202, sub-§2, as enacted by PL 1993, c. 706, Pt. A, §4, is repealed and the following enacted in its place:

2. Tuition; room and board; funding.
Students from this State may attend the school free of tuition charges. Funding for students from this State is provided as follows.

A. For each student enrolled during the year of allocation, the State shall provide to the school an amount equal to the state average secondary tuition rate established pursuant to section 5805, subsection 1 and the insured value factor rate established pursuant to section 5806. The amount must be paid in 4 equal quarterly payments during the year of attendance. The first payment must be made by July 31st. The amount of tuition paid for all students is limited to the amount appropriated for this purpose. To be eligible for state-funded tuition under this paragraph, a student must have resided in Maine with a parent.

other relative or guardian for at least 6 months immediately preceding application to the school.

B. Except as otherwise provided in this paragraph, effective July 1, 1996, the student or the student's parent or guardian shall pay to the school the cost of room and board for the school year. In the case of financial need, the State shall pay to the school the difference between the cost of room and board and the student's or the student's family's ability to pay that cost. The board of trustees shall adopt rules governing the determination of financial need and the cost and schedule of payment of room and board under this paragraph. The determination of financial need must be based on a nationally recognized public or private school financial needs assessment system.

C. Effective July 1, 1996, the school shall establish a scholarship fund consisting of private and any General Fund money appropriated to assist a student or a student's family who demonstrates financial need pursuant to paragraph B.

Sec. LL-3. 20-A MRSA §8205, sub-§16, as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

16. Report. To report biennially to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters on the results of the assessment in subsection 15 by the board of trustees and the general status of the school and to provide annually to the Governor and the Legislature a financial audit of the school conducted by an independent auditor.

Sec. LL-4. Maine School of Science and Mathematics. The fiscal year 1995-96 and fiscal year 1996-97 per pupil tuition charge for all Maine pupils eligible under the Maine Revised Statutes, Title 20-A, section 8205, subsection 11 is the sum of the state average tuition and state average insured value factor amount. For fiscal year 1995-96, the per pupil room and board charge for eligible Maine pupils is \$3,000.

Sec. LL-5. Funding and tuition study. The Board of Trustees of the Maine School of Science and Mathematics and the Joint Standing Committee on Education and Cultural Affairs shall jointly study tuition and funding issues related to the Maine School of Science and Mathematics. The study must include the following:

1. Consideration of whether a multiplier should be used to determine the per pupil charge. If a multiplier is used, the board of trustees and the joint standing committee shall recommend a multiplier amount;

2. Consideration and recommendation of a method to raise additional funds for bond repayment purposes; and

3. Recommendations on funding for the scholarship fund established in the Maine Revised Statutes, Title 20-A, section 8202, subsection 2, paragraph C.

Five members of the Joint Standing Committee on Education and Cultural Affairs selected by the chairs of the committee represent the committee in the study of tuition and funding issues. These committee members and the Board of Trustees of the Maine School of Science and Mathematics shall conduct the study during the Second Regular Session of the 117th Legislature.

The Board of Trustees of the Maine School of Science and Mathematics and the Joint Standing Committee on Education and Cultural Affairs shall submit their report, including any necessary implementing legislation, to the Joint Standing Committee on Appropriations and Financial Affairs by March 15, 1996.

PART MM

Sec. MM-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
EDUCATION, DEPARTMENT OF		
Magnet Schools		
All Other	(\$233,500)	(\$941,950)
Provides for the deappropriation of funds to adjust amounts appropriated in Part A, section 25.		
DEPARTMENT OF EDUCATION		
TOTAL	<u>(\$233,500)</u>	<u>(\$941,950)</u>

PART NN

Sec. NN-1. 36 MRSA §2526, sub-§5, as amended by PL 1991, c. 846, §30, is further amended to read:

5. Application. This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or ~~in any tax year beginning on or after~~ from January 1, 1993 to June 30, 1995.

Sec. NN-2. 36 MRSA §4832, sub-§1-A is enacted to read:

1-A. Repeal. The fee imposed on the retail sale of new major appliances and new bathtubs is repealed January 1, 1996. The fee imposed on new major furniture items and new mattresses is repealed January 1, 1997.

Sec. NN-3. 36 MRSA §5219-D, sub-§5, as amended by PL 1991, c. 846, §37, is further amended to read:

5. Application. This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or ~~in any tax year beginning on or after~~ from January 1, 1993 to June 30, 1995.

Sec. NN-4. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the following sums.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Solid Waste Management		
Positions - Legislative Count	(-9.0)	(-9.0)
Personal Services	(\$458,654)	(\$457,385)
All Other	(53,488)	(55,070)
Provides for the deappropriation of funds for solid waste management functions.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	(\$512,142)	(\$512,455)

Sec. NN-5. Allocation. The following funds are allocated from the Solid Waste Management Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Solid Waste Management		
Positions - Other Count	(9.0)	(9.0)
Personal Services	458,654	457,385
All Other	53,488	55,070

TOTAL	512,142	512,455
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Provides for the allocation of funds for 9 positions and associated operating costs from the General Fund to the Solid Waste Management Fund.

Solid Waste Management

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(122,256)	(124,447)
All Other	(58,034)	(65,537)
TOTAL	(180,290)	(189,984)

Provides for the deallocation of funds through the elimination of one Data Control Clerk position and one Environmental Specialist III position, the addition of one Environmental Specialist II position and the transfer of one Clerk Typist III position and one Environmental Specialist IV position to the Maine Environmental Protection Fund and through the reduction of support funds.

Tire Stockpile Clean-up Program

All Other	418,726	180,780
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Provides for the allocation of funds to accomplish the cleanup of tire stockpiles.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL	750,578	503,251
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EXECUTIVE DEPARTMENT

Planning Office

Positions - Other Count	(6.0)	(6.0)
Personal Services	282,203	273,572
All Other	656,339	161,135

Provides allocations for the transfer of one Development Program Manager position and one Planner II position in the Office of Waste

Reduction and Recycling; one Planner II position and one Clerk Typist III position in the Office of Siting and Disposal Operations; and one Senior Planner position and one Planner II position in the Office of Planning of the Maine Waste Management Agency to the State Planning Office. Also provides allocations for technical assistance to municipalities and in fiscal year 1995-96 for a contract payment of \$500,000 to Lincoln Pulp and Paper.

**EXECUTIVE
DEPARTMENT
TOTAL**

938,542	434,707
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**WASTE MANAGEMENT
AGENCY, MAINE**

**Administration - Office of
the Executive Director**

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(169,349)	(167,156)
All Other	(97,044)	(100,306)
TOTAL	(266,393)	(267,462)

Provides for the deallocation of funds through the elimination of the Maine Waste Management Agency.

Office of Planning

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(217,382)	(215,208)
All Other	(100,567)	(105,287)
TOTAL	(317,949)	(320,495)

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**Office of Siting and Disposal
Operations**

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(205,452)	(206,748)
All Other	(835,531)	(501,672)
Capital Expenditures	(7,000)	(7,000)

TOTAL	(1,047,983)	(715,420)
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Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**Office of Waste Reduction
and Recycling**

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(265,107)	(263,348)
All Other	(690,718)	(1,021,425)
Capital Expenditures	(7,000)	(7,000)

TOTAL	(962,825)	(1,291,773)
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Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

**MAINE WASTE
MANAGEMENT AGENCY
TOTAL**

(2,595,150)	(2,595,150)
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SECTION

TOTAL ALLOCATIONS

(906,030)	(1,657,192)
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Sec. NN-6. Allocation. The following funds are allocated from the Maine Environmental Protection Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

1995-96	1996-97
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**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

**Maine Environmental
Protection Fund**

Positions - Other Count	(2.0)	(2.0)
Personal Services	88,686	89,747
All Other	16,850	17,051

TOTAL	105,536	106,798
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Provides for the allocation of funds for the transfer of a Clerk Typist III position and one Environmental Specialist IV position from the Solid Waste Management Fund.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

TOTAL	105,536	106,798
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SECTION

TOTAL ALLOCATIONS	\$105,536	\$106,798
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PART OO

Sec. OO-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Job Training Consolidation - Statewide		
All Other	(\$2,250,000)	(\$2,250,000)
Provides for the deappropriation of funds related to the various General Fund job training programs in State Government. The Commissioner of Education, the Commissioner of Human Services, the Commissioner of Labor, the Commissioner of Economic and Community Development and the President of the Maine Technical College System, or their designees, are directed to study the effectiveness of the current job training programs and prepare a recommendation for deappropriations, agreed to by each member of the study group, no later than September 30, 1995. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, in the event that the study group fails to reach unanimous agreement on the deappropriations, the State Budget Officer is authorized to distribute these deappropriations		

across all General Fund job training programs in an amount equal to the percent each program makes up of the total General Fund dollars allocated for these programs. The commissioners and the president shall report on the results of their study to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, business and economic development, human resources, education and cultural affairs and labor matters no later than January 5, 1996.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES**

TOTAL	(2,250,000)	(2,250,000)
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TOTAL**APPROPRIATIONS**

SECTION OO-1	(\$2,250,000)	(\$2,250,000)
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PART PP

Sec. PP-1. Maine Court Facilities Authority; securities. Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 1, the Maine Court Facilities Authority is authorized to issue securities in its own name in an amount up to \$250,000 for the purpose of paying the cost of courthouse projects or parts of projects in Biddeford, Skowhegan and other locations designated by the Maine Court Facilities Authority.

PART QQ

Sec. QQ-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Contingency Account - Mental Health and Mental Retardation		
All Other	\$2,109,790	\$3,207,046

Provides for the appropriation of funds to meet the projected net General Fund cost of various proposals concerning the consent decrees.

PART RR

Sec. RR-1. 36 MRSA §2801-A, sub-§1-A is enacted to read:

1-A. First assessment. For hospital payment years as defined in Title 22, section 382 that end in fiscal year 1997-98, each hospital licensed under Title 22, chapter 405, excluding state hospitals, must be assessed a tax of no more than 3.56% of the hospital's final gross patient service revenue limit.

Sec. RR-2. 36 MRSA §2801-A, sub-§9, as enacted by PL 1991, c. 591, Pt. Q, §8, is amended to read:

9. Application. The assessment liability in this section is effective for hospital payment years ending during or after the state fiscal year 1991-92. Collections commence October 5, 1991 or the 5th day of the first month following at least 15 days' notice to a hospital of its liability under this section, whichever is earlier. Lump sum payments are required within 30 days of notice from the Bureau of Taxation for payment years for which the defined payment dates have passed.

The liability of a hospital subject to this chapter ceases with regard to payment years and pro rata monthly payment dates associated with time periods beginning on or after a period for which federal reimbursement for disproportionate share hospital payments are eliminated. Payment years for which the tax liability ceases prior to the final pro rata monthly payment date must be finally settled based on an actual liability amount prorated by the number of monthly payment dates in the payment year prior to the cessation of liability.

Sec. RR-3. 36 MRSA §2801-A, sub-§10 is enacted to read:

10. Repeal. This section is repealed June 30, 1998.

Sec. RR-4. Waiver request for rural and financially distressed hospitals. The Department of Human Services shall apply to the Federal Government for any waiver authorized by 42 Code of Federal Regulations, Chapter IV that minimizes the variance between an individual hospital's assessment and its disproportionate share hospital payment. The waiver application must include, but is not limited to,

provisions for rural hospitals, financially distressed hospitals and border hospitals that are financially distressed due to lack of competitiveness and must target those facilities that are the most severely affected in a manner that does not result in an individual hospital receiving a disproportionate share hospital payment that exceeds the hospital's assessment liability. The Commissioner of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by the 15th of each month until the status of the waiver or waivers is determined. The reports must detail the specific steps taken thus far in the application process and must provide a summary report of future actions under consideration by the department to secure approval in compliance with this Part.

Sec. RR-5. Uniform reduction of hospital assessment. Notwithstanding the Maine Revised Statutes, Title 36, section 2801-A, if the waivers specified in this Part are not approved by January 1, 1996, then the State Tax Assessor shall, upon recommendation of the Commissioner of Human Services, uniformly reduce the assessment on hospitals within the limits of the funding identified in this Part in a manner consistent with federal law, rules and regulations.

Sec. RR-6. Notice of federal fund reductions. The Department of Human Services shall notify the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs immediately of any reduction in federal funds affecting hospitals, including, but not limited to, federal law changes, rule changes, conversion to another reimbursement methodology, including block grants, or any other action that may affect federal reimbursement for disproportionate share payments.

PART SS

Sec. SS-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Medical Care - Payments to Providers		
All Other	\$7,740,687	\$8,259,313
Provides funds for hospital Medicaid costs.		

PART TT

Sec. TT-1. 22 MRSA §12-B is enacted to read:

§12-B. Aid to charitable institutions

For fiscal year 1995-96 and subsequent years, the commissioner shall distribute all funds available within the aid to charitable institutions program to the community-based agencies that received funding from the aid to charitable institutions program during fiscal year 1994-95, based on the distribution methodology that was utilized to determine each agency's fiscal year 1994-95 allocation. The community-based agencies include: Good Samaritan Home, Holy Innocents, Maine Children's Home for Little Wanderers, Opportunity Farm, St. Andre's Home, Inc. or their successor organizations.

Subject to the requirements of this section, the commissioner may impose other requirements or conditions on the use of aid to charitable institutions program funds necessary to ensure that the services provided are consistent with department goals, policies and rules.

PART UU

Sec. UU-1. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director of the Bureau of Parks and Recreation;
 Director of Public Lands;
 Director of Employee Relations;
 Director, Bureau of Air Quality Control;
 Director, Bureau of Land and Water Quality ~~Control~~;
~~Director, Bureau of Water Quality Control~~;
 Director, Bureau of ~~Oil and~~ Hazardous Materials and Solid Waste Control;
 Director, Bureau of Administration;
 Director, Office of Planning;
 Director, Office of Waste Reduction and Recycling;
 Director, Office of Siting and Disposal Operations; and

Executive Director, Board of Environmental Protection.

Sec. UU-2. 5 MRSA §938, sub-§1, ¶E, as enacted by PL 1985, c. 746, §3, is amended to read:

E. Director, Bureau of Land and Water Quality ~~Control~~;

Sec. UU-3. 5 MRSA §938, sub-§1, ¶F, as amended by PL 1987, c. 816, Pt. KK, §8, is repealed.

Sec. UU-4. 5 MRSA §938, sub-§1, ¶G, as amended by PL 1987, c. 816, Pt. KK, §8, is further amended to read:

G. Director, Bureau of ~~Oil and~~ Hazardous Materials and Solid Waste Control;

Sec. UU-5. 5 MRSA §938, sub-§1, ¶H, as enacted by PL 1987, c. 787, §3, is repealed.

Sec. UU-6. 5 MRSA §938, sub-§1, ¶I, as enacted by PL 1987, c. 787, §3, is amended to read:

I. Director, Policy and Planning; and

Sec. UU-7. 5 MRSA §938, sub-§1, ¶N is enacted to read:

N. Regional directors.

Sec. UU-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Water Quality Control		
Positions	(-1.0)	(-1.0)
Personal Services	(\$70,050)	(\$70,557)
Provides for the transfer of the position of the Director of the Bureau of Water Quality Control to the Administration - Environmental Protection program as a Regional Director position.		
Administration - Environmental Protection		
Positions	(1.0)	(1.0)
Personal Services	\$55,928	\$55,828
Provides for the establishment of a Regional Director		

position from the transfer
of the Director of the
Bureau of Water Quality
Control position from the
Water Quality Control
program.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

TOTAL	(\$14,122)	(\$14,729)
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PART VV

Sec. VV-1. 36 MRS §5111-B is enacted to read:

§5111-B. Revenue targeting

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

A. "Adjustment factor" means a number applicable to a tax year determined by dividing the target revenue for the numerically identical fiscal year by the tax revenue for that fiscal year, rounded to the nearest 1/1,000.

B. "Target revenue" means \$676,230,000 for fiscal year 1997-98 and for subsequent fiscal years.

C. "Tax revenue" means undedicated General Fund individual income tax revenue arising pursuant to this Part.

2. Rate adjustment. Annually, by September 15th, the State Tax Assessor shall determine for the current tax year whether tax revenue for the fiscal year ending the prior June 30th exceeded the target revenue. If target revenue was exceeded, the State Tax Assessor shall adjust the tax rates as specified in the tax rate tables in section 5111, as adjusted for the prior tax year pursuant to this section, by multiplying the percentage rates by the current tax year's adjustment factor. The State Tax Assessor may not adjust the rates for single individuals and married persons filing separate returns with taxable income of \$30,000 or more; for unmarried individuals or legally separated individuals who qualify as heads of households with taxable income of \$45,000 or more; and for individuals filing married joint returns or surviving spouses permitted to file a joint return with taxable income of \$60,000 or more.

3. Revenue Targeting Fund. The Revenue Targeting Fund is established to carry out the purposes of this section. For fiscal year 1997-98 and for each subsequent fiscal year up to and including the fiscal year ending during the calendar tax year in which the

limitation pursuant to subsection 4 is reached, tax revenue exceeding \$676,230,000 must be deposited to the Revenue Targeting Fund, the balance of which does not lapse but carries to the subsequent fiscal year. Tax year 1998 and subsequent tax year individual income tax refunds must be paid from this fund until the fund balance carried forward from the prior fiscal year is reduced to zero.

4. Limitation. The cumulative rate reduction attributable to this section may not exceed 20% of the tax year 1994 rates. In any fiscal year in which the determination is made pursuant to section 1811 that the fiscal year just completed General Fund revenues exceed those of the prior fiscal year by 8% or more, no rate adjustment pursuant to subsection 2 is made.

5. Rounding. Adjustments in tax rates arising pursuant to this section are rounded to the nearest 1/10 of a percent, and the total dollar amount of the tax on taxable income equal to the lower limit of the income brackets is rounded to the nearest dollar.

PART WW

Sec. WW-1. Allocations. In order to provide the necessary expenses of operation and administration of the Bureau of Alcoholic Beverages and Lottery Operations and the State Liquor and Lottery Commission, the following amounts are allocated from the revenues derived from operations of the State Lottery Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Lottery Operations

All Other	\$2,887,650	\$5,133,600
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Provides funds for the costs to install and operate instant card vending machines in 150 locations in fiscal year 1995-96 and 200 locations in fiscal year 1996-97. Additional sales will result in an increase in General Fund undedicated revenue of \$622,350 in fiscal year 1995-96 and \$1,106,400 in fiscal year 1996-97.

PART XX

Sec. XX-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Transportation Services - Statewide		
All Other	(\$255,000)	(\$262,000)
Provides for the deappropriation of funds due to savings from reducing reimbursement, including Medicaid reimbursement, to transportation service providers to the charitable reimbursement level. The Commissioner of Mental Health and Mental Retardation and the Commissioner of Human Services, or their designees, are directed to assess the financial impact of this reduction on the specific programs within each department and recommend the most effective way to distribute this deappropriation to the State Budget Officer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Budget Officer is authorized to distribute these deappropriations upon the commissioners' recommendations. The commissioners shall provide a progress report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters no later than January 5, 1996.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES**

TOTAL

(\$255,000)

(\$262,000)

PART YY

Sec. YY-1. Transfer of funds; Maine Health Care Finance Commission. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$500,000 from the Maine Health Care Finance Commission, Other Special Revenue account in the Maine Health Care Finance Commission to General Fund undedicated revenue no later than June 30, 1996.

Sec. YY-2. Transfer of funds; Bureau of Corporations, Elections and Commissions. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$21,885 from that part of the Bureau of Corporations, Elections and Commissions, Other Special Revenue account related to the low-level radioactive waste referendum in the Department of the Secretary of State to General Fund undedicated revenue no later than June 30, 1996.

PART ZZ

Sec. ZZ-1. 5 MRSA §135, first ¶, as amended by PL 1993, c. 651, §1, is further amended to read:

The Treasurer of State may deposit the money, including trust funds of the State, in any of the banking institutions or trust companies or state or federal savings and loan associations or mutual savings banks organized under the laws of this State or in any national bank or banks or state or federal savings and loan associations located in the State, except as provided in chapter 161. Before making a deposit, the Treasurer of State must consider the rating of the banking institution, trust company, state or federal savings and loan association or mutual savings bank on its most recent assessment conducted pursuant to the federal Community Reinvestment Act, 12 United States Code, Section 2901. When there is excess money in the State Treasury that is not needed to meet current obligations, the Treasurer of State may invest, with the concurrence of the State Controller or the Commissioner of Administrative and Financial Services and with the consent of the Governor, those amounts in bonds, notes, certificates of indebtedness or other obligations of the United States that mature not more than 24 months from the date of investment or in repurchase agreements secured by obligations of the United States that mature within the succeeding 24 months, prime commercial paper, tax-exempt obligations, banker's acceptances or shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are

registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. The Treasurer of State may participate in the securities loan market by loaning state-owned bonds, notes or certificates of indebtedness of the Federal Government, only if loans are fully collateralized by treasury bills or cash. The Treasurer of State shall seek competitive bids for investments except when, after a reasonable investigation, it appears that an investment of the desired maturity is procurable by the State from only one source. Interest earned on those investments of money must be credited to the respective funds, except that interest earned on investments of special revenue funds must be credited to the General Fund of the State. ~~Effective November 1, 1991, interest earned on investments of the Highway Fund must be credited to the General Fund.~~ Effective July 1, 1995, interest earned on investments of the Highway Fund must be credited to the Highway Fund. Interest earned on funds of the Department of Inland Fisheries and Wildlife must be credited to the General Fund. Interest earned on funds of the Baxter State Park Authority must be credited to the Baxter State Park Fund. This section does not prevent the deposit for safekeeping or custodial care of the securities of the several funds of the State in banks or safe deposit companies in this State or any other state, nor the deposit of state funds required by the terms of custodial contracts or agreements negotiated in accordance with the laws of this State. All custodial contracts and agreements are subject to the approval of the Governor.

Sec. ZZ-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Personal Services	(\$1,200,000)	(\$1,200,000)
Provides for the deappropriation of funds from the changing of the State Police funding ratio to approximately 16% General Fund and 84% Highway Fund for fiscal year 1995-96 and approximately 20% General Fund and 80%		

Highway Fund for fiscal year 1996-97.

Sec. ZZ-3. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

	1995-96	1996-97
PUBLIC SAFETY, DEPARTMENT OF		
State Police		
Personal Services	\$1,200,000	\$1,200,000
Provides for the allocation of funds from the changing of the State Police funding ratio to approximately 16% General Fund and 84% Highway Fund for fiscal year 1995-96 and approximately 20% General Fund and 80% Highway Fund for fiscal year 1996-97.		

Sec. ZZ-4. Funding for Bureau of State Police. Notwithstanding Public Law 1987, chapter 793, Part B, section 4, the Legislature determines that funding for the Department of Public Safety, Bureau of State Police must be provided as follows: In fiscal year 1995-96, approximately 84% must be allocated from the Highway Fund and approximately 16% must be appropriated from the General Fund and in fiscal year 1996-97, 80% must be allocated from the Highway Fund and approximately 20% must be appropriated from General Fund.

PART AAA

Sec. AAA-1. 29-A MRSA §105, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Authority to stop motor vehicle. If a law enforcement officer has ~~probable cause~~ reasonable and articulable suspicion to believe that a violation of law has taken or is taking place, that officer, if the officer is in uniform, may stop a motor vehicle for the purpose of:

- A. Arresting the operator for a criminal violation;
- B. Issuing the appropriate written process for a criminal or civil violation or a traffic infraction; or
- C. Questioning the operator or occupants.

Sec. AAA-2. 29-A MRSA §1603, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Suspension of license or registration following OUI convictions. On receipt of an attested copy of the court record of an OUI conviction when the person has been previously convicted within a ~~6-year~~ 10-year period of OUI, the Secretary of State may not reinstate the person's license until the person gives proof of financial responsibility. The period of suspension under this subsection may not be less than the original period of suspension imposed for the conviction.

Sec. AAA-3. 29-A MRSA §2401, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Chemical test or test. "Chemical test" or "test" means a test or tests used to determine blood-alcohol level or drug concentration by analysis of blood, breath or urine.

Sec. AAA-4. 29-A MRSA §2401, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Failure to submit to a test, fails to submit to a test or failed to submit to a test. "Failure to submit to a test," "fails to submit to a test" or "failed to submit to a test" means failure to comply with the duty to submit to and complete a chemical testing test under section 2521 or 2525.

Sec. AAA-5. 29-A MRSA §2401, sub-§5-A is enacted to read:

5-A. Ignition interlock device. "Ignition interlock device" means a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

Sec. AAA-6. 29-A MRSA §2402, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2402. Calculating prior convictions

For purposes of this chapter, a prior conviction or action has occurred within the ~~6-year~~ 10-year period if the date of the action or the date of the docket entry of conviction is ~~6~~ 10 years or less from the date of the new conduct.

Sec. AAA-7. 29-A MRSA §2411, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Offense. A person commits OUI, which is a Class D crime unless otherwise provided, if that person operates a motor vehicle:

- A. While under the influence of intoxicants; or
- B. While having a blood-alcohol level of 0.08% or more.

Sec. AAA-8. 29-A MRSA §2411, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

5. Penalties. The following minimum penalties apply and may not be suspended:

A. For a person having no previous OUI offenses within a 10-year period:

(1) A fine of not less than \$400, except that if the person failed to submit to a test, a fine of not less than \$500;

(2) A court-ordered suspension of a driver's license for a period of 90 days; and

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

(i) Was tested as having a blood-alcohol level of 0.15% or more;

(ii) Was exceeding the speed limit by 30 miles per hour or more;

(iii) Eluded or attempted to elude an officer; or

(iv) Was operating with a passenger under 16 years of age; and

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer;

B. For a person having one previous OUI offense within a 10-year period:

(1) A fine of not less than \$600, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$800;

(2) A period of incarceration of not less than 7 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 12 days;

(3) A court-ordered suspension of a driver's license for a period of 18 months; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle;

C. For a person having 2 previous OUI offenses within a 10-year period:

(1) A fine of not less than \$1,000, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$1,300;

(2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;

(3) A court-ordered suspension of a driver's license for a period of 4 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle;

D. For a person having 3 or more OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than \$2,000, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$2,400;

(2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;

(3) A court-ordered suspension of a driver's license for a period of 6 years; and

(4) In accordance with section 2416, a court-ordered suspension of the person's right to register a motor vehicle;

E. If a law enforcement officer failed to provide the warnings required by section 2521, subsection 3, the increase in minimum penalties re-

quired because of a refusal to submit to a test is not mandatory; and

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and drug program for multiple offenders. The court may waive the multiple offender intervention program under Title 5, section 20073, subsections 4 and 5, if the court finds that the defendant has completed a residential alcohol or drug treatment program, or its equivalent, subsequent to the date of the offense.

**Sec. AAA-9. 29-A MRSA §2411, sub-
§§5-A and 5-B** are enacted to read:

5-A. Notice and custody. The court shall give notice of a license suspension and shall take physical custody of the driver's license.

5-B. Additional period of suspension. The Secretary of State may impose an additional period of suspension under section 2451, subsection 3 or may extend a period of suspension until satisfaction of any conditions imposed pursuant to chapter 23, subchapter III, article 4.

Sec. AAA-10. 29-A MRSA §2411, sub-§6, as amended by PL 1995, c. 65, Pt. A, §115 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

6. Aggravated punishment category. If the State pleads and proves that the operator, while operating a motor vehicle in violation of this section, in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person or in fact caused the death of another person, the offense is a Class C crime. ~~The minimum penalties specified in subsection 5 apply, but the minimum period of suspension must be 18 months unless a longer minimum period applies.~~ The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,000 and a court-ordered suspension of a driver's license for a period of 6 years. These penalties may not be suspended.

Sec. AAA-11. 29-A MRSA §2412, as amended by PL 1995, c. 65, Pt. A, §116 and affected by Pt. A, §153 and Pt. C, §15, is repealed.

Sec. AAA-12. 29-A MRSA §2412-A is enacted to read:

**§2412-A. Operating while license suspended or
revoked**

1. Offense; penalty. A person commits a Class E offense if that person operates a motor vehicle on a public way or in a parking area when that person's

license has been suspended or revoked, and that person:

- A. Has received written notice of a suspension or revocation from the Secretary of State;
- B. Has been orally informed of the suspension or revocation by a law enforcement officer;
- C. Has actual knowledge of the suspension or revocation;
- D. Has been sent written notice in accordance with section 2482 or former Title 29, section 2241, subsection 4; or
- E. Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608.

2. Exception. This section does not apply to a person whose license has been revoked under the laws in subchapter V governing habitual offenders.

3. Minimum mandatory sentences for certain suspension. If the suspension was for OUI, the court shall impose a minimum fine of \$500, a term of imprisonment of 7 consecutive days and a suspension of license of not less than one year nor more than 3 years consecutive to the original suspension. The penalties may not be suspended.

A. If the person has a prior conviction for violating this section within a 10-year period and was subject to the minimum mandatory sentences, then the following minimum penalties, which may not be suspended by the court, apply in the event the suspension was for OUI:

- (1) A minimum fine of \$1,000, a term of imprisonment of 30 consecutive days and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of one prior conviction;
- (2) A minimum fine of \$2,000, a term of imprisonment of 60 consecutive days and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of 2 prior convictions; or
- (3) A minimum fine of \$3,000, a term of imprisonment of 6 months and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of 3 or more prior convictions. The sentencing class for this offense is a Class C crime.

B. For all other suspensions, the minimum fine is \$200, which may not be suspended by the court if the person has a prior conviction for violating this section within a 10-year period.

A separate reading of the allegation and a separate trial as required by Title 15, section 757 do not apply to a proceeding under this subsection.

4. Suspension of license. The following provisions apply when a person's license is required to be suspended under this section.

A. The court shall give notice of the suspension and shall take physical custody of an operator's license or permit as provided in section 2434.

B. If the court fails to impose a suspension as provided in subsection 3, the Secretary of State shall impose the minimum one-year suspension.

C. The minimum mandatory sentences of subsection 3 apply only to the original period of suspension imposed by the court or the Secretary of State or as extended by the Secretary of State. The minimum mandatory sentences of subsection 3 do not apply to any extension of the original suspension imposed to compel a person's compliance with conditions for the restoration of a license or for failure to pay a reinstatement fee for a license.

5. Prior convictions. For purposes of this section, a prior conviction or suspension has occurred within a 10-year period if the date of the suspension or the docket entry of a judgment of conviction by the clerk is 10 years or less from the date of the new conduct that is penalized or for which the new penalty may be enhanced.

6. Ignition interlock device. As a condition of license reinstatement the Secretary of State may, pursuant to section 2507, require a person subject to the minimum mandatory sentencing provisions of subsection 3 to install in the motor vehicle the person operates, for a period of up to 2 years, an ignition interlock device approved by the Secretary of State.

Sec. AAA-13. 29-A MRSA §2416, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Required registration suspension; return of certificate and plates. The court shall suspend the right to register a motor vehicle and all registration certificates and plates issued by the Secretary of State to any person convicted for a violation of section 2411 who has a previous conviction for OUI within the 6-year 10-year period defined by section 2402. The Secretary of State shall return the certificate of registration and plates to the defendant when the

defendant's license and registration privileges have been restored.

Sec. AAA-14. 29-A MRSA §2422 is enacted to read:

§2422. Impoundment of motor vehicles for OUI

A motor vehicle that is used by a person arrested for a violation of section 2411 may be seized and held in secure storage by the seizing agency or at the direction of the arresting law enforcement officer. The motor vehicle may be released after at least an 8-hour period and payment of any towing and storage fees.

Sec. AAA-15. 29-A MRSA §2431, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Failure as evidence. Failure of a person to submit to a chemical test is admissible in evidence on the issue of whether that person was under the influence of intoxicants.

If the law enforcement officer fails to give ~~either of~~ the required warnings, the failure of the person to submit to a chemical test is not admissible, except ~~where~~ when a test was required under section 2522.

If a failure to submit to a chemical test is not admitted into evidence, the court may inform the jury that no test result is available.

If a test result is not available for a reason other than failing to submit to a chemical test, the unavailability and the reason is admissible in evidence.

Sec. AAA-16. 29-A MRSA §2451, sub-§2, as repealed and replaced by PL 1995, c. 65, Pt. B, §22 and affected by Pt. A, §153 and Pt. C, §15, is repealed.

Sec. AAA-17. 29-A MRSA §2451, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

3. Suspension period. Unless a longer period of suspension is otherwise provided by law and imposed by the court, the Secretary of State shall suspend the license of a person convicted of OUI for the following minimum periods:

A. Ninety days, if the person has one OUI conviction within a 10-year period;

B. Eighteen months, if the person has 2 OUI offenses within a 10-year period;

C. Four years, if the person has 3 OUI offenses within a 10-year period; or

D. Six years, if the person has 4 or more OUI offenses within a 10-year period.

For the purposes of this subsection, a conviction or suspension has occurred within a 10-year period if the date of the new conduct is within 10 years of a date of suspension or a docket entry of judgment of conviction.

Sec. AAA-18. 29-A MRSA §2452, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Suspend for at least 6 years. Suspend for a period of at least 6 years the school bus operator endorsement of any person convicted of a 2nd or subsequent OUI violation within a ~~6-year~~ 10-year period as defined by section 2402.

Sec. AAA-19. 29-A MRSA §2454, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

§2454. Homicide; revocation of license

1. Minimum revocation. Subject to the longer period of revocation provided in subsection 2, the license of any person who, as a result of the operation of a motor vehicle in such a manner as to cause the death of any person, is convicted of criminal homicide or an attempt of criminal homicide, or who is adjudicated to have committed a juvenile offense of criminal homicide or an attempt of criminal homicide, must be revoked immediately by the Secretary of State upon receipt of an attested copy of the court records, without further hearing, for a period of at least 5 years.

2. While under influence of alcohol or drugs. The license of any person who, as a result of the operation of a motor vehicle in such a manner as to cause the death of any person, is convicted of criminal homicide or an attempt of criminal homicide, or who is adjudicated to have committed a juvenile offense of criminal homicide or an attempt of criminal homicide, must be permanently revoked immediately by the Secretary of State upon receipt of an attested copy of the court records, without further hearing, if the report by the district attorney pursuant to section 2455 shows the person was under the influence of intoxicants at the time of the offense.

3. Appeal. Unless the court orders otherwise, a person's license that is revoked pursuant to this section remains revoked during the course of any appeal.

4. Pleas. For the purposes of this section and section 2411, a person is deemed to have been convicted of criminal homicide or an attempt of criminal homicide if the person pleaded guilty or nolo contendere or was otherwise adjudged or found guilty

by a court of competent jurisdiction or, in the case of a juvenile offender, the juvenile is deemed to have been adjudicated of having committed a juvenile offense of criminal homicide or an attempt of criminal homicide if the juvenile admits or was otherwise adjudged or found to have committed the juvenile offense by a court of competent jurisdiction.

5. Petition for license reinstatement. A person whose license is permanently revoked under subsection 2 may petition the Secretary of State for relicensure 10 years after the date the person is no longer incarcerated. The Secretary of State shall make the person's petition for relicensure known to the family of any victims of the person's offense and shall consider the family's testimony in determining whether to reissue the person a driver's license.

6. Conviction following license reinstatement. The license of a person whose license is reinstated pursuant to subsection 5 who is subsequently convicted for the offense defined in section 2411 must be revoked permanently by the Secretary of State and the Secretary of State may not relicensure that person.

Sec. AAA-20. 29-A MRSA §2457, sub-§1, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. ~~The~~ As the Secretary of State determines, has operated a motor vehicle while having a ~~blood alcohol level of 0.05% or more~~ any amount of alcohol in the blood.

Sec. AAA-21. 29-A MRSA §2457, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Duty to submit to test. A person who operates a motor vehicle with a conditional license shall submit to a test if there is probable cause to believe that person holds a conditional license and operated a motor vehicle ~~while having a blood alcohol level of 0.05% or more~~ with any amount of alcohol in the blood. The other provisions of subchapter IV apply, except the suspension must be for a period of not less than 2 years.

Sec. AAA-22. 29-A MRSA §2457, sub-§4, ¶¶A and B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

A. The person operated a motor vehicle ~~while having 0.05% or more by weight~~ with any amount of alcohol in the blood;

B. There was probable cause to believe that the person was operating ~~while having 0.05% or more by weight~~ with any amount of alcohol in the blood; and

Sec. AAA-23. 29-A MRSA §2487, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2487. Proof of financial responsibility

A person with an OUI conviction within the ~~6-year~~ 10-year period as defined by section 2402; may not have a license reinstated until that person has complied with the financial responsibility provisions of section 1605.

Sec. AAA-24. 29-A MRSA §2501, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Failure to submit to test. The Secretary of State may issue a restricted license to a person whose license was suspended for a first failure to submit to a test, if the condition of subsection 1, paragraph B is met and at least ~~90~~ 180 days have elapsed since the date of suspension. This subsection does not apply to a commercial driver's license, provisional license or conditional license.

Sec. AAA-25. 29-A MRSA §2503, sub-§1, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. The petitioner has not, within ~~6~~ 10 years, been under suspension for an OUI offense or pursuant to section 2453.

Sec. AAA-26. 29-A MRSA §2506, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2506. Conditional license

A license issued by the Secretary of State to a person with an OUI conviction must be issued on the condition that the person not operate a motor vehicle after having consumed intoxicating liquor for the following periods from the license reinstatement date: on first conviction, one year; and on a 2nd or subsequent conviction, ~~6~~ 10 years. The provisions of section 2457 apply.

Sec. AAA-27. 29-A MRSA §2507 is enacted to read:

§2507. Ignition interlock device

1. Installation of ignition interlock device. The Secretary of State may reinstate the license of a person convicted of more than one violation of section 2411 prior to the expiration of the total period of suspension if the person satisfies all other conditions for license reinstatement and installs an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates under the following conditions.

A. A 2nd-time offender's license may be reinstated after one year if the person installs, for a period of 6 months, an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

B. A 3rd-time offender's license may be reinstated after 2 years if the person installs, for a period of 2 years, an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

C. A 4th-time or subsequent offender's license may be reinstated after 4 years if the person installs, for a period of 4 years, an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

2. Restrictions on offender. A person whose license is reinstated pursuant to section 2412-A, subsection 6 or this section may not:

A. Operate a motor vehicle without an ignition interlock device;

B. Request or solicit another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle; or

C. Tamper with or circumvent the operation of an ignition interlock device.

3. Other restrictions. A person may not:

A. Rent, lease or lend a motor vehicle without an ignition interlock device to another person the person knows or should know is restricted to the operation of a motor vehicle with an ignition interlock device;

B. Blow into or otherwise activate an ignition interlock device for the purpose of providing a person restricted to the operation of a motor vehicle with an ignition interlock device with an operable motor vehicle; or

C. Tamper with or circumvent the operation of an ignition interlock device.

4. Penalty. Notwithstanding section 1251, a violation of this section is a traffic infraction. The Secretary of State shall suspend the license of any person reinstated pursuant to section 2412-A, subsection 6 or this section who is adjudicated of the traffic infraction described in this section or whom the Secretary of State determines has violated any condition or restriction of license reinstatement. The periods of license suspension are as follows:

A. For a person reinstated pursuant to section 2412-A, subsection 6, suspension is 6 months; and

B. For a person reinstated pursuant to this section, suspension is 6 months for a 2nd-time OUI offender, 2 years for a 3rd-time OUI offender and 4 years for a 4th-time OUI offender.

A person whose license is suspended pursuant to this section is not entitled to the issuance of any type of license until the suspension period has expired.

Sec. AAA-28. 29-A MRSA §2521, sub-§3, ~~¶¶A and B~~, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

A. Result in suspension of that person's driver's license for a period up to ~~3~~ 6 years; and

B. Be admissible in evidence at a trial for operating under the influence of intoxicants; and

Sec. AAA-29. 29-A MRSA §2521, sub-§3, ~~¶C~~ is enacted to read:

C. Be considered an aggravating factor at sentencing if the person is convicted of operating under the influence of intoxicants that, in addition to other penalties, will subject the person to a mandatory minimum period of incarceration.

Sec. AAA-30. 29-A MRSA §2521, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Period of suspension. Except ~~where~~ when a longer period of suspension is otherwise provided by law, the suspension is for a period of 180 days for the first refusal ~~and one year for each subsequent refusal,~~ 18 months for a 2nd refusal, 4 years for a 3rd refusal ~~and 6 years for a 4th refusal.~~

Sec. AAA-31. 29-A MRSA §2521, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Decision. A suspension must be removed if, after hearing pursuant to section 2483, it is determined that the person would not have failed to submit but for the failure of the law enforcement officer to give ~~either of~~ the warnings required by subsection 3.

Sec. AAA-32. 29-A MRSA §2551, sub-§1, ~~¶D~~, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. Operating after suspension, in violation of section ~~2412~~ 2412-A;

PART BBB

Sec. BBB-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Economic Conversion Division		
Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(\$43,702)	(\$44,609)
All Other	(119,194)	(119,933)
Provides for the deappropriation of funds from the elimination of the Economic Conversion Division in accordance with the Maine Revised Statutes, Title 5, section 13062-A, subsection 5.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	<u>(162,896)</u>	<u>(164,542)</u>
MAINE WORLD TRADE ASSOCIATION		
Maine World Trade Association		
All Other	(150,000)	(150,000)
Provides for the deappropriation of funds from the elimination of General Fund support of the association.		
MAINE WORLD TRADE ASSOCIATION TOTAL	<u>(150,000)</u>	<u>(150,000)</u>
SECTION TOTAL APPROPRIATIONS	<u>(\$312,896)</u>	<u>(\$314,542)</u>

PART CCC

Sec. CCC-1. 36 MRSA §653, sub-§1, ¶C, as repealed and replaced by PL 1993, c. 739, §1, is amended to read:

C. The estates up to the just value of \$5,000, having a taxable situs in the place of residence, of veterans who served in the Armed Forces of the United States:

(1) During any federally recognized war period, including the Korean Campaign, the Vietnam War and the Persian Gulf War, when they have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States Government for total disability, service-connected or nonservice-connected, as a veteran. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964 and before May 7, 1975, unless the veteran died in service or was discharged for a service-connected disability after that date. "Vietnam War" means the period between August 5, 1964 and May 7, 1975. "Persian Gulf War" means service on active duty between August 7, 1990 and April 11, 1991; or

(2) Who are disabled by injury or disease incurred or aggravated during active military service in the line of duty and are receiving any form of pension or compensation from the United States Government for total, service-connected disability.

The exemptions provided in this paragraph apply to the property of that veteran, including property held in joint tenancy with that veteran's spouse or held in a revocable living trust for the benefit of that veteran.

Sec. CCC-2. 36 MRSA §653, sub-§1, ¶¶C-1 and D, as amended by PL 1989, c. 501, Pt. Z, are further amended to read:

C-1. The estates up to the just value of \$7,000, having a taxable situs in the place of residence of veterans who served in the Armed Forces of the United States during any federally recognized war period during or before World War I and who would be eligible for an exemption under paragraph C.

The exemption provided in this paragraph ~~shall be~~ is in lieu of any exemption under paragraph C to which the veteran may be eligible and ~~shall apply~~ applies to the property of that veteran, including property held in joint tenancy with that veteran's spouse or held in a revocable living trust for the benefit of that veteran.

D. The estates up to the just value of \$5,000, having a taxable situs in the place of residence, of the unmarried widow or minor child of any veteran who would be entitled to the exemption if living, or who is in receipt of a pension or compensation from the Federal Government as the widow or minor child of a veteran.

The estates up to the just value of \$5,000, having a taxable situs in the place of residence, of the mother of a deceased veteran who is 62 years of age or older and is an unmarried widow who is in receipt of a pension or compensation from the Federal Government based upon the service-connected death of her ~~son~~ child.

The exemptions provided in this paragraph apply to the property of an unmarried widow, minor child or mother of a deceased veteran, including property held in a revocable living trust for the benefit of that unmarried widow, minor child or mother of a deceased veteran.

Sec. CCC-3. 36 MRSA §653, sub-§1, ¶D-1, as amended by PL 1995, c. 281, §10, is further amended to read:

D-1. The estates up to the just value of \$47,500, having a taxable situs in the place of residence, for specially adapted housing units, of veterans who served in the Armed Forces of the United States during any federally recognized war period, including the Korean Campaign, the Vietnam War and the Persian Gulf War, and who are paraplegic veterans within the meaning of the Code, Title 38, Chapter 21, Section 2101, and who received a grant from the United States Government for any such housing, or of the unmarried widows of such veterans. A veteran of the Vietnam War must have served on active duty for a period of more than 180 days, any part of which occurred after August 4, 1964 and before May 7, 1975, unless the veteran died in service or was discharged for a service-connected disability after that date. "Vietnam War" means the period between August 5, 1964 and May 7, 1975. "Persian Gulf War" means service on active duty between August 7, 1990 and April 11, 1991. The exemption provided in this paragraph applies to the property of the veteran including property held in joint tenancy with a spouse or held in a revocable living trust for the benefit of that veteran.

Sec. CCC-4. 36 MRSA §653, sub-§1, ¶¶D-2 and D-3, as amended by PL 1989, c. 501, Pt. Z, are further amended to read:

D-2. The estates up to the just value of \$7,000, having a taxable situs in the place of residence of the unmarried widow or minor child of any

veteran who would be entitled to an exemption under paragraph C-1, if living, or who is in receipt of a pension or compensation from the Federal Government as the widow or minor child of a veteran, and who is the unmarried widow or minor child of a veteran who served during any federally recognized war period during or before World War I.

The exemption provided in this paragraph ~~shall be~~ is in lieu of any exemption under paragraph D to which the person may be eligible and applies to the property of that person, including property held in a revocable living trust for the benefit of that person.

D-3. The estates up to the just value of \$7,000, having a taxable situs in the place of residence of the mother of a deceased veteran who is 62 years of age or older and is an unmarried widow who is in receipt of a pension or compensation from the Federal Government based upon the service-connected death of her ~~son~~ child and who is receiving the pension or compensation from the Federal Government based upon the service-connected death of her ~~son~~ child during any federally recognized war period during or before World War I.

The exemption provided in this paragraph ~~shall be~~ is in lieu of any exemption under paragraph D to which the person may be eligible and applies to the property of that person, including property held in a revocable living trust for the benefit of that person.

Sec. CCC-5. 36 MRSA §6201, sub-§2, as amended by PL 1993, c. 395, §27, is further amended to read:

2. Claimant. "Claimant" means an individual who has filed a claim under this chapter and was domiciled in this State and ~~owned or rented~~ occupied a homestead in this State during the entire calendar year preceding the year in which claim for relief under this chapter is filed. ~~When 2 individuals of a household are able to meet the qualifications for a claimant, they may determine between them as to who the claimant is. If they are unable to agree, the matter must be referred to the State Tax Assessor whose decision is final. If a homestead is occupied by 2 or more individuals, and more than one individual is able to qualify as a claimant the individuals may determine among them as to who the claimant is. If they are unable to agree, the matter must be referred to the State Tax Assessor whose decision is final. Ownership of a homestead under this chapter may be by fee, by life tenancy, by bond for deed, as mortgagee or any other possessory interest in which the owner is personally responsible for the tax for which a refund is~~

~~claimed.~~ Regardless of how many names of individuals appear on the property deed, the person who meets the qualifications described in this subsection and proves sole responsibility for the payment of the property taxes on the subject property is the claimant for that property. If 2 or more individuals meet the qualifications in this subsection and share the payment of the rent or the responsibility for the payment of the property taxes, each individual may apply on the basis of the rent paid or the property taxes levied on the homestead that reflect the ownership percentage of the claimant and the claimant's household.

If 2 or more individuals claim the same property, the matter must be referred to the State Tax Assessor whose decision is final. Ownership of a homestead under this chapter may be by fee, by life tenancy, by bond for deed, as mortgagee or any other possessory interest in which the owner is personally responsible for the tax for which a refund is claimed.

Sec. CCC-6. 36 MRSA §6162-A, sub-§2, as repealed and replaced by PL 1987, c. 876, §§4 and 10, is amended to read:

2. Income. Eligibility for this program shall be is determined by the same income levels as eligibility for elderly households is determined under chapter 907, except that individuals are also eligible for this program if the household spends at least 40% of its income on unreimbursed direct medical expenses for prescription drugs and the household income is not more than 25% higher than the levels specified in chapter 907.

Sec. CCC-7. 36 MRSA §6201, sub-§5, as amended by PL 1989, c. 534, Pt. A, §3, is further amended to read:

5. Homestead. "Homestead" means the dwelling, owned or rented by the claimant, or held in a revocable living trust for the benefit of the claimant and occupied by the claimant and the claimant's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land, up to 10 acres, upon which it is built. "Owned" includes a vendee in possession under a land contract and of one or more joint tenants or tenants in common.

Sec. CCC-8. 36 MRSA §6207, sub-§1, ¶A-1, as amended by PL 1993, c. 410, Pt. C, §6, is further amended to read:

A-1. ~~Seventy~~ Fifty percent of that portion of the benefit base that exceeds 7.0% 5.0% of income and 100% of that portion of the benefit base that exceeds 10% of income to a maximum payment of \$500 \$700.

Sec. CCC-9. 36 MRSA §6207, sub-§2, as amended by PL 1993, c. 410, Pt. C, §7, is further amended to read:

2. Income eligibility. ~~Claimants~~ Single-member households with household incomes in excess of \$25,000 and households with 2 or more members with a household income in excess of \$35,000 are not eligible for a benefit.

Sec. CCC-10. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Bureau of Taxation		
All Other	\$27,568	\$3,890
Provides funds for one contract position and computer programming and data entry costs to process claims for the elderly low-cost drug program.		
Elderly Householders' Tax Refund		
All Other	(\$322,909)	(\$266,605)
Provides a reduction in funds for a shift in claimants from the Elderly Householders' Tax Refund Program to the Maine Residents Property Tax Program.		
Maine Residents Property Tax Program		
All Other	\$7,869,462	\$8,598,957
Provides funds for additional claimants under the Maine Residents Property Tax Program. Funds appropriated to this program in fiscal year 1995-96 do not lapse, but are carried forward to fiscal year 1996-97 to be used for the purposes of this program.		

**Veterans Tax
Reimbursement**

All Other \$12,000

Provides funds to reimburse municipalities for 50% of the lost property tax revenue due to the expansion of claimants eligible for the veterans' property tax exemption.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

\$7,574,121	\$8,348,242
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**HUMAN SERVICES,
DEPARTMENT OF****Low-cost Drugs to Maine's
Elderly**

All Other \$25,879 \$51,758

Provides funds for an expanded number of eligible claimants.

**DEPARTMENT OF
HUMAN SERVICES
TOTAL**

\$25,879	\$51,758
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TOTAL APPROPRIATIONS	\$7,600,000	\$8,400,000
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Sec. CCC-11. Application. Sections 1 to 4 of this Part apply to tax years beginning on or after April 1, 1996. Sections 5 to 9 of this Part apply to claims filed with the Bureau of Taxation on or after August 1, 1995.

PART DDD

Sec. DDD-1. PL 1995, c. 99, Pt. D, §6, under the caption "ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF", in that part relating to Productivity Realization Task Force, last paragraph is amended to read:

Provides for the necessary expenses, including consulting fees, of the Productivity Realization Task Force. Any funds remaining in this account on June 30, 1995 may not lapse but must be carried forward to June 30, 1996 to be used for this same purpose.

PART EEE

Sec. EEE-1. Allocation. The following funds are allocated from the Island Ferry Services Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

1995-96	1996-97
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**TRANSPORTATION,
DEPARTMENT OF****Island Ferry Service**

Positions - Other Count	(8.0)	(8.0)
Personal Services	\$486,904	\$486,812
All Other	(486,904)	(486,812)

Provides for the allocation of funds in Personal Services through the deallocation of All Other funds previously budgeted for contracted services to continue funding for 8 full-time positions and 40 intermittent positions. Full-time positions include 2 Ferry Captains, 2 Ferry Engineers and 4 Ferry Able Seamen. The intermittent positions are 10 Ferry Captains, 10 Ferry Engineers and 20 Ferry Able Seamen.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

\$-0-	\$-0-
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PART FFF

Sec. FFF-1. 36 MRSA §5219-E, sub-§1, ¶B, as amended by PL 1991, c. 591, Pt. BBB, §1, is further amended to read:

B. "Investment credit base" means the total original basis, without adjustment, for federal income tax purposes, of the taxpayer of all machinery and equipment placed in service for the first time in this State by the taxpayer or other person during any of the prior 5 taxable years, except in taxable years ending in 1995, the prior 6 taxable years, excluding the basis of machinery and equipment placed in service in this State prior to January 1, 1989. In the case of a combined report, the term investment credit base means the sum of the investment credit bases for all corporations included in the report.

If the taxpayer is reimbursed pursuant to chapter 915 for 100% of the property taxes assessed

during the taxable year against all of the machinery and equipment that constitutes eligible property as defined in section 6651, subsection 1, that machinery and equipment may not be included in the investment credit base for that taxable year. The term "taxable year" means the taxable year for income tax purposes of the taxpayer.

Sec. FFF-2. 36 MRSA c. 915 is enacted to read:

CHAPTER 915

REIMBURSEMENT FOR TAXES PAID ON CERTAIN BUSINESS PROPERTY

§6651. Definitions

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

1. Eligible property. "Eligible property" means qualified business property first placed in service in the State, or constituting construction in progress in the State, after April 1, 1995. "Eligible property" includes, without limitation, repair parts, replacement parts, additions, accessions and accessories to other qualified business property placed in service on or before April 1, 1995 if the part, addition, accession or accessory is first placed in service, or constitutes construction in progress, in the State after April 1, 1995. "Eligible property" also includes inventory parts. After reimbursement has been made for "eligible property" for 12 years, that property is no longer "eligible property" under this chapter.

2. Inventory parts. "Inventory parts" includes repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service and stocks or inventories of repair parts, replacement parts, replacement equipment, additions, accessions and accessories on hand but not in service if acquired after April 1, 1995, regardless of when placed in service.

3. Qualified business property. "Qualified business property" means tangible personal property that:

A. Is used or held for use exclusively for a business purpose by the person in possession of it or, in the case of construction in progress or inventory parts, is intended to be used exclusively for a business purpose by the person who will possess that property; and

B. Either:

(1) Was subject to an allowance for depreciation under the Code on April 1st of the

property tax year to which the claim for reimbursement relates or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated; or

(2) In the case of construction in progress or inventory parts, would be subject under the Code to an allowance for depreciation when placed in service or would have been subject to an allowance for depreciation under the Code as of that date but for the fact that the property has been fully depreciated.

"Qualified business property" also includes all property that is affixed or attached to a building or other real estate if it is used to further a particular trade or business activity taking place in that building or on that real estate. "Qualified business property" does not include components or attachments to a building if used primarily to serve the building as a building, regardless of the particular trade or activity taking place in or on the building. "Qualified business property" also does not include land improvements if used primarily to further the use of the land as land, regardless of the particular trade or business activities taking place in or on the land. In the case of construction in progress or inventory parts, the term "used" means intended to be used.

§6652. Reimbursement allowed; limitation

1. Generally. Subject to the provisions of subsection 2 and of sections 6653 and 6654, a person against whom taxes have been assessed pursuant to Part 2 with respect to eligible property and who has paid those taxes is entitled to reimbursement of those taxes from the State.

2. Limitation. Reimbursement may not be made by the State Tax Assessor pursuant to this chapter with respect to the payment of taxes assessed against property that is entitled to exemption pursuant to section 656, subsection 1, paragraph E or any other provision of law except that reimbursement must be made with respect to the payment of taxes assessed against property that has not been certified for exemption pursuant to section 656, subsection 1, paragraph E but that is entitled to exemption pursuant to that provision if that property has been placed in service after the December 1st immediately preceding April 1st of the tax year for which reimbursement is sought but prior to April 1st of the property tax year for which reimbursement is sought. The claimant may seek reconsideration, pursuant to section 151, of the State Tax Assessor's denial of reimbursement under this subsection. If the State Tax Assessor denies a reimbursement claim on the ground that the property

in question is entitled to exemption under section 656, subsection 1, paragraph E and the claimant seeks reconsideration of the denial, the State Tax Assessor shall, at the claimant's request, allow the claimant up to one year to obtain a statement from the Commissioner of Environmental Protection that the property at issue is not exempt. If the claimant timely produces such a statement or otherwise demonstrates that the property is not exempt, the State Tax Assessor shall allow the reimbursement.

§6653. Taxpayer to obtain information

Before filing a request for reimbursement with the State Tax Assessor pursuant to section 6654, a taxpayer must notify the assessor or assessors for any taxing jurisdiction in which eligible property is subject to tax and for which the taxpayer intends to claim reimbursement that the taxpayer intends to file a reimbursement request. The notification must also include a list of the property that the taxpayer believes constitutes eligible property, the original cost of that property, the date that property was acquired and whether the property was acquired new or used. The taxpayer must submit to the assessor or assessors of each taxing jurisdiction at the same time a request that the assessor or assessors of the taxing jurisdiction provide to the taxpayer a statement identifying the assessed just value of eligible property for which reimbursement will be requested and the associated tax attributed to that property. If the taxpayer submits the request to the assessor or assessors 60 days or more before the commitment date for the property tax year at issue, the assessor or assessors of the taxing jurisdiction shall make the statement available to the taxpayer at the time the taxing jurisdiction first bills the taxpayer for property taxes for the property tax year at issue. If the taxpayer submits the request to the assessor or assessors less than 60 days before the commitment date or after the commitment date, the assessor or assessors shall make the statement available to the taxpayer within 60 days after the request is made.

§6654. Claim for reimbursement

A person entitled to reimbursement pursuant to section 6652 may file a claim for reimbursement with the State Tax Assessor. The reimbursement claim must be filed with the State Tax Assessor on or before 60 days after the tax is paid. The State Tax Assessor may extend the date on which the claim for reimbursement is due for good cause. Except as otherwise provided, the claim must be accompanied by the statement obtained by the claimant pursuant to section 6653. If the claimant requests reimbursement of an amount of tax that differs from the amount of tax specified for the eligible property in the statement provided by the assessor or assessors of the taxing jurisdiction, the claimant must attach to the claim form

an explanation of the reasons for that difference and the State Tax Assessor shall determine the correct amount of reimbursement to which the claimant is entitled, taking into consideration both the statement from the assessor or assessors and the taxpayer's explanation. If, for any reason, the claimant is unable to obtain the statement specified in section 6653 from the assessor or assessors within the time specified in section 6653, the claimant must attach to the claim form an explanation of the amount of reimbursement requested and the State Tax Assessor shall process the claim without that statement. If the property taxes are billed in more than one installment, a claimant may submit multiple claims for reimbursement corresponding to the amount of property tax paid with each installment.

§6655. Forms

The State Tax Assessor shall prescribe forms for the notice of claim and statement of the assessor or assessors provided in section 6653 and the claim for reimbursement, with instructions, and make those forms available to taxpayers and taxing jurisdictions.

§6656. Payment of claims

Upon receipt of a timely and properly completed claim for reimbursement, the State Tax Assessor shall certify that the claimant is eligible for reimbursement and shall pay the amount claimed from the General Fund within 180 days after the claim is filed.

§6657. Audit of claim

The State Tax Assessor has the authority to audit any claim filed under this chapter and take any action provided in section 384. If the State Tax Assessor determines that the amount of the claimed reimbursement is incorrect, the State Tax Assessor shall redetermine the claim and notify the claimant in writing of the redetermination and the State Tax Assessor's reasons. If the claimant has received reimbursement of an amount that the State Tax Assessor concludes should not have been reimbursed, the State Tax Assessor may issue an assessment for that amount within 3 years from the date the reimbursement claim was filed or at any time if a fraudulent reimbursement claim was filed. The claimant may seek reconsideration, pursuant to section 151, of the redetermination or assessment.

§6658. Subsequent changes

If, after a claim for reimbursement has been filed, the associated property tax assessment is reduced or abated for any reason, the claimant shall file, within 60 days after receipt of the reduction or abatement, an amended claim for reimbursement reflecting the reduction or abatement. If a claimant has received reimbursement for property tax that is

reduced or abated, the claimant shall, within 60 days of receipt of the reduction or abatement, refund to the Bureau of Taxation the amount of the reimbursement for the property tax that has been reduced or abated. If the claimant fails to make the refund within the 60-day period, the State Tax Assessor, within 3 years from the claimant's receipt of reimbursement, may issue an assessment for the amount that the claimant owes to the Bureau of Taxation. The claimant may seek reconsideration, pursuant to section 151, of the assessment.

§6659. Legislative findings

The Legislature finds that encouragement of the growth of capital investment in this State is in the public interest and promotes the general welfare of the people of the State. The Legislature further finds that the high cost of owning qualified business property in this State is a disincentive to the growth of capital investment in this State. The Legislature further finds that the program set forth in this chapter is a reasonable means of overcoming this disincentive and will encourage capital investment in this State.

Sec. FFF-3. Application. That section of this Part that amends the Maine Revised Statutes, Title 36, section 5219-E, subsection 1, paragraph B applies to taxable years ending on or after July 1, 1997.

PART GGG

Sec. GGG-1. 36 MRSA §5122, sub-§1, ¶G, as corrected by RR 1991, c. 2, §138, is amended to read:

G. Pick-up contributions paid by the taxpayer's employer on the taxpayer's behalf to the Maine State Retirement System as defined in Title 5, section 17001, subsection 28-A; ~~and~~

Sec. GGG-2. 36 MRSA §5122, sub-§1, ¶H, as amended by PL 1991, c. 591, Pt. N, §5 and affected by §6, is further amended to read:

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, that arises from an S Corporation with total assets for the year of at least \$1,000,000 and that pursuant to the United States Internal Revenue Code, Section 172 is being carried back for federal income tax purposes to the taxable year by the taxpayer; ~~and~~

Sec. GGG-3. 36 MRSA §5122, sub-§1, ¶I is enacted to read:

I. The amount of any research and development expense used in determining a credit under section 5219-K.

Sec. GGG-4. 36 MRSA §5200-A, sub-§1, ¶H, as amended by PL 1993, c. 349, §70, is further amended to read:

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 that, pursuant to the United States Internal Revenue Code, Section 172, is being carried back for federal income tax purposes to the taxable year by the taxpayer; ~~and~~

Sec. GGG-5. 36 MRSA §5200-A, sub-§1, ¶I, as enacted by PL 1991, c. 591, Pt. N, §11, is amended to read:

I. Interest or dividends on obligations or securities of any state or of a political subdivision or authority, other than this State and its political subdivisions and authorities; ~~and~~

Sec. GGG-6. 36 MRSA §5200-A, sub-§1, ¶J is enacted to read:

J. The amount of any research and development expense used in determining a credit under section 5219-K.

Sec. GGG-7. 36 MRSA §5219-K is enacted to read:

§5219-K. Research expense tax credit

1. Credit allowed. A taxpayer is allowed a credit against the tax due under this chapter equal to the sum of 5% of the excess, if any, of the qualified research expenses for the taxable year, over the base amount; and 7.5% of the basic research payments determined under subsection (e)(1)(A) of Section 41 of the Code. The term "base amount" means the average spent on qualified research expenses over the last 3 years by the taxpayer. The terms "qualified research expenses," "qualified organization base period amount," "basic research" and any other terms affecting the calculation of the credit, unless the context otherwise requires, have the same meanings as under Section 41 of the Code, as amended and in effect on December 31, 1994, but only apply to expenditures for research conducted in this State. In determining the amount of the credit allowable under this section, the State Tax Assessor may aggregate the activities of all corporations that are members of a controlled group of corporations, as defined by subsection (f)(1)(A) of Section 41 of the Code, and in addition may aggregate the activities of all entities, whether or not incorporated, that are under common control, as defined by subsection (f)(1)(B) of Section 41 of the Code.

2. Reduction not less than zero. The credit allowed under this section for any taxable year may not reduce the tax due to less than zero.

3. Limitation on credit allowed. The credit allowed under this section is limited to 100% of a corporation's first \$25,000 of tax due, as determined before the allowance of any credits, plus 75% of the corporation's tax due, as determined in excess of \$25,000. The State Tax Assessor shall adopt rules similar to those authorized under Section 38(c)(2)(B) of the Code for purposes of apportioning the \$25,000 among members of a controlled group.

4. Corporations filing combined return. In the case of corporations filing a combined return, a credit generated by an individual member corporation under the provisions of this section must first be applied against the tax due attributable to that company under this chapter. A member corporation with an excess research and development credit may apply its excess credit against the tax due of another group member to the extent that that other member corporation can use additional credits under the limitations of subsection 3. Unused, unexpired credits generated by a member corporation may be carried over from year to year by the individual corporation that generated the credit, subject to the limitation in subsection 5.

5. Carryover to succeeding years. A taxpayer entitled to a credit under this section for any taxable year may carry over and apply to the tax due for any one or more of the next succeeding 15 taxable years the portion, as reduced from year to year, of the credit that exceeds the tax due for the taxable year. A taxpayer may carry over and apply to the tax due for any subsequent taxable year the portion of those credits, as reduced from year to year, not allowed by subsection 3.

6. Additional rules. The State Tax Assessor shall adopt such rules as are necessary to implement this section.

7. Application. This section applies to any tax year beginning on or after January 1, 1996.

PART HHH

Sec. HHH-1. Supplemental appropriations from the General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the following sums.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		

Elderly Tax Deferral Program

All Other	(\$23,000)	(\$20,000)
Deappropriates funds that are no longer needed.		

Maine Residents Property Tax Program

All Other	(287,813)	
Deappropriates funds that are no longer needed.		

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

(310,813)	(20,000)
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CORRECTIONS, DEPARTMENT OF Correctional Center

Personal Services	20,000	10,000
All Other	10,000	1,500

Provides for the appropriation of funds for overtime and training materials associated with weapons qualifications. This request will result in an increase in General Fund undedicated revenue of \$129,600 each year of the biennium from an increase in the per diem rate for housing federal prisoners.

DEPARTMENT OF CORRECTIONS TOTAL

30,000	11,500
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DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF

Administration - Defense and Veterans Services

Personal Services	(19,676)	(18,857)
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Provides for the deappropriation of funds through the transfer of 50% funding of one Accountant II position to the Administration - Maine Emergency Management Agency program.

**DEPARTMENT OF
DEFENSE AND
VETERANS' SERVICES
TOTAL**

(19,676)

(18,857)

**EDUCATION,
DEPARTMENT OF****General Purpose Aid for
Local Schools**

All Other 2,000,000

Provides for the appropriation of funds for a hardship cushion for eligible school administrative units.

**General Purpose Aid for
Local Schools**

All Other (200,000)

(200,000)

Provides for the deappropriation of funds to reduce funds appropriated in Part A, section 25 for out-of-district placements.

**Governor Baxter School for
the Deaf**

Personal Services (10,440)

Deappropriates funds that are no longer needed.

**Educational Restructuring
and Improvements**

All Other (300,000)

Provides for the deappropriation of funds to reflect reduced funding for the reading recovery program.

**DEPARTMENT OF
EDUCATION
TOTAL**

1,789,560

(500,000)

**EXECUTIVE
DEPARTMENT****Office of Substance Abuse**

All Other (1,000,000)

(1,000,000)

Deappropriates funds from reductions in All Other expenses.

**EXECUTIVE
DEPARTMENT
TOTAL**

(1,000,000)

(1,000,000)

**HUMAN SERVICES,
DEPARTMENT OF****Aid to Families with
Dependent Children**

All Other 500,000 2,000,000

Provides for the appropriation of funds to offset a deappropriation in Part B, section 1 in order to maintain gap payments.

**DEPARTMENT OF
HUMAN SERVICES
TOTAL**

500,000

2,000,000

**TREASURER OF STATE
(OFFICE OF)****Administration - Treasury**Positions - Other Count (1.0) (1.0)
Personal Services 24,984 24,722

Provides for the appropriation of funds for one Account Clerk I position necessary for the administration of the Unclaimed Property Act. This request will result in an increase of General Fund undedicated revenue of \$59,984 in fiscal year 1995-96 and \$64,722 in fiscal year 1996-97.

**(OFFICE OF)
TREASURER OF STATE
TOTAL**

24,984

24,722

**SECTION
TOTAL APPROPRIATION**

1,014,055

497,365

Sec. HHH-2. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.**1995-96****1996-97****DEFENSE AND
VETERANS' SERVICES,
DEPARTMENT OF****Administration - Maine
Emergency Management
Agency**

Personal Services	19,676	18,857
Provides for the allocation of funds through the transfer of 50% funding of one Accountant III position from the Administration - Defense and Veterans Services program.		
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES TOTAL	19,676	18,857
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children		
All Other	862,697	3,449,591
Provides for the allocation of funds to offset a deallocation in Part B, section 3 in order to maintain gap payments.		
DEPARTMENT OF HUMAN SERVICES TOTAL	862,697	3,449,591
SECTION TOTAL ALLOCATIONS	\$882,373	\$3,468,448

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

Effective June 29, 1995.

CHAPTER 369

H.P. 401 - L.D. 536

An Act to Require Insurers to Reimburse Insureds with Inborn Errors of Metabolism

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

Sec. 1. 24 MRSA §2320-C is enacted to read:

§2320-C. Medical food coverage for inborn error of metabolism

1. Inborn error of metabolism; special modified low-protein food product. As used in this section, "inborn error of metabolism" means a

genetically determined biochemical disorder in which a specific enzyme defect produces a metabolic block that may have pathogenic consequences at birth or later in life. As used in this section, "special modified low-protein food product" means food formulated to reduce the protein content to less than one gram of protein per serving and does not include foods naturally low in protein.

2. Required coverage. All individual and group nonprofit medical services plan policies and contracts and all nonprofit health care plan policies and contracts must provide coverage for metabolic formula and special modified low-protein food products that have been prescribed by a licensed physician for a person with an inborn error of metabolism. The policies and contracts must reimburse:

A. For metabolic formula; and

B. Up to \$3,000 per year for special modified low-protein food products.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1996. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §2745-C is enacted to read:

§2745-C. Medical food coverage for inborn error of metabolism

1. Inborn error of metabolism; special modified low-protein food product. As used in this section, "inborn error of metabolism" means a genetically determined biochemical disorder in which a specific enzyme defect produces a metabolic block that may have pathogenic consequences at birth or later in life. As used in this section, "special modified low-protein food product" means food formulated to reduce the protein content to less than one gram of protein per serving and does not include foods naturally low in protein.

2. Required coverage. All individual insurance policies and contracts, except accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care and other limited benefit health insurance policies and contracts, must provide coverage for metabolic formula and special modified low-protein food products that have been prescribed by a licensed physician for a person with an inborn error of metabolism. The policies and contracts must reimburse:

A. For metabolic formula; and

B. Up to \$3,000 per year for special modified low-protein food products.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1996. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 24-A MRSA §2837-C is enacted to read:

§2837-C. Medical food coverage for inborn error of metabolism

1. Inborn error of metabolism; special modified low-protein food product. As used in this section, "inborn error of metabolism" means a genetically determined biochemical disorder in which a specific enzyme defect produces a metabolic block that may have pathogenic consequences at birth or later in life. As used in this section, "special modified low-protein food product" means food formulated to reduce the protein content to less than one gram of protein per serving and does not include foods naturally low in protein.

2. Required coverage. All group insurance policies and contracts, except accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care and other limited benefit health insurance policies and contracts, must provide coverage for metabolic formula and special modified low-protein food products that have been prescribed by a licensed physician for a person with an inborn error of metabolism. The policies and contracts must reimburse:

A. For metabolic formula; and

B. Up to \$3,000 per year for special modified low-protein food products.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1996. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 4. 24-A MRSA §4237 is enacted to read:

§4237. Medical food coverage for inborn error of metabolism

1. Inborn error of metabolism; special modified low-protein food product. As used in this

section, "inborn error of metabolism" means a genetically determined biochemical disorder in which a specific enzyme defect produces a metabolic block that may have pathogenic consequences at birth or later in life. As used in this section, "special modified low-protein food product" means food formulated to reduce the protein content to less than one gram of protein per serving and does not include foods naturally low in protein.

2. Required coverage. All health maintenance organization individual and group contracts must provide coverage for metabolic formula and special modified low-protein food products that have been prescribed by a licensed physician for a person with an inborn error of metabolism. The contracts must reimburse:

A. For metabolic formula; and

B. Up to \$3,000 per year for special modified low-protein food products.

3. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1996. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 370

H.P. 307 - L.D. 411

**An Act to Repeal the Laws
Regarding Consumer Information
Pamphlets**

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

Sec. 1. 32 MRSA §59-A, as enacted by PL 1993, c. 600, Pt. A, §26, is repealed.

Sec. 2. 32 MRSA §2429, as repealed and replaced by PL 1993, c. 600, Pt. A, §158, is repealed.

Sec. 3. 32 MRSA §2599-B, as enacted by PL 1993, c. 600, Pt. A, §194, is repealed.

Sec. 4. 32 MRSA §3299-A, as enacted by PL 1993, c. 600, Pt. A, §226, is repealed.

See title page for effective date.

CHAPTER 371**S.P. 580 - L.D. 1557****An Act to Improve Bicycle Safety in This State****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 29-A MRSA §2063, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle or a motorized tricycle, and "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

Sec. 2. 29-A MRSA §2071, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Hand signals. Signals by hand and arm must be given by the left arm from the left side of a vehicle in the following manner:

A. To indicate a left turn, the hand and arm must be extended horizontally;

B. To indicate a right turn, the hand and arm must be extended upward, except that a person who is operating a bicycle is not in violation of this subsection if the person signals a right turn by extending the person's right hand and arm horizontally; and

C. To indicate a stop or a decrease in speed, the hand and arm must be extended downward.

See title page for effective date.

CHAPTER 372**H.P. 982 - L.D. 1390****An Act to Clarify the Forcible Entry and Detainer Law****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 14 MRSA §6001, sub-§1, as amended by PL 1995, c. 60, §2, is further amended to read:

1. Persons against whom process may be maintained. Process of forcible entry and detainer may be maintained against a disseisor who has not acquired any claim by possession and improvement;

against a tenant holding under a written lease or contract or person holding under such a tenant; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 days from the expiration or forfeiture of the term; against a tenant at will, whose tenancy has been terminated as provided in section 6002; and against mobile home owners and tenants pursuant to Title 10, chapter 951, subchapter VI. When there are multiple occupants of an apartment or residence, the process of forcible entry and detainer is effective against all occupants if the plaintiff names as parties "all other occupants" together with all adult individuals whose names appear on the lease or rental agreement for the premises or whose tenancy the plaintiff has acknowledged by acceptance of rent or otherwise.

See title page for effective date.

CHAPTER 373**H.P. 907 - L.D. 1283****An Act to Update and Clarify Administrative Procedures****Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 5 MRSA §86, 2nd ¶, as amended by PL 1993, c. 316, §1, is further amended to read:

For a certificate under the seal of the State, \$5 for a short form and \$10 for a special detailed certificate. For all copies of corporate, limited partnership and mark documents, the rate of \$2 per page; and for all other copies, the rate of 75¢ per page if such copies are prepared by the office of the Secretary of State. ~~There is no charge for certificates or copies requested by any department of the State.~~ The Secretary of State may also reduce or waive the fee for other governmental agencies and bodies;

Sec. 2. 5 MRSA §8002, sub-§3-B is enacted to read:

3-B. Authorized representative. "Authorized representative" means the chair of a board or commission, an individual in a major policy-influencing position as defined by chapter 71, or the chief executive officer of an agency, within the agency adopting a rule.

Sec. 3. 5 MRSA §8052, sub-§7, as amended by PL 1985, c. 680, §2, is further amended to read:

7. Adoption of rule. ~~No A rule may become effective~~ not take effect unless:

A. The agency adopts it within 120 days of the final date by which data, views or arguments may be submitted to the agency for consideration in adopting the rule; and

B. This adopted rule is approved by the Attorney General as to form and legality, as required by section 8056, within 150 days of the final date by which those comments may be submitted.

The final date for comments may be extended if notice of doing so is published ~~before that final date~~ within 14 days after the most recently published comment deadline, in the consolidated notice referred to in section 8053.

Sec. 4. 5 MRSA §8053, sub-§1, as amended by PL 1985, c. 39, §2, is further amended to read:

1. Notice of rulemaking without hearing. At least 20 days prior to the ~~adoption~~ comment deadline of any rule without hearing, the agency shall deliver or mail written notice to:

A. Any person specified by the statute authorizing the rulemaking;

B. Any person who has filed within the past year a written request with the agency for notice of rulemaking; and

C. Any trade, industry, professional, interest group or regional publication that the agency ~~deems~~ considers effective in reaching the persons affected.

Notification to subscribers under paragraph B ~~shall~~ must be by mail or otherwise in writing to the last address provided to the agency by that person. Subscribers under paragraph B may request to receive a copy of each proposed rule with the written notice. The agency shall provide the copy at the same time the notice is sent.

Written notice ~~shall~~ must also be given to the Secretary of State, by the deadline established by ~~him~~ the Secretary of State, for publication in accordance with subsection 5.

Sec. 5. 5 MRSA §8053, sub-§3-A, as enacted by PL 1981, c. 524, §8, is amended to read:

3-A. Copies of proposed rules available upon request. At least 20 days prior to hearing on any proposed rule and at least 20 days prior to the ~~adoption~~ comment deadline of any rule without a hearing, the agency shall make copies of the proposed rule available to persons upon request.

Sec. 6. 5 MRSA §8056, sub-§1, ¶B, as amended by PL 1985, c. 39, §3, is further amended to read:

B. File ~~a certified copy of the original rule as signed by the Attorney General or an assistant attorney general and the authorized representative of the agency~~, and the statement required by section 8052, subsection 5, with the Secretary of State in a form prescribed by the Secretary of State, which form ~~shall be~~ is susceptible to frequent and easy revision;

Sec. 7. 5 MRSA §8056, sub-§3, ¶A, as amended by PL 1991, c. 554, §1, is further amended to read:

A. Maintain and make available at the Secretary of State's office, for inspection at no charge and for copying or purchase ~~at actual cost~~, current copies of complete rules for all agencies filed in accordance with subsection 1, paragraph B;

See title page for effective date.

CHAPTER 374

S.P. 459 - L.D. 1255

An Act to Create the Northern New England Passenger Rail Authority

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

Whereas, the promotion of passenger rail service is essential to the economy and well-being of the State; and

Whereas, there is an immediate need to create the Northern New England Passenger Rail Authority; 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. 5 MRSA §12004-F, sub-§16 is enacted to read:

16. Northern New	Legislative Per	23
England Passenger Rail	Diem	MRSA
Authority		§8111

Sec. 2. 23 MRSA c. 615, sub-c. III, as amended, is repealed.

Sec. 3. 23 MRSA c. 621 is enacted to read:

CHAPTER 621**PASSENGER RAIL SERVICE****SUBCHAPTER I****GENERAL PROVISIONS****§8001. Short title**

This chapter may be known and cited as the "Passenger Rail Service Act."

§8002. Definitions

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

1. Authority. "Authority" means the Northern New England Passenger Rail Authority and any successors to that authority.

2. Government agency. "Government agency" includes any department, agency, commission, bureau, authority, instrumentality and political subdivision of:

- A. The Federal Government;
- B. The State;
- C. Any other state; and
- D. The Dominion of Canada and any of its provinces.

3. Railroad line. "Railroad line" or "lines" means the right-of-way, track, track appurtenances, ties, bridges, station houses and other appurtenant structures.

§8003. Initiation and establishment of passenger rail service

1. Establishment of service. The authority is directed to take all actions that are reasonably necessary to initiate, establish or reinstate regularly scheduled passenger rail service between points within this State and points within and outside this State. These actions may include, but are not limited to, the acquisition, holding, use, operation, repair, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance and disposition of railroad lines, railway facilities, rolling stock, machinery and equipment, trackage rights, real and personal property of any kind and any rights in or related to that property.

2. Acquisition of properties; rights. The authority may acquire any of the properties or rights listed in subsection 1 through purchase, lease, lease-purchase, gift, devise or otherwise. In making these

acquisitions the authority may exercise the power of eminent domain following the same procedure set forth in section 7154, subsection 5; except that any notice of condemnation must be filed in the registry of deeds for the county or counties, or registry division or divisions, in which the property is located, in the case of real property, and with the office of the Secretary of State in the case of personal property.

§8004. Contracts; studies

In order to implement section 8003 and the purposes of this chapter, the authority is directed to:

1. Conduct studies. Conduct or cause to be conducted any studies that the authority determines necessary or proper;

2. Enter into contracts. Enter into and fulfill any contracts and agreements the authority determines necessary or proper;

3. Acquire property. Acquire property, including, but not limited to, railroad lines, both within and outside of this State; and

4. Cooperate with government agencies. Cooperate and enter into agreements, contracts and compacts with any government agency, the National Railroad Passenger Corporation and any other person, public or private.

§8005. Initial funding

1. Funds for implementation. The authority is directed to seek and use funds necessary for the implementation of this chapter, in an amount not less than \$40,000,000, exclusive of any interest or other debt service or expenses paid for funds borrowed through bond issues or otherwise.

2. Expenditure of funds. These funds must be spent first to reinstate, on or before December 31, 1995 regularly scheduled passenger rail service between Portland, Maine and Boston, Massachusetts, and points between. Any funds that exceed those necessary to reinstate service between those points must be spent by the authority to extend, to the extent practicable, regularly scheduled passenger rail service to other points within and outside of this State.

§8006. Additional funding

The authority is directed to use any revenues it receives from the operation of the passenger rail service established pursuant to this chapter to pay the operational expenses of that service. The authority is directed to seek and use funds necessary to pay all operational expenses of this passenger rail service that are not met by fares and other funds or revenues. For the purposes of this section, "operational expenses" include, but are not limited to, all additional capital

expenses necessary to maintain the passenger rail service.

§8007. Federal funds

The authority may take all actions consistent with this chapter necessary to qualify for, accept and disburse any money that the Federal Government may grant or loan to the authority to fund any actions required of the authority under the terms of this chapter.

§8008. Government agencies

Any government agency may allocate money and take other actions that may aid in the implementation of this chapter. The authority may provide funds, including loans and matching grants, to government agencies in order to encourage their participation in implementing this chapter.

§8009. Reasonable fares

Fares for the passenger rail service established pursuant to this chapter must be set at reasonable levels to encourage use of this service.

§8010. Satisfaction of operating deficits

The authority is directed to obtain all additional funds, through borrowing, revenues or other means, necessary to satisfy operating deficits arising from expenses, including capital expenditures, necessary to ensure the continuation of passenger rail service established pursuant to this chapter.

§8011. Rules of construction

This chapter must be construed liberally to effectuate the purposes of this chapter. Any amount of money set forth in this chapter is intended to represent a minimum amount that may be spent to effect those purposes. The State may appropriate to the authority, and the authority may expend, additional amounts for those purposes.

SUBCHAPTER II

NORTHERN NEW ENGLAND PASSENGER RAIL AUTHORITY

§8111. Purpose

The Northern New England Passenger Rail Authority, as established by Title 5, section 12004-F, subsection 16, is a body both corporate and politic in the State established for the general purpose of promoting passenger rail service as set forth in subchapter I. It is declared that the purposes of this chapter are public and that the authority shall be regarded as performing a governmental function in carrying out this chapter. The authority, as successor

in interest of the Department of Transportation and to its rights, privileges and liabilities as set forth in subchapter I, shall receive any federal and state funds previously authorized to the department for that purpose, and upon creation of the authority all such rights, privileges and liabilities of the department cease.

§8112. Directors

1. Board of directors. The authority consists of a board of 5 directors appointed by the Governor each to serve for 5 years; except for those first appointed one director is appointed for one year, one director for 2 years, one director for 3 years and one director for 4 years. Immediately after their appointments, the directors of the authority shall enter upon their duties. The Governor shall name one of the appointed members as chair of the authority. The directors shall elect a treasurer and a secretary who need not be members of the authority and any other officers as the board of directors from time to time considers necessary. Any vacancy must be filled for the unexpired term by the Governor. A vacancy in the authority does not impair the right of a quorum of the directors to exercise all the rights and perform all the duties of the authority. The Governor may remove a member from the authority for misconduct.

2. Meetings of directors; compensation. All the powers of the authority may be exercised by the board of directors in lawful meeting and a majority of the directors are necessary for a quorum. Regular meetings of the board of directors may be established by bylaw and notice need not be given to the directors of the regular meeting. Each director is entitled to compensation according to the provisions of Title 5, chapter 379.

§8113. Conflict of interest

A director, officer or employee of the authority may not acquire any interest, direct or indirect, in any contract or proposed contract of the authority. A director, officer or employee may not participate in any decision on any contract entered into by the authority if that individual has any interest, direct or indirect, in any firm, partnership, corporation or association that will be party to such a contract or financially involved in any transaction with the authority; except this prohibition does not apply to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contract or to utility services, the rates for which are fixed or controlled by a governmental agency.

§8114. Powers

The authority may:

1. Suit. Sue and be sued;

2. Seal. Have a seal and alter the seal at pleasure;

3. Bylaws; rules. Adopt from time to time and amend bylaws covering its procedure and rules for the purposes set forth in this chapter; develop and adopt rules in accordance with the Maine Administrative Procedure Act; publish bylaws and rules as necessary or advisable; and cause records of its proceedings to be kept;

4. Employees. Employ such assistants, attorneys, experts, inspectors and such other employees and consultants as the authority considers necessary or desirable for its purposes;

5. Department of Transportation. Utilize the services of the State's Department of Transportation that are available and expedient and all charges for services provided by the department may be paid to it by the authority as mutually agreed upon; and

6. Other action. Take all lawful action necessary and incidental to effectuate the purposes set forth in this chapter.

§8115. Obligations of the authority

All expenses incurred in carrying out this chapter must be paid solely from funds provided to or obtained by the authority pursuant to this chapter. Any notes, obligations or liabilities under this chapter may not be deemed to be a debt of the State or a pledge of the faith and credit of the State; but those notes, obligations and liabilities are payable exclusively from funds provided to or obtained by the authority pursuant to this chapter. Pecuniary liability of any kind may not be imposed upon the State or any locality, town or landowner in the State because of any act, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the authority or its agents, servants or employees. The records and correspondence relating to negotiations, trade secrets received by the authority and estimates of costs on projects to be put out to bid are confidential and the authority is deemed to have a lawyer-client privilege.

§8116. Report to the Legislature; departmental review

1. Annual report. Beginning January 1, 1996, on an annual basis, the authority shall present its report to the Legislative Council and send copies to the joint standing committee of the Legislature having jurisdiction over transportation matters and the Commissioner of Transportation. The report shall include a description of the authority's activities for

the preceding fiscal year, including a report of its receipts and expenditures from all sources.

2. Operating budget. Beginning January 31, 1996, on an annual basis, the authority shall present the operating budget of the authority for the next fiscal year beginning July 1st to the Commissioner of Transportation for approval. The authority may only make expenditures in accordance with allocations approved by the commissioner. Any balance of an allocation that at any time may not be required for the purpose named in that allocation may be transferred at any time prior to the closing of the books to any other allocation for the use of the authority for the same fiscal year subject to review and approval by the commissioner. Fiscal statements describing a transfer must be submitted by the authority to the commissioner 30 days before the transfer is to be implemented. These fiscal statements must include information specifying the accounts that are affected, amounts to be transferred, a description of the transfer and a detailed explanation as to why the transfer is needed.

§8117. Fair practices; affirmative action

The authority is subject to and shall comply with Title 5, chapter 65.

§8118. Property of the authority

1. Property of the authority. All property of the authority pursuant to the provisions of this chapter is exempt from levy and sale by virtue of any execution and an execution or other judicial process is not a valid lien upon its property held pursuant to the provisions of this chapter. The authority may use its property only for the purposes set forth in this chapter.

2. Entry upon lands. The authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it determines necessary or convenient for the purpose of this chapter and the entry may not be deemed a trespass nor is the authority liable for the discovery of any form of waste or environmental contamination.

3. Authority for transfer of interest in land to the authority. Any county, municipality or other political subdivision, any public agency or commission of the State and any public service corporation or district, notwithstanding any contrary provisions of law, may lease, lend, grant or convey to the authority, upon its request and upon such terms and conditions as the proper authorities of the political subdivision, agency, commission, public service corporation or district determine reasonable and fair, any real or personal property or rights in the property that are necessary or convenient to the effectuation of the

authorized purposes of the authority, including real and personal property or rights in the property already devoted to public use. As used in the subsection, the term "public service corporation" includes a public utility as defined in Title 35-A, section 102, subsection 13 and a corporation referred to in Title 13-A.

§8119. Exemption from taxes

Because the accomplishment by the authority of the authorized purpose stated in this chapter is for the benefit of the people of the State and for the improvement of their commerce and prosperity and is the performance of essential governmental functions, the authority may not be required to pay any taxes or assessment on any property acquired or used by it for the purposes provided in this chapter; except that service facilities leased or rented by the authority to business entities are subject to taxation and assessments must be made against the tenant in possession based upon the value of the leasehold interest, both real and personal. The authority may not be required to pay any tax upon its income except as may be required by the laws of the United States.

Sec. 4. Transfer of funds from the State's Department of Transportation to the Northern New England Passenger Rail Authority.

The State's Department of Transportation is authorized to transfer up to \$3,000,000 allocated to railroad and airport improvements by Private and Special Law 1991, chapter 113, Part B, section 6 to the Northern New England Passenger Rail Authority.

Sec. 5. Authority expenditures. Before July 1, 1996, the Northern New England Passenger Rail Authority may make expenditures only upon the review by and approval of the Commissioner of Transportation.

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

Effective June 29, 1995.

CHAPTER 375

S.P. 561 - L.D. 1528

An Act Concerning Reports of Material Transactions and Other Provisions of the Maine Insurance Code

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

PART A

Sec. A-1. 24-A MRSA §423-C is enacted to read:

§423-C. Reports of material transactions

1. Report required. Every domestic insurer must file a report with the superintendent, on or before the 15th day of each month, if it has engaged in a material investment or reinsurance transaction during the preceding month that has not already been separately reported to the superintendent or submitted to the superintendent for prior review.

2. Material transactions defined. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Material investment transaction" means an acquisition or disposition of an asset or the aggregate of a series of related acquisitions or related dispositions during a 30-day period that is nonrecurring, not in the ordinary course of business and involving more than 5% of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the superintendent. Asset acquisitions and dispositions include without limitation a purchase, sale, lease, exchange, merger, consolidation, succession, mortgage, hypothecation, assignment, whether for the benefit of creditors or otherwise, abandonment or destruction. Asset acquisition does not include the construction or development of real property for the use of the reporting insurer or the acquisition of materials for such construction or development.

B. "Material reinsurance transaction" means:

(1) A transaction involving property and casualty business, including accident and health business written by a property and casualty insurer, that involves more than 50% of either the insurer's total ceded written premium or the insurer's total ceded indemnity and loss adjustment reserves;

(2) A transaction involving life, annuity or accident and health business that causes a change, either positive or negative, in the current total reserve credit taken for all life, annuity and accident and health business of more than 50% from the total reserve credit taken for such business in the insurer's most recent annual statement. "Total reserve credit" includes reserve credit taken for unearned premiums, reserve credit taken other than for unearned premiums and amounts recoverable on paid and unpaid losses for all reinsurance ceded;

(3) Any transaction in which either:(a) An authorized reinsurer representing more than 10% of the insurer's total reserve credit for business ceded is replaced by one or more unauthorized reinsurers; or(b) Previously established collateral requirements have been reduced or waived for one or more unauthorized reinsurers representing collectively more than 10% of the insurer's total reserve credit for business ceded; or(4) Transactions otherwise falling within the scope of this paragraph do not need to be reported if:(a) In the case of a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10% of its total written premium for direct and assumed business;(b) In the case of a life, annuity and accident and health insurer, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10% of the statutory reserve requirement before any cession; or(c) The transaction falls within the scope of a previously reported reinsurance agreement.

3. Reporting procedures. Reports for material investment transactions and material reinsurance transactions must follow the following procedures.

A. A report of a material investment transaction must include the following information:

(1) Date of the transaction;(2) Manner of acquisition or disposition;(3) Description of the assets involved;(4) Nature and amount of the consideration given or received;(5) Purpose of or reason for the transaction;(6) Manner by which the amount of consideration was determined;(7) Gain or loss recognized or realized as a result of the transaction; and(8) Name of the person from whom the assets were acquired or to whom they were disposed.

B. A report of a material reinsurance transaction must include the following information:

(1) Effective date of the nonrenewal, cancellation or revision of the reinsurance agreement affected by the transaction;(2) The description of the transaction with an identification of the initiator of the transaction;(3) Purpose of or reason for the transaction; and(4) If applicable, the identity of the replacement reinsurers.

C. Material transactions must be reported on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that uses a pooling arrangement of 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves, and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is considered to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct and assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus.

4. Confidentiality. All reports obtained by or disclosed to the superintendent pursuant to this section are confidential, are not subject to subpoena and may not be made public by the superintendent, the National Association of Insurance Commissioners or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains. If the superintendent, after giving the insurer that would be affected notice and an opportunity for hearing, determines that publication is in the interest of policyholders, shareholders or the public, the superintendent may publish all or any part of a report in the manner the superintendent determines to be appropriate.

PART B

Sec. B-1. 24-A MRSA §216, sub-§5 is enacted to read:

5. In order to assist the superintendent in the regulation of insurers in this State, it is the duty of the superintendent to maintain as confidential a document

or information received from the National Association of Insurance Commissioners or insurance departments of other states, if the document or the information has been provided to the superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information. The superintendent may share information, including otherwise confidential information, with the National Association of Insurance Commissioners, insurance departments of other states or other state agencies, if the other jurisdiction or agency agrees to maintain the same level of confidentiality as is available under Maine law. This subsection does not alter prohibitions or restrictions applicable to ex parte contacts in the course of an adjudicatory proceeding in which a state agency is a party. For purposes of this subsection, "other state agencies" includes bureau personnel and consultants designated as serving in an advocacy capacity.

PART C

Sec. C-1. 24-A MRSA §3, as enacted by PL 1969, c. 132, §1, is amended to read:

§3. "Insurance" defined

"Insurance" is a contract ~~whereby~~ under which one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, or to pay or grant a specified amount or determinable benefit or annuity in connection with ascertainable risk contingencies, or to act as surety. A charitable gift annuity agreement, as defined in section 703-A, is not considered insurance.

Sec. C-2. 24-A MRSA §703, as enacted by PL 1969, c. 132, §1, is amended to read:

§703. "Annuity" defined

For the purposes of this Title, an "annuity" is a contract under which obligations are assumed with respect to periodic payments for a specific term or terms or where the making or continuance of all or of some of ~~such~~ the payments, or the amount of ~~any such~~ a payment, is dependent upon the continuance of human life, except payments made pursuant to optional modes of settlement under the authority of section 702 (~~"life insurance" defined~~). ~~Such a~~ A contract ~~which that~~ includes extra benefits of the kinds ~~set forth defined~~ in sections 702 (~~life insurance defined~~) and 704 (~~health insurance defined~~) ~~shall nevertheless be~~ is deemed to be an annuity, if ~~such the~~ extra benefits constitute a subsidiary or incidental part of the entire contract. A charitable gift annuity agreement, as defined in section 703-A, is not insurance.

Sec. C-3. 24-A MRSA §703-A is enacted to read:

§703-A. Charitable gift annuity agreement

1. Charitable gift annuity agreement defined.

For the purposes of this Title, a "charitable gift annuity agreement" is a written contract in which a qualified organization receives money or other property conditioned upon the organization's agreement to pay an annuity to one or more individuals; as long as, with respect to the organization, the annuity meets the requirements for exclusion from the definition of "acquisition indebtedness" under the Internal Revenue Code, Section 514(c)(5) or a successor provision.

2. Qualified organization defined. For the purposes of this Title, a "qualified organization" is an organization that is privately and specially established as an instrumentality of the State for a nonprofit purpose or an organization that meets the following requirements.

A. The organization is a nonprofit organization that is either:

(1) An organization to which the Maine Nonprofit Corporation Act applies; or

(2) Organized under the laws of a jurisdiction within the United States and qualified as a foreign corporation pursuant to Title 13-B, chapter 12.

B. The organization qualifies as a tax-exempt organization under the Internal Revenue Code, Section 501(c)(3) or a successor provision.

C. The organization:

(1) Has been operating continuously for 5 or more years;

(2) Is a parent or subsidiary of a qualified organization; or

(3) Is the successor to an organization that meets the requirements of paragraphs A and B and both organizations together have operated continuously for 5 or more years.

Sec. C-4. 24-A MRSA §707, sub-§3, as enacted by PL 1991, c. 385, §7, is amended to read:

3. An insurer other than a casualty insurer may transact employee benefit excess insurance only if that insurer is authorized to insure the class of risk assumed by the underlying benefit plan. Employee benefit excess insurance, even if written by a life or health insurer, is not subject to chapters 29 and 31 to 37, except to the extent that particular provisions are made expressly applicable by rule or law. The superintendent may by rule set standards distinguishing excess insurance from basic insurance.

Sec. C-5. 24-A MRSA §2501, as amended by PL 1977, c. 261, §1, is further amended to read:

§2501. Scope of chapter

This chapter applies only to contracts of life insurance and annuities, other than reinsurance, group life insurance and group annuities, except that section 2537 (separate accounts) ~~shall also apply~~ applies as to group life insurance and group annuity contracts. ~~No provision of this chapter shall apply to annuity agreements executed under chapter 30.~~

Sec. C-6. 24-A MRSA c. 30, as amended, is repealed.

PART D

Sec. D-1. 24-A MRSA §413-A is enacted to read:

§413-A. Alien insurer; port of entry

1. Port of entry. An alien insurer that has been authorized by the superintendent to use the State as its port of entry for the transaction of business in the United States is considered a domestic insurer to the extent provided in this section.

2. Rules. The superintendent shall adopt rules establishing the terms and conditions of port of entry authorization, which include without limitation:

A. The requirements an alien insurer must satisfy to qualify for port of entry authorization. These requirements must include, at a minimum:

(1) Agreement to adhere to all laws applicable to domestic insurers;

(2) Maintenance of appropriate trust surplus or other adequate security within the State;

(3) Maintenance of records of all United States operations within the State; and

(4) Maintenance of a separate financial reporting system for United States operations;

B. The procedures for obtaining, maintaining and terminating port of entry authorization; and

C. Modifications of the provisions of this Title, and of the rules adopted by the superintendent that apply to domestic insurers, as the superintendent determines necessary for the appropriate regulation of alien insurers with port of entry authorization.

See title page for effective date.

CHAPTER 376

H.P. 1118 - L.D. 1562

**An Act to Implement the
Recommendations of the Governor's
Task Force on Motor Carrier
Safety Laws**

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

Sec. 1. 5 MRSA §12004-G, sub-§33-C is enacted to read:

<u>33-C. Motor</u>	<u>Expenses Only</u>	<u>29-A</u>
<u>Carrier Transportation</u>		<u>MRSA</u>
<u>Review Board</u>		<u>§562</u>

Sec. 2. 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. Notwithstanding Title 17-A, section 1301, the minimum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations, Parts 395.3, 395.8e and 395.8k is \$250.

Sec. 3. 29-A MRSA §562 is enacted to read:

§562. Motor Carrier Review Board

1. Establishment. The Motor Carrier Review Board, as established by Title 5, section 12004-G, subsection 33-C and referred to in this section as the "board," is created to review motor carriers whose Bureau of Motor Vehicle records indicate significant and repeated motor carrier violations.

2. Members. The board consists of 7 members appointed by the Governor to serve 3-year terms as follows:

A. One member who is a representative of the Maine Motor Transport Association;

B. One member who is a representative of a motor carrier that owns fewer than 10 commercial motor vehicles;

C. One member who is a representative of a motor carrier that owns 10 or more commercial motor vehicles;

D. One member who is a representative of the Maine Forest Products Council;

E. One member who is a representative of the commercial motor vehicle insurance industry;

F. One member who is a representative of the Maine Professional Drivers' Association; and

G. One member who is a resident of this State and who is not and has never been employed in the motor carrier industry.

The Governor shall name the chair from among the appointed members.

3. Powers and duties. The board shall review the records of motor carriers with significant and repeated motor carrier violations. The board may hold a hearing as part of its review and must hold a hearing if requested by the motor carrier. The board may recommend to the Secretary of State that the motor carrier's operating authority license be suspended.

4. Rules. The board may adopt rules pursuant to the Maine Administrative Procedure Act to carry out the purposes of this section.

5. Staffing and expenses. The Secretary of State shall provide administrative support and compensation for actual and necessary expenses of the board.

Sec. 4. Study concerning the opening of the York weigh station on a full-time basis. The Department of Transportation, the Bureau of Taxation and the Bureau of State Police shall conduct a study to explore the feasibility and impact of opening the York weigh station located on Interstate 95 on a full-time basis. The study must include an evaluation of the operational feasibility of weighing commercial vehicles on a 24-hour basis at the existing facility, the equipment and personnel needed, the impact on the collection of fuel taxes, the impact of vehicles using alternate routes on road surfaces and traffic patterns and the impact of the port-of-entry concept on the commercial motor vehicle industry. The Department of Transportation, the Bureau of Taxation and the Bureau of State Police shall submit a report including findings, recommendations and any proposed legislation to the joint standing committee of the Legislature having jurisdiction over transportation matters and the Executive Director of the Legislative Council no later than January 31, 1996.

Sec. 5. Study committee on motor carrier training. The Secretary of State shall convene a committee to study the provision of entry-level training and continuing education for commercial vehicle operators. The Secretary of State shall invite representatives of the Department of Transportation, the Department of Public Safety, the Maine Technical College System, the insurance industry and the motor carrier industry to serve on the committee. The study

committee shall submit recommendations for training requirements and methods of providing training and any proposed legislation to the joint standing committee of the Legislature having jurisdiction over transportation matters and the Executive Director of the Legislative Council no later than January 31, 1996.

See title page for effective date.

CHAPTER 377

S.P. 587 - L.D. 1571

An Act to Establish Legislative Guidelines for Secession

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

Sec. 1. 30-A MRSA c. 113 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 113

CONSOLIDATION, SECESSION AND ANNEXATION

SUBCHAPTER I

CONSOLIDATION

Sec. 2. 30-A MRSA c. 113, sub-c. II is enacted to read:

SUBCHAPTER II

Secession and Annexation Standards

§2171. Legislative intent

The Legislature finds that the citizens of the State in accordance with the Constitution of Maine, Article I, Section 2, have an unalienable and indefeasible right to institute government and to alter, reform or totally change the same, when their safety and happiness require it. The Legislature further finds that the Legislature has the responsibility to ensure that the rights of all citizens are protected and that a decision to alter or otherwise change the boundaries of a municipal government should be made with caution and only after careful consideration of the guidelines set forth in this subchapter.

§2172. Guidelines for legislation proposing secession

A territory that seeks to have legislation submitted on its behalf proposing its secession from a municipality shall provide the Legislature with the

following information, if available, which the Legislature may use in making a determination on a proposal for secession:

1. Use of alternative dispute resolution. Any report prepared by a neutral 3rd party on the extent to which the secession territory and the affected municipality have attempted to resolve their differences through alternative dispute resolution such as mediation, facilitation or arbitration;

2. Effective date. The date on which a proposed secession is effective;

3. Provision of educational services. Plans for the provision of educational services, including school transportation services for all students in the proposed secession territory;

4. Distribution of tangible assets and liabilities. Plans regarding the distribution of assets and liabilities;

5. Information about municipality. The following information concerning the municipality and the proposed secession territory:

A. Present population, past population change and projected population for the secession territory;

B. Quantity of land within the secession territory proposed for incorporation; the natural terrain of the secession territory, including general topography, major watersheds, soil conditions; and such natural features as rivers and lakes;

C. Present pattern of physical development in the secession territory, including residential, industrial, commercial, agricultural and institutional land uses; and the present transportation network and potential transportation issues, including proposed highway development;

D. Land use controls and planning presently being utilized in the secession territory, including comprehensive plans for development in the secession territory;

E. Present governmental services being provided to the secession territory, including water and sewer service, fire protection, police protection, street improvements and maintenance, administrative services and recreational facilities;

F. Existing or potential problems of environmental pollution and the need for additional services to resolve these problems;

G. Fiscal data of the secession territory, including the net tax capacity of the proposed secession territory and the impact on the municipality from

which the territory proposes to secede; the present bonded indebtedness; and the local tax rates of the county, school district and municipality;

H. Effect of the proposed incorporation on communities adjacent to the secession territory and on school districts within and adjacent to the secession territory; and

I. Ability of municipal government to deliver services to the secession territory; and

6. Community support. The extent to which the proposed secession territory and the affected municipality or municipalities have demonstrated support or opposition for a proposal for secession, including the use of petitions, votes or other methods of indicating support or opposition.

See title page for effective date.

CHAPTER 378

H.P. 182 - L.D. 230

An Act Adopting the Uniform Health-care Decisions Act

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

PART A

Sec. A-1. 18-A MRSA Art. V, Pt. 8 is enacted to read:

PART 8

UNIFORM HEALTH-CARE DECISIONS ACT

§5-801. Definitions

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

(a) "Advance health-care directive" means an individual instruction from, or a power of attorney for health care by, an individual with capacity.

(b) "Agent" means an individual with capacity designated in a power of attorney for health care to make a health-care decision for the individual granting the power.

(c) "Capacity" means the ability to have a basic understanding of the diagnosed condition and to understand the significant benefits, risks and alternatives to the proposed health care and the consequences of foregoing the proposed treatment, the ability to

make and communicate a health care decision and the ability to understand the consequences of designating an agent or surrogate to make health-care decisions.

(d) "Guardian" means a judicially appointed guardian or conservator having authority to make a health-care decision for an individual.

(e) "Health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition.

(f) "Health-care decision" means a decision made by an individual with capacity or by the individual's agent, guardian or surrogate, regarding the individual's health care, including:

(1) Selection and discharge of health-care providers and institutions;

(2) Approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(3) Directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care, including life-sustaining treatment.

(g) "Health-care institution" means an institution, facility or agency licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

(h) "Health-care provider" means an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession.

(i) "Individual instruction" means a direction from an individual with capacity concerning a health-care decision for the individual.

(j) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(k) "Physician" means an individual authorized to practice medicine under Title 32.

(l) "Power of attorney for health care" means the designation of an agent with capacity to make health-care decisions for the individual granting the power.

(m) "Primary physician" means a physician designated by an individual with capacity or by the individual's agent, guardian or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated

physician is not reasonably available, a physician who undertakes the responsibility.

(n) "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health-care needs.

(o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States.

(p) "Supervising health-care provider" means the primary physician or, if there is no primary physician or the primary physician is not reasonably available, the health-care provider who has undertaken primary responsibility for an individual's health care.

(q) "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make a decision to withhold or withdraw life-sustaining treatment for a patient who does not have capacity and who is either in a terminal condition or in a persistent vegetative state.

(r) "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a person without capacity and in either a terminal condition or a persistent vegetative state, will serve only to prolong the process of dying. "Life-sustaining treatment" may include artificially administered nutrition and hydration, which is the provision of nutrients and liquids through the use of tubes, intravenous procedures or similar medical interventions.

(s) "Persistent vegetative state" means a state that occurs after coma in which the patient totally lacks higher cortical and cognitive function, but maintains vegetative brain stem processes, with no realistic possibility of recovery, as diagnosed in accordance with acceptable medical standards.

(t) "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, in the opinion of the primary physician, will result in death within a relatively short time.

§5-802. Advance health-care directives

(a) An adult or emancipated minor with capacity may give an individual instruction. The instruction may be oral or written. The instruction may be limited to take effect only if a specified condition arises. An oral instruction is valid only if made to a health-care provider or to an individual who may serve as a surrogate under section 5-805, subsection (b).

(b) An adult or emancipated minor with capacity may execute a power of attorney for health care, which may authorize the agent to make any health-care decision the principal could have made while having capacity. The power must be in writing and signed by the principal and 2 witnesses. The power remains in effect notwithstanding the principal's later incapacity and may include individual instructions. Unless related to the principal by blood, marriage or adoption, an agent may not be an owner, operator or employee of a residential long-term health-care institution at which the principal is receiving care.

(c) Unless otherwise specified in a power of attorney for health care, the authority of an agent becomes effective only upon a determination that the principal lacks capacity, and ceases to be effective upon a determination that the principal has recovered capacity.

(d) Unless otherwise specified in a written advance health-care directive, a determination that an individual lacks or has recovered capacity or that another condition exists that affects an individual instruction, the authority of an agent or the validity of an advanced health-care directive must be made by the primary physician or by a court of competent jurisdiction.

(e) An agent shall make a health-care decision in accordance with the principal's individual instructions, if any, and other wishes to the extent known to the agent. Otherwise, the agent shall make the decision in accordance with the agent's determination of the principal's best interest. In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

(f) A health-care decision made by an agent for a principal is effective without judicial approval.

(g) A written advance health-care directive may include the individual's nomination of a guardian of the person.

(h) An advance health-care directive is valid for purposes of this Part if it complies with this Part, regardless of when or where executed or communicated, or if valid under the laws of the state in which it was executed.

§5-803. Revocation of advance health-care directive

(a) An individual with capacity may revoke the designation of an agent only by a signed writing or by personally informing the supervising health-care provider.

(b) An individual with capacity may revoke all or part of an advance health-care directive, other than

the designation of an agent, at any time and in any manner that communicates an intent to revoke.

(c) A health-care provider, agent, guardian or surrogate who is informed of a revocation by an individual with capacity shall promptly communicate the fact of the revocation to the supervising health-care provider and to any health-care institution at which the patient is receiving care.

(d) A decree of annulment, divorce, dissolution of marriage or legal separation revokes a previous designation of a spouse as agent unless otherwise specified in the decree or in a power of attorney for health care.

(e) An advance health-care directive that conflicts with an earlier advance health-care directive revokes the earlier directive to the extent of the conflict.

§5-804. Optional form

The following form may, but need not, be used to create an advance health-care directive. The other sections of this Part govern the effect of this or any other writing used to create an advance health-care directive. An individual with capacity may complete or modify all or any part of the following form.

ADVANCE HEALTH-CARE DIRECTIVE

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health-care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding donation of organs and the designation of your primary physician. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health-care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a residential long-term health-care institution at which you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health-care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit

the authority of your agent if you wish to rely on your agent for all health-care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

(a) Consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;

(b) Select or discharge health-care providers and institutions;

(c) Approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(d) Direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care, including life-sustaining treatment.

Part 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding the provision, withholding or withdrawal of treatment to keep you alive, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

Part 3 of this form lets you express an intention to donate your bodily organs and tissues following your death.

Part 4 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. You must have 2 other individuals sign as witnesses. Give a copy of the signed and completed form to your physician, to any other health-care providers you may have, to any health-care institution at which you are receiving care and to any health-care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health-care directive or replace this form at any time.

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health-care decision for me, I designate as my second alternate agent:

(name of individual you choose as second alternate agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician determines that I am unable to make my own health-care decisions unless I mark the following box. If I mark this box [], my agent's authority to make health-care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may strike any wording you do not want.

(6) END-OF-LIFE DECISIONS: I direct that my health-care providers and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have marked below:

☐ (a) Choice Not To Prolong Life

I do not want my life to be prolonged if (i) I have an incurable and irreversible condition that will result in my death within a relatively short time, (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (iii) the likely risks and burdens of treatment would outweigh the expected benefits, OR

☐ (b) Choice To Prolong Life

I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

(7) ARTIFICIAL NUTRITION AND HYDRATION: Artificial nutrition and hydration must be provided, withheld or withdrawn in accordance with the choice I have made in paragraph (6) unless I mark the following box. If I mark this box ☐, artificial nutrition and hydration must be provided regardless of my condition and regardless of the choice I have made in paragraph (6).

(8) RELIEF FROM PAIN: Except as I state in the following space, I direct that treatment for

alleviation of pain or discomfort be provided at all times, even if it hastens my death:

(9) OTHER WISHES: (If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed)

PART 3

DONATION OF ORGANS AT DEATH

(OPTIONAL)

(10) Upon my death (mark applicable box)

☐ (a) I give any needed organs, tissues or parts, OR

☐ (b) I give the following organs, tissues or parts only

(c) My gift is for the following purposes (strike any of the following you do not want)

(i) Transplant

(ii) Therapy

(iii) Research

(iv) Education

PART 4

PRIMARY PHYSICIAN

(OPTIONAL)

(11) I designate the following physician as my primary physician:

(name of physician)

(address)

(city)

(state)

(zip code)

(phone)

OPTIONAL: If the physician I have designated above is not willing, able or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

(12) EFFECT OF COPY: A copy of this form has the same effect as the original.

(13) SIGNATURES: Sign and date the form here:

(date) (sign your name)

(address) (print your name)

(city) (state)

(Optional) SIGNATURES OF WITNESSES:

<u>First witness</u>	<u>Second witness</u>
_____ (print name)	_____ (print name)
_____ (address)	_____ (address)
_____ (city) (state)	_____ (city) (state)
_____ (signature of witness)	_____ (signature of witness)
_____ (date)	_____ (date)

§5-805. Decisions by surrogate

(a) A surrogate may make a decision to withhold or withdraw life-sustaining treatment for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity, no agent or guardian has been appointed or the agent or guardian is not reasonably available and the patient is in a terminal condition or a persistent vegetative state as determined by the primary physician.

(b) Any member of the following classes of the patient's family who is reasonably available, in descending order of priority, may act as surrogate:

- (1) The spouse, unless legally separated;
- (2) An adult child;
- (3) A parent;
- (4) An adult brother or sister;
- (5) An adult grandchild;
- (6) An adult niece or nephew, related by blood or adoption;
- (7) An adult aunt or uncle, related by blood or adoption; or
- (8) Another adult relative of the patient, related by blood or adoption, who is familiar with the patient's personal values and is reasonably available for consultation.

(c) If none of the individuals eligible to act as surrogate under subsection (b) is reasonably available, an adult who has exhibited special concern for the patient, who is familiar with the patient's personal values and who is reasonably available may act as surrogate.

(d) A surrogate shall communicate the surrogate's assumption of authority as promptly as practicable to the members of the patient's family specified in subsection (b) who can be readily contacted.

(e) If more than one member of a class assumes authority to act as surrogate and they, or members of different classes who are reasonably available, do not agree on a health-care decision and the supervising health-care provider is so informed, the supervising health-care provider may comply with the decision of the class having priority or a majority of the members of that class who have communicated their views to the provider. The health-care provider may refer the members of the class or classes to a neutral 3rd party for assistance in resolving the dispute or to a court of competent jurisdiction. If the class is evenly divided concerning the health-care decision and the supervising health-care provider is so informed, that class and all individuals having lower priority are disqualified from making the decision.

(f) A surrogate shall make a health-care decision in accordance with the patient's individual instructions, if any, and other wishes to the extent known to the surrogate. Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the patient's best interest and in good faith. In determining the patient's best interest, the surrogate shall consider the patient's personal values to the

extent known to the surrogate. A consent is not valid if it conflicts with the intention of the patient previously expressed to the surrogate.

(g) A health-care decision made by a surrogate for a patient lacking capacity is effective without judicial approval.

(h) An individual with capacity at any time may disqualify another, including a member of the individual's family, from acting as the individual's surrogate by a signed writing or by personally informing the supervising health-care provider of the disqualification.

(i) A surrogate may not be an owner, operator or employee of a residential long-term health-care institution at which the patient is receiving care unless the surrogate is one of the following:

- (1) The spouse of the patient;
- (2) An adult child of the patient;
- (3) A parent of the patient; or
- (4) A relative of the patient with whom the patient has resided for more than 6 months prior to the decision.

(j) A supervising health-care provider may require an individual claiming the right to act as surrogate for a patient to provide a written declaration under penalty of perjury stating facts and circumstances reasonably sufficient to establish the claimed authority.

§5-806. Decisions by guardian

(a) Except as authorized by a court of competent jurisdiction, a guardian shall comply with the ward's individual instructions and other wishes, if any, expressed while the ward had capacity and to the extent known to the guardian, and may not revoke the ward's advance health-care directive unless the appointing court expressly so authorizes.

(b) Absent a court order to the contrary, a health-care decision of an agent takes precedence over that of a guardian.

(c) A health-care decision made by a guardian for the ward is effective without judicial approval, except under the following circumstances:

- (1) The guardian's decision is contrary to the ward's individual instructions and other wishes, expressed while the ward had capacity; or
- (2) The guardian seeks to withhold or withdraw life-sustaining treatment from the ward, against the advice of the ward's primary physician and in

the absence of instructions from the ward, made while the ward had capacity.

§5-807. Obligations of health-care provider

(a) Before implementing a health-care decision made for a patient, a supervising health-care provider, if possible, shall promptly communicate to the patient the decision made and the identity of the person making the decision.

(b) A supervising health-care provider who knows of the existence of an advance health-care directive, a revocation of an advance health-care directive or a designation or disqualification of a surrogate shall promptly record its existence in the patient's health-care record and, if it is in writing, shall request a copy and if one is furnished shall arrange for its maintenance in the health-care record.

(c) A primary physician who makes or is informed of a determination that a patient lacks or has recovered capacity or that another condition exists that affects an individual instruction or the authority of an agent, guardian, or surrogate or the validity of an advance health-care directive shall promptly record the determination in the patient's health-care record and communicate the determination to the patient, if possible, and to any person then authorized to make health-care decisions for the patient.

(d) Except as provided in subsections (e) and (f), a health-care provider or institution providing care to a patient shall:

(1) Comply with an individual instruction of the patient and with a reasonable interpretation of that instruction made by a person then authorized to make health-care decisions for the patient; and

(2) Comply with a health-care decision for the patient made by a person then authorized to make health-care decisions for the patient to the same extent as if the decision had been made by the patient while having capacity.

(e) A health-care provider may decline to comply with an individual instruction or health-care decision if the instruction or decision appears not to be in compliance with this Act or for reasons of conscience. A health-care institution may decline to comply with an individual instruction or health-care decision if the instruction or decision appears not to be in compliance with this Act or if the instruction or decision is contrary to a policy of the institution that is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health-care decisions for the patient.

(f) A health-care provider or institution may decline to comply with an individual instruction or health-care decision that requires medically ineffective health care or health care contrary to generally accepted health-care standards applicable to the health-care provider or institution.

(g) A health-care provider or institution that declines to comply with an individual instruction or health-care decision shall:

(1) Promptly so inform the patient, if possible, and any person then authorized to make health-care decisions for the patient;

(2) Provide continuing care to the patient until a transfer can be effected or a court of competent jurisdiction issues a final order regarding the decision; and

(3) Unless the patient or person then authorized to make health-care decisions for the patient refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health-care provider or institution that is willing to comply with the instruction or decision.

(h) A health-care provider or institution may not require or prohibit the execution or revocation of an advance health-care directive as a condition for providing health care.

§5-808. Health-care information

Unless otherwise specified in an advance health-care directive, a person then authorized to make health-care decisions for a patient has the same rights as the patient to request, receive, examine, copy and consent to the disclosure of medical or any other health-care information.

§5-809. Immunities

(a) A health-care provider or institution acting in good faith and in accordance with generally accepted health-care standards applicable to the health-care provider or institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(1) Complying with a health-care decision of a person apparently having authority and capacity to make a health-care decision for a patient, including a decision to withhold or withdraw health care;

(2) Declining to comply with a health-care decision of a person based on a belief that the person then lacked authority or capacity, or that the decision otherwise does not comply with this Act;

(3) Complying with an advance health-care directive and assuming that the directive was valid when made and has not been revoked or terminated; or

(4) Seeking judicial relief from a court of competent jurisdiction.

(b) An individual acting as agent, guardian or surrogate under this Part is not subject to civil or criminal liability or to discipline for unprofessional conduct for health-care decisions made in good faith.

§5-810. Statutory damages

(a) A health-care provider or institution that intentionally violates this Part is subject to liability to the aggrieved individual for damages of \$500 or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.

(b) A person who intentionally falsifies, forges, conceals, defaces or obliterates an individual's advance health-care directive or a revocation of an advance health-care directive without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke or not to give an advance health-care directive, is subject to liability to that individual for damages of \$2,500 or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.

§5-811. Capacity

(a) This Part does not affect the right of an individual to make health-care decisions while having capacity to do so.

(b) An individual is presumed to have capacity to make a health-care decision, to give or revoke an advance health-care directive and to designate or disqualify a surrogate. This presumption may be rebutted by a determination by the individual's primary physician or by a court of competent jurisdiction.

§5-812. Effect of copy

A copy of a written advance health-care directive, revocation of an advance health-care directive or designation or disqualification of a surrogate has the same effect as the original.

§5-813. Effect of Part

(a) This Part does not create a presumption concerning the intention of an individual who has not made or who has revoked an advance health-care directive.

(b) Death resulting from the withholding or withdrawal of health care in accordance with this Part

does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit, notwithstanding any term of the policy or annuity to the contrary.

(c) This Part does not authorize mercy killing, assisted suicide, euthanasia or the provision, withholding, or withdrawal of health care to the extent prohibited by other statutes of this State.

(d) This Part does not authorize or require a health-care provider or institution to provide health care contrary to generally accepted health-care standards applicable to the health-care provider or institution.

(e) This Part does not authorize an agent or surrogate to consent to the admission of an individual to a mental health-care institution unless the individual's written advance health-care directive expressly so provides.

(f) This Part does not affect other statutes of this State governing treatment for mental illness of an individual involuntarily committed to a mental health-care institution.

§5-814. Judicial relief

On petition of a patient, the patient's agent, guardian or surrogate, a health-care or social services provider or institution involved with the patient's care, a state agency mandated to provide adult protective services pursuant to Title 22, sections 3472 to 3487, or an adult relative or adult friend of the patient, the court may enjoin or direct a health-care decision or other equitable relief.

§5-815. Uniformity of application and construction

This Part must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject matter of this Part among states enacting it.

§5-816. Short title

This Part may be cited as the Uniform Health-care Decisions Act.

§5-817. Effective date

This Part takes effect on October 1, 1995.

PART B

Sec. B-1. 18-A MRSA §5-209, sub-§(c), as amended by PL 1991, c. 719, §1, is further amended to read:

(c) The guardian is empowered to facilitate the ward's education, social or other activities and to give or withhold consents or approvals related to medical, health or other professional care, counsel, treatment or service for the ward. The guardian is empowered to withhold or withdraw life-sustaining treatment ~~when the ward is in a terminal condition or persistent vegetative state as defined in section 5-701 with respect to qualified patients as set forth in section 5-312, subsection (a), paragraph (3).~~ A guardian is not liable by reason of such giving or withholding of consent for injury to the ward resulting from the negligence or acts of 3rd persons unless it would have been illegal for a parent to have so given or withheld consent. A guardian may consent to the marriage or adoption of the ward.

Sec. B-2. 18-A MRSA §5-312, sub-§(a), ¶(3), as amended by PL 1991, c. 719, §2, is further amended to read:

(3) A guardian may give or withhold consents or approvals related to medical or other professional care, counsel, treatment or service for the ward. ~~The guardian is empowered to withhold or withdraw life sustaining treatment when the ward is in a terminal condition or persistent vegetative state as defined in section 5-701 with respect to qualified patients provided, however, that the guardian shall honor any effective living will declaration executed by the ward pursuant to section 5-702.~~ Except as authorized by a court of competent jurisdiction, a guardian shall make a health-care decision in accordance with the ward's individual instructions, if any, and other wishes expressed while the ward had capacity to the extent known to the guardian. Otherwise, the guardian shall make the decision in accordance with the guardian's determination of the ward's best interest. In determining the ward's best interest, the guardian shall consider the ward's personal values to the extent known to the guardian. A decision of a guardian to withhold or withdraw life-sustaining treatment is effective without court approval unless the guardian's decision is made against the advice of the ward's primary physician and in the absence of instructions from the ward made while the ward had capacity.

Sec. B-3. 18-A MRSA §5-506, sub-§(a), as enacted by PL 1991, c. 719, §3, is amended to read:

(a) A durable health care power of attorney is a durable power of attorney by which a principal designates another as attorney-in-fact to make decisions on the principal's behalf in matters concerning the principal's medical or health treatment and care. An attorney-in-fact designated under a durable health care power of attorney may be authorized to give or withhold consents or approvals relating to any

medical, health or other professional care, counsel, treatment or service of or to the principal by a licensed or professional certified person or institution engaged in the practice of, or providing, a healing art, including life-sustaining treatment when the principal is in a terminal condition or a persistent vegetative state as those terms are defined in section 5-701.

Sec. B-4. 18-A MRSA Art. V, Pt. 7, as amended, is repealed.

Sec. B-5. 29-A MRSA §1403, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1403. Advance health-care directive

Subject to available funding, the Secretary of State shall make ~~living will~~ advance health-care directive forms available in offices of the Bureau of Motor Vehicles. The form must be in substantially the form provided in Title 18-A, section ~~5-702~~ 5-804 and with the addition of a title at the top of the form to read "LIVING WILL" and the following information at the end: "Completion of this form is optional."

See title page for effective date.

CHAPTER 379

S.P. 343 - L.D. 948

An Act to Provide Greater Access to Health Care

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

Sec. 1. 3 MRSA §927, sub-§4, ¶B, as amended by PL 1993, c. 92, §2, is further amended to read:

B. Independent agency:

(6) State Planning Office-; and

(8) Joint Practice Council on Advanced Practice Registered Nursing.

Sec. 2. 5 MRSA §12004-I, sub-§72-C is enacted to read:

<u>72-C.</u>	<u>Joint</u>	<u>Discretion</u>	<u>32 MRSA</u>
<u>Occupations:</u>	<u>Practice</u>	<u>of Appoint-</u>	<u>§2265</u>
<u>Advanced</u>	<u>Council</u>	<u>ing Agency</u>	
<u>Practice</u>	<u>on</u>		
<u>Registered</u>	<u>Advanced</u>		
<u>Nursing</u>	<u>Practice</u>		
	<u>Registered</u>		
	<u>Nursing</u>		

Sec. 3. 32 MRSA §2102, sub-§2, ¶B, as amended by PL 1993, c. 600, Pt. A, §110, is repealed.

Sec. 4. 32 MRSA §2102, sub-§2-A is enacted to read:

2-A. Advanced practice registered nursing.
"Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

A. Consistent with advanced educational qualifications as set forth in section 2201-A, subsection 2;

B. Within the advanced practice registered nurse's scope of practice as specified by the board by rulemaking, taking into consideration any national standards that exist; and

C. In accordance with the standards of practice for advanced practice registered nurses as specified by the board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs.

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the board. In adopting such rules, the board shall invite and consider comment from the Joint Practice Council on Advanced Practice Registered Nursing.

A certified nurse practitioner who qualifies as an advanced practice registered nurse must practice, for at least 24 months, under the supervision of a licensed physician or must be employed by a clinic or hospital that has a medical director who is a licensed physician. The certified nurse practitioner must submit written evidence to the board upon completion of the required clinical experience.

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

Sec. 5. 32 MRSA §2102, sub-§5-A is enacted to read:

5-A. Advanced practice registered nurse.
"Advanced practice registered nurse" means an individual who is currently licensed under this chapter and approved by the board to practice advanced practice registered nursing as defined in subsection 2-A. "A.P.R.N." is the abbreviation for the title of "advanced practice registered nurse." An advanced practice registered nurse may use the abbreviation

"A.P.R.N." or the title or abbreviation designated by the national certifying body.

"Advanced practice registered nurse" includes a certified nurse practitioner, a certified nurse midwife, a certified clinical nurse specialist and a certified nurse anesthetist who are licensed under this chapter and are approved by the board to practice advanced practice registered nursing.

Sec. 6. 32 MRSA §2152, sub-§§1 and 2, as amended by PL 1993, c. 600, Pt. A, §121, are further amended to read:

1. Professional nurses. ~~Five~~ Six professional nurses, each of whom:

- A. Must be a graduate of a state-approved educational program in professional nursing;
- B. Holds a current state license to practice nursing; and
- C. Has at least 3 years' experience in active practice immediately preceding appointment.

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. One of the professional nurse members of the board must be practicing long-term care nursing. One of the professional nurse members of the board must be an advanced practice registered nurse;

2. Licensed practical nurse. ~~Two~~ One licensed practical ~~nurses~~ nurse who:

- A. Must be a graduate of a state-approved educational program in practical nursing;
- B. Holds a current state license to practice practical nursing; and
- C. Has at least 3 years' experience in active practice immediately preceding appointment; and

Sec. 7. 32 MRSA §2201-A is enacted to read:

§2201-A. Qualifications for advanced practice registered nurse

An applicant for approval to practice advanced practice registered nursing shall submit to the board written evidence verified by oath that the applicant:

1. License. Holds a current license to practice as a registered professional nurse in this State;

2. Education. Has successfully completed a formal education program that is acceptable to the board in an advanced nursing specialty area; and

3. Credential. Holds a current certification credential for advanced nursing from a national certifying body whose certification program is acceptable to the board.

A registered professional nurse who is approved by the board to practice in accordance with former section 2102, subsection 2, paragraph B on the effective date of this section is considered to have met the requirements of subsections 2 and 3.

Sec. 8. 32 MRSA §2205-B is enacted to read:

§2205-B. Approval as advanced practice registered nurses

The board may grant approval to practice as an advanced practice registered nurse to a person who qualifies pursuant to section 2201-A.

1. Temporary approval to practice. Temporary approval to practice as an advanced practice registered nurse may be granted by the board:

A. For a period of 90 days to an applicant who is currently approved to practice as an advanced practice registered nurse in another jurisdiction with requirements at least equivalent to those of this State; or

B. For a period of 12 months to an applicant who meets the requirements of section 2201-A, subsections 1 and 2 and who qualifies to take and takes the next available certification examination.

2. Termination. The board may terminate a person's advanced practice registered nurse designation when the person no longer holds a current certification credential.

3. Delegated performance of services. A certified nurse midwife or certified nurse practitioner who is approved by the board as an advanced practice registered nurse may choose to perform medical diagnosis or prescribe therapeutic or corrective measures when these services are delegated by a licensed physician.

Sec. 9. 32 MRSA c. 31, sub-c. VI is enacted to read:

SUBCHAPTER VI

JOINT PRACTICE COUNCIL ON ADVANCED PRACTICE REGISTERED NURSING

§2265. Council

1. Membership. The Joint Practice Council on Advanced Practice Registered Nursing, referred to in this subchapter as the "council," consists of 6 mem-

bers as follows: the chair of the State Board of Nursing, one member of the State Board of Nursing who is approved to practice as an advanced practice registered nurse, the chair of the Board of Licensure in Medicine, the chair of the Board of Osteopathic Licensure, the chair of the Board of Commissioners of the Profession of Pharmacy and one member of the public appointed by the Governor.

2. Chair. The council chair rotates annually among the chairs of the respective boards. The chair of the State Board of Nursing serves as the first chair of the council; the chair of the Board of Licensure in Medicine serves as the 2nd chair; the Chair of the Board of Osteopathic Licensure serves as the 3rd chair; and the chair of the Board of Commissioners of the Profession of Pharmacy serves as the 4th chair. The term of the public member is 4 years.

3. Duties. The council shall make recommendations to the State Board of Nursing regarding the prescription of drugs and devices by advanced practice registered nurses. The council may make other recommendations regarding the practice of advanced practice registered nursing as it considers appropriate.

The duties of the council are advisory in nature.

Sec. 10. Transition provision. Notwithstanding the Maine Revised Statutes, Title 32, section 2152, an advanced practice registered nurse must be appointed to the next vacancy for appointment or reappointment of a public member to the State Board of Nursing. The next vacancy for appointment or reappointment of a licensed practical nurse after the appointment of the advanced practice registered nurse must be filled by the appointment of a public member.

Sec. 11. Effective date. That section of this Act that repeals the Maine Revised Statutes, Title 32, section 2102, subsection 2, paragraph B and those sections that enact Title 32, section 2102, subsections 2-A and 5-A, section 2201-A and section 2205-B take effect January 1, 1996.

See title page for effective date, unless otherwise indicated.

CHAPTER 380

H.P. 314 - L.D. 418

An Act to Amend the Governmental Structure and Budget Approval Process for Cumberland County

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.

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

Whereas, the Cumberland County budget process is in urgent need of revision; and

Whereas, Cumberland County government has grown tremendously in recent years in terms of size, responsibility and cost and is currently in need of restructuring; 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. 30-A MRSA §82, sub-§4, ¶C is enacted to read:

C. The county commissioners of Cumberland County are entitled to receive the salary specified in section 2, regardless of whether that county has a full-time county manager.

Sec. 2. 30-A MRSA §82, sub-§5 is enacted to read:

5. Cumberland County manager required. Notwithstanding the other provisions of this section, no later than January 1, 1996, the county commissioners of Cumberland County shall hire a full-time county manager, who works under their direction to oversee the implementation of county policy and the day-to-day administration of county operations. The appointment, compensation and tenure of the manager are the same as provided for a county administrator pursuant to subsections 1 and 2. The manager:

A. Is responsible for the administration of all departments and offices controlled by the county commissioners;

B. In conjunction with the county commissioners, department heads and budget committee, shall develop a proposed county budget for the coming year, which must be presented to the commissioners no later than October 1st;

C. Shall keep the county commissioners and the county legislative delegation informed as to the financial condition of the county and collect all data necessary to prepare the budget;

D. Shall attend all meetings of the county commissioners, except when the manager's removal or suspension is being considered; and

E. Shall carry out other administrative duties assigned by the commissioners.

Sec. 3. 30-A MRSA §741, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 4. 30-A MRSA §741-A is enacted to read:

§741-A. Cumberland County Budget Advisory Committee

Notwithstanding sections 701 and 702, the county commissioners working in conjunction with the Cumberland County Budget Advisory Committee, established in this section, and the county manager, established in section 82, subsection 5, are responsible for establishing the county budget as provided in this article. The county commissioners shall appropriate money for county expenditures according to the budget established in accordance with this article.

1. Membership; caucus; election. The Cumberland County Budget Advisory Committee consists of the Cumberland County commissioners and 9 municipal officers. The county commissioner members serve on the budget committee in an advisory capacity only and may not vote on any committee matter. The municipal officer members are elected in accordance with this section.

A. There must be 3 members from each commissioner's district.

B. On or before August 15th of each year the county commissioners shall notify all municipal officers to caucus by county commissioner district at a specified date, time and place for the purpose of electing members to the budget committee. Public notice of the meeting must be issued at least 10 days before the meeting is held.

C. The commissioner for each district shall serve as the nonvoting moderator for that district caucus. At the caucus, the municipal officers shall nominate by motion from the floor proposed members to fill any vacancies on the budget committee. For each vacancy the nominee receiving the most votes from among the officers present and voting is elected as a budget committee member.

D. Committee membership terminates when a budget advisory committee member ceases to be a municipal officer or to reside in the commissioner district from which elected. Vacancies occurring on the budget advisory committee must be filled by the committee, subject to confirmation by a majority of the county commissioners. If a vacancy occurs with less than one year remaining in the term of office, the person selected by the committee serves for the balance of the unexpired term. If a vacancy of one year or more occurs, the person selected by the committee serves until the next municipal officers' caucus. At that time a replacement is selected to serve for the balance of the unexpired term. The person appointed to fill the vacant office must be a municipal officer in the same commissioner district as the person vacating the office.

2. Chair; terms; compensation; procedures. Administration of the budget advisory committee is as follows.

A. The budget advisory committee shall select its own chair, vice-chair and secretary each year.

B. Members serve for 3-year terms and may not serve more than 2 consecutive terms.

C. Members may be compensated. The amount and conditions must be unanimously approved by the budget advisory committee and the county commissioners.

D. The committee shall adopt rules of procedure and bylaws each year. In a procedural situation not addressed by these rules and bylaws, Robert's Rules of Order prevail.

E. The county commissioners shall provide the budget advisory committee with necessary clerical assistance, office expenses and suitable meeting space as well as access to appropriate county files and information.

3. Meetings. The budget advisory committee shall conduct its meetings in public in accordance with this subsection and shall record its minutes and votes.

A. The county commissioners shall call an organizational meeting of the budget advisory committee each year within 2 weeks after caucus elections.

B. The county commissioners or the chair of the budget advisory committee may call a meeting for the purpose of discussing county financial matters and approving a county budget.

Sec. 5. 30-A MRSA §742, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 6. 30-A MRSA §742-A is enacted to read:

§742-A. Budget procedures

1. Budgetary planning meetings. During the month of September, county commissioners shall meet with the county manager and county department heads to establish county budgetary needs for the ensuing year. County budget advisory committee members shall attend these meetings, which must be held in the county courthouse and must be open to the public.

2. Draft budget. On or before October 1st, the county commissioners shall submit a draft budget to the budget advisory committee.

3. Proposed budget. The budget advisory committee shall review the draft budget with the county commissioners at meetings during the month of October and shall prepare a proposed budget. The budget advisory committee may increase, decrease or alter the county commissioners' draft budget as long as:

A. The budget advisory committee enters into its minutes an explanation for any suggested change in the estimated expenditures and revenues initially presented by the county commissioners; and

B. In the proposed budget, the total estimated revenue, together with the amount of county tax to be levied, at least equals the total estimated expenditures.

4. Public hearings. Public hearings on the proposed budget must be held by the budget advisory committee and county commissioners in each commissioner's district before November 30th. Notice of these hearings must be given at least 10 days before the hearing in newspapers of general circulation within the county. Written notice and a copy of the proposed budget must be sent by mail, or delivered in person, to the clerk of each municipality in the county. The municipal clerk shall notify the municipal officials of the receipt of the proposed budget and the date of the hearings.

5. Adoption of final budget. After the public hearings are completed, the budget advisory committee may further increase, decrease or alter the proposed budget based on information obtained during the public hearing process. The proposed budget must be approved by a majority vote of the budget advisory committee at a duly called meeting not later than December 15th. The budget advisory committee shall send the approved budget to the county commissioners. The county commissioners may adopt the budget as submitted or after increasing,

decreasing or altering the budget by a majority vote by December 31st.

6. Effect of adoption. Once the budget is finalized as provided in subsection 5, it is final and not subject to further action by the county commissioners or the budget advisory committee.

7. Interim budget. Until a budget is finally approved, the county must be operated on an interim budget, which may not exceed the previous year's budget.

Sec. 7. 30-A MRSA §743, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 8. 30-A MRSA §743-A is enacted to read:

§743-A. Filing of county budget

A copy of the adopted budget must be filed with the State Auditor on forms approved by the Department of Audit and must be retained by the State Auditor for 3 years.

Sec. 9. 30-A MRSA §§744, 745 and 746 as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are repealed.

Sec. 10. Transition. Notwithstanding those sections of this Act that repeal the Maine Revised Statutes, Title 30-A, sections 741 to 746 and that enact Title 30-A, sections 741-A, 742-A and 743-A, until a county manager is employed by the Cumberland County commissioners, an interim budget committee known as the "Cumberland County Budget Committee" shall formulate the county budget as provided in this section. Finalization of the county budget must follow the procedures described in Title 30-A, sections 741-A, 742-A and 743-A except that:

1. The approved budget sent to the county commissioners following the budget committee's December vote is final unless modified by unanimous vote of the county commissioners; and

2. Reference in Title 30-A, sections 741-A, 742-A and 743-A to the Cumberland County Budget Advisory Committee must be read as reference to the Cumberland County Budget Committee; and reference to Cumberland County manager and to Cumberland County commissioners and manager must be read as reference to the county commissioners only.

Sec. 11. Cumberland County Budget Committee; Budget Advisory Committee terms. This Act does not terminate the terms of the current members of the Cumberland County Budget Advisory Committee. Members of the Cumberland County Budget Advisory Committee on the effective date of this Act continue to hold office as members of

the interim Cumberland County Budget Committee or its successor, the Cumberland County Budget Advisory Committee, until the term for which they were selected expires, after which time vacancies must be filled as provided by this Act.

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

Effective June 30, 1995.

CHAPTER 381

H.P. 372 - L.D. 507

An Act to Exclude Certain Parks from the Definition of Mobile Home Parks

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

Sec. 1. 10 MRSA §9085, as enacted by PL 1983, c. 553, §17, is amended to read:

§9085. Rules

The board may make and enforce all necessary rules for the administration of this subchapter, and may repeal or amend such rules from time to time as may be in the public interest, insofar as that action is not in conflict with any of the provisions of this subchapter. All rules of the Department of Human Services governing mobile home parks in effect on the effective date of this subchapter ~~shall~~ remain in effect for a period not to exceed one year, unless sooner amended or repealed by the board. The board shall accept as compliance with its rules documentation submitted by a seasonal mobile home park that substantially similar provisions required by other federal or state agencies have been met that duplicate provisions required by the board regarding matters of safety and health. In cases where there are federal and state laws, rules or regulations containing similar provisions, the stricter standard must apply.

See title page for effective date.

CHAPTER 382

S.P. 441 - L.D. 1209

An Act to Amend the Laws Pertaining to the Marine Resources Advisory Council

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

Whereas, vacancies exist on the Marine Resources Advisory Council and the Department of Marine Resources is involved in pressing matters that are vital to the future of the State's fisheries; 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. 5 MRSA §12004-G, sub-§27, as enacted by PL 1987, c. 786, §5, is amended to read:

27. Ma-	<u>Marine</u>	<u>\$25/Day</u>	12
rine Re-	<u>Resources</u>	<u>Expenses</u>	MRSA
sources	<u>Advisory</u>	<u>Only</u>	§6024
	<u>Council (to</u>		
	<u>the Depart-</u>		
	<u>ment of</u>		
	<u>Marine</u>		
	<u>Resources)</u>		

Sec. 2. 12 MRSA §6024, sub-§1-A, as amended by PL 1989, c. 788, §1, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, ~~shall consist~~ consists of 9 15 members. The Chair of the Lobster Advisory Council ~~shall be~~ is an ex officio member of the council. Each other member ~~shall be~~ is appointed by the Governor and ~~shall be~~ is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources and to confirmation by the Legislature. ~~Seven of the appointed members shall be selected from persons directly engaged in commercial activities or industries based on marine resources. These 7 members shall be selected so as to adequately represent, together with the Chair of the Lobster Advisory Council, the various aspects of commercial fisheries' activities over which the department has jurisdiction. One of the appointed members shall be selected from persons who represent recreational fishing interests. Seven members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 7 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that~~

none of those 7 members may represent lobster harvesters. The remaining 7 members must include one person who represents recreational marine fishing interests, one public member, 4 persons who hold a nonharvesting-related license under this Part and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The composition of the council ~~shall~~ must reflect a geographical distribution along the coast. All appointed members ~~shall be~~ are appointed for a term of 3 years, except a vacancy ~~shall~~ must be filled in the same manner as an original member for the unexpired portion of the term. ~~No~~ An appointed member may ~~not~~ serve for more than 2 consecutive terms ~~at any one time~~. Appointed members ~~shall~~ serve until their successors are appointed. The Chair of the Lobster Advisory Council shall serve until a new Chair of the Lobster Advisory Council is chosen. Members ~~shall be~~ are compensated as provided in Title 5, chapter 379.

Sec. 3. 12 MRSA §6024, sub-§2, as enacted by PL 1977, c. 661, §5, is amended to read:

2. Powers and duties; meetings; officers. The council shall give the commissioner information and advice concerning the administration of the department and carry out other duties specifically delegated by marine resources' laws. The council shall hold regular quarterly meetings with the commissioner, or ~~his the commissioner's~~ designee, and may hold special meetings at any time. The council shall elect one of its members as ~~chairman~~ chair, one as ~~vice-chairman~~ vice-chair and one as secretary, all for a term of one year, at the first regular meeting in each year. The officers ~~shall~~ have the following duties.

A. The ~~chairman~~ chair shall call and preside at all meetings of the council.

B. The ~~vice-chairman~~ vice-chair shall call and preside at all meetings of the council in the ~~chairman's~~ chair's absence.

C. The secretary shall cause records to be taken and to be preserved of all meetings of the council.

Sec. 4. Transition. The Governor shall make all appointments necessary under this Act not later than 90 days following the effective date of this Act.

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

Effective June 30, 1995.

CHAPTER 383

S.P. 552 - L.D. 1511

An Act to Increase the Maximum Lease Size for Bottom Culture Aquaculture

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

Whereas, the Legislature has established the authority for the Commissioner of Marine Resources to lease areas in, on and under the coastal waters for the purposes of aquaculture development; and

Whereas, the laws providing this authority limit the size of leases that may be granted by the commissioner; and

Whereas, this limitation is viewed as an impediment to the development of certain portions of the State's aquaculture industry; 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. 12 MRSA §6072, sub-§2, ¶E, as enacted by PL 1987, c. 453, §1, is amended to read:

E. The lease does not result in a person being a tenant of any kind in leases covering an aggregate of more than 150 acres, except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture; and

Sec. 2. 12 MRSA §6072, sub-§12, as amended by PL 1987, c. 453, §1, is further amended to read:

12. Renewal. The commissioner shall grant a lease renewal unless the prior lessee has not complied with the lease agreement during its term, substantially no research or aquaculture has been conducted, the commissioner finds that it is not in the best interest of the State to renew the lease or the renewal will cause the lessee to continue being a tenant of any kind in leases covering an aggregate of more than 150 acres, except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other

than suspended culture. Renewals may be granted if applied for no later than 30 days after the lapse of the prior lease. A lease renewal ~~shall be~~ is an adjudicatory proceeding under the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. Public notice ~~shall~~ must be given as required under subsection 6 of this section and a hearing ~~shall~~ must be held if it is requested in writing by 5 persons.

Sec. 3. 12 MRSA §6072, sub-§12-A, ¶B, as amended by PL 1987, c. 453, §1, is further amended to read:

B. The commissioner may grant lease transfers if ~~he~~ the commissioner determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7;
- (2) The transfer is not intended to circumvent the intent of subsection 8;
- (3) The transfer is not for speculative purposes; and
- (4) The transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 150 acres, except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture.

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

Effective June 30, 1995.

CHAPTER 384

H.P. 322 - L.D. 443

An Act to Reform Campaign Finance

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

Sec. 1. 21-A MRSA §1013-A, sub-§1, ¶C is enacted to read:

C. No later than 10 days after becoming a candidate, as defined in section 1, subsection 5, a candidate for the office of State House of Representatives or Senate shall file in writing a statement declaring either that the candidate agrees to accept voluntary limits on political expenditures or that the candidate does not agree to accept voluntary limits on political expenditures, as specified in section 1015, subsections 7 to 9.

The statement filed by a candidate who voluntarily agrees to limit spending must state that the candidate knows the voluntary expenditure limitations as set out in section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the candidate's political expenditures and those made on behalf of the candidate by the candidate's political committee or committees, the candidate's party and the candidate's immediate family to the amount set by law. The statement must further state that the candidate does not condone and will not solicit any independent expenditures made on behalf of the candidate.

The statement filed by a candidate who does not agree to voluntarily limit political expenditures must state that the candidate does not accept the voluntary expenditure limits as set out in section 1015, subsection 8.

Sec. 2. 21-A MRSA §1015, sub-§§7 to 9 are enacted to read:

7. Voluntary limitations on political expenditures. A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

8. Political expenditure limitation amounts. Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, \$25,000; and

B. For State Representative, \$5,000.

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

9. Publication of list. The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

See title page for effective date.

CHAPTER 385

H.P. 839 - L.D. 1170

**An Act to Expand Access to Medical
Care by Encouraging Involvement of
Retired Physicians, Podiatrists and
Dentists**

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

Sec. 1. 24 MRSA §2904, as amended by PL 1989, c. 74, §1, is further amended to read:

**§2904. Immunity from civil liability for volunteer
activities**

Notwithstanding any inconsistent provision of any public or private and special law, ~~no~~ a licensed physician, podiatrist as defined in Title 32, section 3551 or dentist as defined in Title 32, section 1081, who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that physician's ~~or~~ podiatrist's or dentist's licensure to a nonprofit organization or to an agency of the State or to members or recipients of services of that organization or state agency ~~may be~~ is not liable for damages or injuries alleged to have been sustained by the person nor for damages for the death of the person when the injuries or death are alleged to have occurred by reason of an act or omission in the rendering of professional services, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence of the licensed physician ~~or~~ podiatrist or dentist. A licensed physician, podiatrist or dentist who has retired from practice is not liable for damages unless it is established that the injuries or death were caused willfully, wantonly or recklessly. This extended immunity applies only if the licensed physician, podiatrist or dentist retired from practice possessed an unrestricted license in the relevant profession and had not been disciplined by the licensing board in the previous 5 years at the time of the act or omission causing the injury. For the purpose of this section, a nonprofit organization does not include a hospital.

See title page for effective date.

CHAPTER 386

H.P. 1104 - L.D. 1551

**An Act to Protect Traditional Uses in
the North Woods**

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

Sec. 1. 12 MRSA §682, sub-§§14 to 18 are enacted to read:

14. Commercial sporting camp. "Commercial sporting camp" means a building or group of buildings devoted primarily to the offering of primitive lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.

15. Campsite. "Campsite" means a camping location without access to a pressurized water system that contains a maximum of 4 camping sites for transient occupancy by 8 or fewer people per site on which may be located a tent, a tent trailer, a pickup camper, a recreational vehicle, a registered trailer that is 28 feet or less in length or other similar device used for camping. A camping location that contains permanent structures other than outhouses, fireplaces, picnic tables, lean-tos or hand-operated water pumps is not a campsite.

16. Setback. "Setback" means the minimum horizontal distance from a lot line, shoreline or road to the nearest part of a structure.

17. Shoreline. "Shoreline" means the normal high water mark of tidal waters, a coastal or inland wetland, a standing body of water or flowing water.

18. Transient occupancy. "Transient occupancy" means occupancy for 14 or fewer days in any 30-day period.

Sec. 2. 12 MRSA §685-A, sub-§5, as amended by PL 1995, c. 64, §1, is further amended to read:

5. Considerations, application and exemptions. A land use standard may not deprive an owner or lessee or subsequent owner or lessee of any interest in real estate of the use to which it is lawfully devoted at the time of adoption of that standard. Year-round and seasonal single residences and operating farms in existence and use as of September 23, 1971, while so used, and new accessory buildings or structures or renovations of the buildings or structures that are or may be necessary to the satisfactory and comfortable continuation of these residential and farm uses are exempt from the requirements of section 685-B, subsection 1.

Land use standards adopted pursuant to this chapter for management districts may ~~in no way~~ not limit the right, method or manner of cutting or removing timber or crops, the construction and maintenance of hauling roads, the operation of machinery or the erection of buildings and other structures used primarily for agricultural or commercial forest product purposes,

including tree farms. Notwithstanding this subsection, a permit from the commission is required for roads covering a ground area of 3 acres or more constructed in management districts, unless those roads are constructed and maintained in accordance with the guidelines of the commission's Land Use Handbook, Section 6, "Erosion Control on Logging Jobs," or as revised. The commission may require a person constructing a road to notify the commission of the location of the road within 21 days.

Land use standards adopted pursuant to this chapter must establish a minimum setback of 100 feet for all structures within a commercial sporting camp complex that are constructed solely for the housing of guests, including structures within a main sporting camp complex and an outpost camp. The standards must establish a minimum setback of 150 feet for all other structures within a sporting camp complex, including, but not limited to, a main lodge, a dining area, a workshop and a parking area.

In adopting district boundaries and land use standards, the commission shall give consideration to public and private planning reports and other data available to it, and shall give weight to existing uses of land and to any reasonable plan of its owner as to its future use.

A permit from the commission is not required for the repair or maintenance of county-owned roads, bridges or culverts as long as the repair or maintenance is conducted in accordance with commission standards that pertain to these activities.

Sec. 3. 12 MRSA §685-B, sub-§7-A is enacted to read:

7-A. Reconstruction of commercial sporting camps. The commission may approve a permit for the reconstruction of a damaged or destroyed nonconforming commercial sporting camp that was a permissible use under commission standards at the time of the damage or destruction. The commission may, consistent with public health, safety and welfare, and to the minimum extent necessary, waive standards that made the original structure nonconforming. The reconstructed structure must replicate the original structure and use to the maximum extent possible and it must be on the same location and within the same footprint as the original structure. Reconstruction must occur within 2 years of the damage or destruction.

See title page for effective date.

CHAPTER 387

S.P. 432 - L.D. 1200

An Act to Establish Reciprocity in Determining the Lowest Responsible Bidder

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

Sec. 1. 5 MRSA §1825-B, sub-§§9 and 10 are enacted to read:

9. Determination of lowest bidder. In determining the lowest responsible bidder, the Director of the Bureau of General Services or any department or agency of the State shall, for the purpose of awarding a contract, add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides.

10. List of state preferences published. The Director of the Bureau of General Services on or before January 1st of each year shall publish a list of states that give preference to in-state bidders with the percent increase applied in each such state. The Director of the Bureau of General Services or any department or agency of the State may rely on the names of states and percentages as published in determining the lowest responsible bidder without incurring any liability to any bidder.

See title page for effective date.

CHAPTER 388

H.P. 944 - L.D. 1333

An Act Concerning the Jurisdiction of the Tribal Courts of the Passamaquoddy Tribe and the Penobscot Nation

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

Sec. 1. 4 MRSA §161, first ¶, as amended by PL 1991, c. 484, §1, is further amended to read:

The Chief Judge of the District Court may authorize any attorney-at-law, who is duly licensed to practice law in the State, to receive complaints and to issue process for the arrest of persons charged with offenses, to issue search warrants and to endorse certificates of commitment of the mentally ill, all in accordance with law, and to perform all other such acts and duties that are or may be authorized by law. The powers to issue process for the arrest of persons

charged with offenses and to issue search warrants extend to offenses subject to the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation under the terms of Title 30, section ~~6209~~ 6209-A or 6209-B. That attorney may be known as a justice of the peace.

Sec. 2. 4 MRSA §165, as amended by PL 1995, c. 65, Pt. A, §4 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

§165. Criminal jurisdiction; fines, penalties and costs paid over

The District Court has jurisdiction, and, except as provided in Title 29-A, section 2602, concurrent jurisdiction with the Superior Court, of all crimes and offenses including violations of any statute or bylaw of a town, village corporation or local health officer, or breaches of the peace, not punishable by imprisonment in the State Prison, to issue process with respect to any violation over which the Passamaquoddy Tribe or the Penobscot Nation exercises exclusive jurisdiction under Title 30, section ~~6209~~ 6209-A or 6209-B and over complaints for desertion and nonsupport or nonsupport of dependents where either the spouse, dependent or the respondent resides and may for ~~such~~ those crimes and offenses impose any of the fines or sentences provided by law to be imposed ~~therefor~~ for those crimes and offenses. All fines, penalties and costs imposed by ~~such~~ the courts paid to the jailer after commitment of a respondent must be paid over by the respondent monthly.

Sec. 3. 15 MRSA §55, as amended by PL 1991, c. 484, §5, is further amended to read:

§55. Search warrants; issuance by district judge or justice of the peace

A judge of the District Court or a justice of the peace shall issue search warrants for any place in the State for such purposes as the Constitution of the United States and the Constitution of Maine permit, including with respect to any violation over which the Passamaquoddy Tribe or the Penobscot Nation exercises exclusive jurisdiction under Title 30, section ~~6209~~ 6209-A or 6209-B. The evidence presented to the magistrate in support of the search warrant may consist of affidavits and other evidence under oath or affirmation that is capable of being reduced to a record for purposes of review. The Supreme Judicial Court shall by rule provide the procedure of the application for and issuance of search warrants; provided, that ~~where~~ when no procedure is specified, the judge or justice of the peace shall proceed in any reasonable manner that will allow the issuance of a search warrant for any constitutional purpose.

Sec. 4. 15 MRSA §702, as amended by PL 1991, c. 484, §6, is further amended to read:

§702. Justices, judges and justices of the peace may issue processes

The Justices of the Supreme Judicial Court and of the Superior Court, Judges of the District Court and justices of the peace may issue processes for the arrest of persons charged with offenses. For purposes of this section and section 706, full faith and credit must be given to offenses subject to the exclusive jurisdiction of the Passamaquoddy Tribe or the Penobscot Nation under the terms of Title 30, section ~~6209~~ 6209-A or 6209-B.

Sec. 5. 30 MRSA §6209, as amended by PL 1991, c. 766, §1 and affected by §2, is repealed.

Sec. 6. 30 MRSA §§6209-A and 6209-B are enacted to read:

§6209-A. Jurisdiction of the Passamaquoddy Tribal Court

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Passamaquoddy Tribe has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment is less than one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the Passamaquoddy Tribe by a member of either the Passamaquoddy Tribe or the Penobscot Nation, except when committed against a person who is not a member of either the Passamaquoddy Tribe or the Penobscot Nation or against the property of a person who is not a member of either the Passamaquoddy Tribe or the Penobscot Nation;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Passamaquoddy Tribe under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B to D, committed by a juvenile member of either the Passamaquoddy Tribe or the Penobscot Nation on the reservation of the Passamaquoddy Tribe;

C. Civil actions between members of either the Passamaquoddy Tribe or the Penobscot Nation arising on the Indian reservation of the Passamaquoddy Tribe and cognizable as small claims under the laws of the State, and civil actions against a member of either the Passamaquoddy Tribe or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Passamaquoddy

Tribe by a member of either the Passamaquoddy Tribe or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe or the Penobscot Nation, both of whom reside within the Indian reservation of the Passamaquoddy Tribe.

The governing body of the Passamaquoddy Tribe shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Passamaquoddy Tribe chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Passamaquoddy Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Passamaquoddy Tribe is deemed to be enforcing Passamaquoddy tribal law. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Passamaquoddy Tribe has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

3. Lesser included offenses in state courts. In any criminal proceeding in the courts of the State in which a criminal offense under the exclusive jurisdiction of the Passamaquoddy Tribe constitutes a lesser included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy, collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Passamaquoddy Tribe has exclusive jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the State has

exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the Passamaquoddy Tribe has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a Passamaquoddy tribal forum.

5. Future Indian communities. Any 25 or more adult members of the Passamaquoddy Tribe residing within their Indian territory and in reasonable proximity to each other may petition the commission for designation as an extended reservation. If the commission determines, after investigation, that the petitioning Passamaquoddy tribal members constitute an extended reservation, the commission shall establish the boundaries of the extended reservation and recommend to the Legislature that, subject to the approval of the governing body of the Passamaquoddy Tribe, it amend this Act to extend the jurisdiction of the Passamaquoddy Tribe to the extended reservation. The boundaries of an extended reservation may not exceed those reasonably necessary to encompass the petitioning Passamaquoddy tribal members.

§6209-B. Jurisdiction of the Penobscot Nation Tribal Court

1. Exclusive jurisdiction over certain matters. Except as provided in subsections 3 and 4, the Penobscot Nation has the right to exercise exclusive jurisdiction, separate and distinct from the State, over:

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the Penobscot Nation by a member of any federally recognized Indian tribe, nation, band or other group against another member of any federally recognized Indian tribe, nation, band or other group or against the property of another member of any federally recognized Indian tribe, nation, band or other group;

B. Juvenile crimes against a person or property involving conduct that, if committed by an adult, would fall within the exclusive jurisdiction of the Penobscot Nation under paragraph A, and juvenile crimes, as defined in Title 15, section 3103, subsection 1, paragraphs B to D, committed by a juvenile member of either the Pas-

samaquoddy Tribe or the Penobscot Nation on the Indian reservation of the Penobscot Nation;

C. Civil actions between members of either the Passamaquoddy Tribe or the Penobscot Nation arising on the Indian reservation of the Penobscot Nation and cognizable as small claims under the laws of the State, and civil actions against a member of either the Passamaquoddy Tribe or the Penobscot Nation under Title 22, section 2383 involving conduct on the Indian reservation of the Penobscot Nation by a member of either the Passamaquoddy Tribe or the Penobscot Nation;

D. Indian child custody proceedings to the extent authorized by applicable federal law; and

E. Other domestic relations matters, including marriage, divorce and support, between members of either the Passamaquoddy Tribe or the Penobscot Nation, both of whom reside on the Indian reservation of the Penobscot Nation.

The governing body of the Penobscot Nation shall decide whether to exercise or terminate the exercise of the exclusive jurisdiction authorized by this subsection. If the Penobscot Nation chooses not to exercise, or chooses to terminate its exercise of, jurisdiction over the criminal, juvenile, civil and domestic matters described in this subsection, the State has exclusive jurisdiction over those matters. Except as provided in paragraphs A and B, all laws of the State relating to criminal offenses and juvenile crimes apply within the Penobscot Indian reservation and the State has exclusive jurisdiction over those offenses and crimes.

2. Definitions of crimes; tribal procedures. In exercising its exclusive jurisdiction under subsection 1, paragraphs A and B, the Penobscot Nation is deemed to be enforcing Penobscot tribal law. The definitions of the criminal offenses and juvenile crimes and the punishments applicable to those criminal offenses and juvenile crimes over which the Penobscot Nation has exclusive jurisdiction under this section are governed by the laws of the State. Issuance and execution of criminal process are also governed by the laws of the State. The procedures for the establishment and operation of tribal forums created to effectuate the purposes of this section are governed by federal statute, including, without limitation, the provisions of 25 United States Code, Sections 1301 to 1303 and rules or regulations generally applicable to the exercise of criminal jurisdiction by Indian tribes on federal Indian reservations.

3. Lesser included offenses in state courts. In any criminal proceeding in the courts of the State in which a criminal offense under the exclusive jurisdiction of the Penobscot Nation constitutes a lesser

included offense of the criminal offense charged, the defendant may be convicted in the courts of the State of the lesser included offense. A lesser included offense is as defined under the laws of the State.

4. Double jeopardy, collateral estoppel. A prosecution for a criminal offense or juvenile crime over which the Penobscot Nation has exclusive jurisdiction under this section does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the State has exclusive jurisdiction. A prosecution for a criminal offense or juvenile crime over which the State has exclusive jurisdiction does not bar a prosecution for a criminal offense or juvenile crime, arising out of the same conduct, over which the Penobscot Nation has exclusive jurisdiction under this section. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a tribal forum does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a state court. The determination of an issue of fact in a criminal or juvenile proceeding conducted in a state court does not constitute collateral estoppel in a criminal or juvenile proceeding conducted in a tribal forum.

5. Future Indian communities. Any 25 or more adult members of the Penobscot Nation residing within their Indian territory and in reasonable proximity to each other may petition the commission for designation as an extended reservation. If the commission determines, after investigation, that the petitioning tribal members constitute an extended reservation, the commission shall establish the boundaries of the extended reservation and recommend to the Legislature that, subject to the approval of the governing body of the Penobscot Nation, it amend this Act to extend the jurisdiction of the Penobscot Nation to the extended reservation. The boundaries of an extended reservation may not exceed those reasonably necessary to encompass the petitioning tribal members.

Sec. 7. 30 MRSA §6210, as amended by PL 1983, c. 498, §1, is further amended to read:

§6210. Law enforcement on Indian reservations and within Indian territory

1. Exclusive authority of tribal law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation ~~shall~~ have exclusive authority to enforce, within their respective Indian territories, ordinances adopted under section 6206 and section 6207, subsection 1, and to enforce, on their respective Indian reservations, the criminal, juvenile, civil and domestic relations laws over which the Passamaquoddy Tribe or the Penobscot Nation have jurisdiction under section ~~6209~~ 6209-A,

subsection 1 and section 6209-B, subsection 1, respectively.

2. Joint authority of tribal and state law enforcement officers. Law enforcement officers appointed by the Passamaquoddy Tribe or the Penobscot Nation ~~shall~~ have the authority within their respective Indian territories and state and county law enforcement officers ~~shall~~ have the authority within both Indian territories to enforce rules or regulations adopted by the commission under section 6207, subsection 3 and to enforce; all laws of the State other than those over which the ~~respective tribe or nation~~ Passamaquoddy Tribe or the Penobscot Nation has exclusive jurisdiction under section ~~6209~~ 6209-A, subsection 1 and section 6209-B, subsection 1, respectively.

3. Agreements for cooperation and mutual aid. ~~Nothing herein shall~~ This section does not prevent the Passamaquoddy Tribe or the Penobscot Nation and any state, county or local law enforcement agency from entering into agreements for cooperation and mutual aid.

4. Powers and training requirements. Law enforcement officers appointed by the Passamaquoddy Tribe and the Penobscot Nation ~~shall~~ possess the same powers and ~~shall be~~ are subject to the same duties, limitations and training requirements as other corresponding law enforcement officers under the laws of the State.

Sec. 8. Effective date; certification. This Act does not take effect unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the Governor and Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe that the nation and tribe have agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may this Act become effective until 90 days after the adjournment of the Legislature.

See title page for effective date, unless otherwise indicated.

CHAPTER 389

S.P. 498 - L.D. 1357

An Act to Create the Propane and Natural Gas Professional Act of 1995

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

Sec. 1. 5 MRSA §12004-A, sub-§33-A is enacted to read:

<u>33-A. Propane</u>	<u>Expenses</u>	<u>32 MRSA</u>
<u>and Natural Gas Board</u>	<u>Only</u>	<u>§14803</u>

Sec. 2. 10 MRSA §8001, sub-§§35 and 36, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are amended to read:

35. Board of Counseling Professionals Licensure. Counseling Professionals Licensure, Board of; ~~and~~

36. Board of Real Estate Appraisers. Real Estate Appraisers, Board of; ~~and~~

Sec. 3. 10 MRSA §8001, sub-§37 is enacted to read:

37. Propane and Natural Gas Board. Propane and Natural Gas Board.

Sec. 4. 32 MRSA c. 130 is enacted to read:

CHAPTER 130

THE PROPANE AND NATURAL GAS ACT

§14801. Short title

This Act may be known and cited as the Propane and Natural Gas Act.

§14802. Definitions

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

1. Board. "Board" means the Propane and Natural Gas Board.

2. Bulk plant. "Bulk plant" means a facility, the primary purpose of which is to distribute propane, that receives propane by tank car, tank truck or piping and distributes the propane to the end user by portable container delivery, by tank truck or through piping. A bulk plant has the bulk storage capacity of 2,000 gallons of water or more. "Bulk plant" includes a facility that transfers propane from tank cars on a private track directly into cargo tanks.

3. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

4. Delivery. "Delivery" means the transfer of propane, either by liquid transfer into a stationary container on the property of the consumer or by placing a portable propane container onto the property of the consumer.

5. Department. "Department" means the Department of Professional and Financial Regulation.

6. Dispensing station. "Dispensing station" means a facility consisting of fixed equipment where propane is stored and dispensed into portable containers or containers that are not suitable for the shipping of cargo and that are mounted on vehicles.

7. License. "License" means a license issued pursuant to this Act containing one or more of the following endorsements: delivery technician; plant operator; tank setter and outside piping technician; appliance connection and service technician up to 2,000,000 BTUs; and large equipment connection and service technician over 2,000,000 BTUs.

8. Natural Gas. "Natural gas" means hydrocarbon fuel in a gaseous state with a composition of predominantly CH₄, delivered by pipeline to the property of the consumer.

9. Propane. "Propane" means a hydrocarbon fuel whose chemical composition is predominantly C₃H₈, whether recovered from natural gas or from crude oil.

§14803. Board established

There is established within the department the Propane and Natural Gas Board for the oversight of propane and natural gas licensure and the enforcement of the provisions of this Act.

1. Membership; appointment. The board consists of 8 members who serve for 3-year terms, except that of the initial appointees 3 of the members serve a 3-year term, 2 of the members serve a 2-year term and 2 of the members serve a one-year term. With the exception of the member representing fire chiefs and the public member, all members must have at least 10 consecutive years of active experience in the propane or the natural gas industry immediately preceding appointment. Industry members must hold a valid license at the time of appointment, except that the initial industry member appointees must be licensed on or before July 1, 1997. The Governor shall appoint all industry and public members. The propane and natural gas industries in this State may make recommendations to the Governor concerning these appointments. Membership is as follows:

A. Five members representing industry, 3 of whom represent the propane industry, one of whom is a mechanical contractor and one of whom represents the natural gas industry;

B. One member representing Maine fire chiefs, who may be recommended to the Governor by the Maine Fire Chiefs Association;

C. One member representing the general public who is unrelated, either directly or indirectly, to either the natural gas industry or the propane industry; and

D. One nonvoting member appointed by the Commissioner of Public Safety.

Appointments of members must comply with Title 32, section 60. Members may be removed from office by the Governor for cause.

2. Officers. At its first meeting, the board shall choose a chair and a vice-chair, who serve terms of one year. The vice-chair serves as chair the following year unless unwilling or unable. The board may elect other officers that it finds necessary.

3. Compensation. Members of the board serve without per diem compensation but are entitled to reimbursement for expenses.

§14804. Board powers

The board has the following powers.

1. Rules. The board shall adopt rules necessary for the proper performance of its duties pursuant to the Maine Administrative Procedure Act to implement the licensure requirements established by this Act, which may include the following:

A. Reasonable standards regarding education or its equivalent and experience requirements for applicants for licensure; and

B. Reasonable standards for license renewal.

The board shall establish by rule technical standards for the proper installation and servicing of propane and natural gas equipment. These standards must be in accordance with the National Fire Protection Association Standards, Numbers 54 and 58 and any updates of those standards. The board may adopt by rule other standards it finds necessary.

2. Meetings. The board shall hold meetings at least twice each year. Additional meetings may be held as necessary to conduct the business of the board and may be convened at the call of the chair or 4 members of the board. A quorum of the board is 4 members. The board shall keep minutes that clearly reflect all acts and decisions made by the board, which must be available to the public upon request.

3. Licenses. The board shall evaluate the qualifications of applicants for licensure under this chapter.

4. Hearings. Hearings may be conducted by the board to assist with investigations to determine whether grounds exist for suspension or denial of a

license or as otherwise necessary to the fulfillment of its responsibilities under this chapter.

The board may not refuse to renew a license for any reason other than failure to pay a required fee unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license 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 the license denial, the reason for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

5. Contracts. The board may enter into contracts to carry out its statutory responsibilities.

6. Budgets. The board shall submit to the commissioner its budgetary requirements.

7. Personnel. The commissioner shall appoint any employees necessary to carry out this Act. Any person so employed is an employee of the department and under the administrative and supervisory direction of the commissioner.

§14805. Installations to conform to standards; authority of state propane and natural gas inspectors

1. Compliance with rules required. Installation of propane or natural gas equipment may not be made in the State unless it complies with all the standards and rules adopted by the board.

2. Inspection. State propane and natural gas inspectors, upon written complaint or whenever they consider it necessary for purposes of examination, may enter into and upon and inspect all buildings and premises within their jurisdiction at all reasonable hours. They may enter a building only with the permission of the person having control of the building or, after hearing, upon order of court. If an inspector finds any propane or natural gas installation that does not comply with this Act, the inspector shall order that the installation be removed or remedied, and that order must be complied with immediately by the owner or occupant of the premises or building or by the installer of the propane or natural gas equipment in violation. If the inspector finds any propane or natural gas installation in any building or structure that creates a danger to other property or to the public, the inspector may forbid the use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

3. Order to correct deficiency; appeal. Any person ordered by a state propane and natural gas inspector to correct a deficiency or to vacate a building or structure may appeal the order by filing with the board within 48 hours of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision within 10 days after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with, unless appealed as provided. Any person ordered by the board to correct a deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with the Maine Administrative Procedure Act by filing a petition for review within 48 hours of receipt of the order. The court shall issue its written decision within 20 days after receipt of the petition for review.

4. Final orders. The decision of the Superior Court on an appeal as provided is final. An order by a state propane and natural gas inspector and an order by the board are final and subject to no further appeal upon failure to file a timely, written appeal as provided.

5. Injunction to enforce order. Upon the failure of any person to carry out a final order as provided, the board may petition the Superior Court for the county in which the building or premises are located for an injunction to enforce that order. If the court determines, upon hearing such a petition, that a lawful final order was issued, it shall order compliance.

6. Powers of propane and natural gas inspectors. Propane and natural gas inspectors have powers throughout the several counties of the State, similar to those of sheriffs in their respective counties, relating to enforcement of this Act and rules adopted under this Act. These powers are limited to the issuing of citations, the serving of summonses, the conducting of investigations and the ordering of corrections of violations of this Act by licensees in accordance with the specific statutory authority set forth in this Act.

§14806. Investigation of complaints; suspension or revocation of licenses

The board shall investigate all complaints made to it and all cases of noncompliance with or violation of this Act. The board may suspend or revoke a license issued under this Act pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may suspend, revoke or refuse to renew the license of any licensee who is found guilty of:

1. Fraud or deceit. Attempting to obtain a registration or license by means of fraud, misrepresentation or concealment of material facts;

2. Negligence or misconduct. Any gross negligence, incompetence or misconduct in the performance of the work of making installations. Continued failure to conform to standards or rules adopted by the board is prima facie evidence of gross negligence or incompetence;

3. Conviction of a crime. Subject to the limitations of Title 5, chapter 341, conviction of a crime, other than minor traffic violations, if the acts for which the person was convicted are found by the board to have a direct bearing on whether the person may be entrusted to serve the public in a capacity that is subject to license or registration under this Act; or

4. Violations. Violating any provision of this Act or any rule of the board.

A license suspended by the board or suspended or revoked by the Administrative Court must be immediately surrendered to the board and held during any period of suspension or, if revoked, until reinstated as provided in this Act.

A person whose license is suspended or revoked for more than 90 days must establish that all requirements governing new applicants under this Act are met as a condition of reinstatement or return of the license, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination if the period of suspension is less than 2 years or, in the case of the revocation of a license, the applicant is both eligible and has made application for reinstatement of the license within 2 years of the effective date of that revocation.

§14807. Licensure; requirements; persons

1. Establish license. The board shall establish one license with endorsements described in this section that conform to the education and certification requirements of the National Propane Gas Association's certified employee training program or other propane or natural gas programs approved by the board, as follows:

A. "Delivery technician" is a person who delivers propane at a customer's location. A license established by the board is not required for a delivery technician to operate a motor vehicle;

B. "Plant operator" is a person who works at a bulk plant and handles propane and propane equipment;

C. "Tank setter and outside piping technician" is a person who sets and maintains propane tanks and outside piping;

D. "Appliance connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping up to 2,000,000 BTUs per appliance; and

E. "Large equipment connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping over 2,000,000 BTUs per appliance.

2. License; valid. The license established in this section is valid for 2 years from the date of issuance or as otherwise established by the commissioner.

3. Appropriate endorsement. The board shall issue a license with the appropriate endorsement to the prospective licensee who has successfully passed an examination as prescribed by the board and who has filed the required application and fee.

4. License required; plant operators and delivery technician. A person may not perform the functions governed by this Act after July 1, 1997 without first being licensed by the board, except that plant operators and delivery technicians must be licensed within one year of first performing those functions. In order to qualify for the one-year provision, the delivery technician or plant operator must register with the board within 90 days after first performing that function.

5. Examination; qualification. Notwithstanding any requirement set by the board as a qualification to sit for a license examination, a person working as a technician in the propane or the natural gas industry before January 1, 1996 is deemed qualified to sit for a license examination.

§14808. Licensure; installation and maintenance standards; dispensing stations

The following registration, licensing, maintenance and installation standards apply to dispensing stations operating in the State.

1. Dispensing stations. All dispensing stations must be registered with the department biennially by the owner upon suitable forms designated and approved by the board. A dispensing station that undergoes a major repair, revision or relocation must provide that agency with updated information within 30 days of the completion of the change.

2. Registration. Registration of the dispensing station is limited to:

A. The name of the owner;

B. The address of the dispensing station;

C. The town or city and county in which the dispensing station is located;

D. The directions to the dispensing station;

E. The capacity in gallons of the dispensing station;

F. The name of the owner or operator to be contacted for inspection of the dispensing station by the State; and

G. The name of the owner or operator holding the limited operator's license required by this section.

3. Constructed; maintained; operated.

Dispensing stations operating in the State must be constructed, maintained and operated in accordance with the standards set by the most recent edition of the National Fire Protection Association Standards, Number 58. The board may adopt by rule additional state and local codes.

4. Limited operator's license; training. The on-site owner or operator of a dispensing station must hold a limited operator's license issued biennially by the board. The board shall set by rule the requirements for obtaining the limited license. The holder of the limited license is responsible for training other dispensing station employees and documenting that training.

The training for the limited license must include a manual prepared by a regional propane gas association, a video prepared by a national propane gas association or equivalent materials approved by the board. The training documentation must be kept at the station. The on-site owner or operator of the dispensing station is responsible for compliance and is subject to section 14809.

§14809. Equipment installation identification

Following the installation and testing of vented natural gas or propane equipment, the installer must attach a permanent tag, as developed by the board, in a conspicuous place on or near the equipment.

Identification tags must be provided by the board in a form and manner prescribed by the board by rule. The identification tag information must include, but is not limited to, the name and license number of the technician and the date of installation. The identification tag fee may be no more than \$10 per tag.

§14810. Enforcement; penalties

All funds collected from the enforcement of this chapter must be remitted to the board and deposited in

the board's account within the budget of the Division of Licensing and Enforcement.

§14811. Inspectors

An inspector or other person enforcing this Act as an agent of the board must meet the same qualifications as those licensed under this Act.

§14812. Disposal of fees

All money received by the board must be paid to the Treasurer of State and credited to the board's account within the budget of the Division of Licensing and Enforcement.

Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Money received by the board must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony and procuring the attendance of witnesses, the costs of all legal proceedings initiated for enforcement and administrative expenses.

§14813. Fees

The board shall establish application and license fees. The fees must be remitted in a manner and on forms or other instruments prescribed by the board.

1. License; biennial fee. The initial and renewal biennial fee for the license established in section 14807 may not exceed \$130. There is no additional fee for additional endorsements.

2. Dispensing station. The initial and renewal biennial registration fee for a dispensing station must be set by the board and may not exceed \$196.

3. Limited license. There is no fee for the limited license established in section 14808, subsection 4 if the owner has registered the dispensing station as required by this Act.

4. Examination; fees. The board may set reasonable fees for whatever examinations it may require as long as the fees cover no more than the actual costs of the examinations.

§14814. Renewals

All licenses issued expire 2 years from the date of issuance or at other times the commissioner may designate. All licenses may be renewed for 2-year periods upon filing the appropriate application and fee.

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 is subject to all requirements governing new applicants under this chapter, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination or other requirements. The board may establish penalties for nonrenewal.

§14815. Endorsement with other states

The board shall waive the examination and grant a license to any applicant who presents proof of being authorized to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the board to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section 14806. Such an applicant must pay the fee as provided in section 14813.

§14816. Exemption

Nothing in this Act prohibits any person who is licensed to practice in this State under any other law from engaging in the practice for which that person is licensed.

§14816. Repeal

This Act is repealed July 1, 2000.

Sec. 5. Initial appointments; first meeting of the Propane and Natural Gas Board. The Governor shall make initial appointments of the members of the Propane and Natural Gas Board within 45 days of the effective date of this Act. The Commissioner of Professional and Financial Regulation shall call the first meeting of the board, which must take place within 30 days of the completion of the appointments of the initial members.

Sec. 6. Working capital advance. The State Controller is authorized to advance to the Department of Professional and Financial Regulation up to \$100,365 from the General Fund Unappropriated Surplus in fiscal year 1995-96 for the licensure of installers of propane and natural gas equipment. These funds will be used to provide the working capital advance necessary to fund the costs of the licensure of installers of propane and natural gas equipment until adequate dedicated revenues have been received. Funds advanced for this purpose must be returned to the General Fund Unappropriated Surplus no later than June 30, 1996.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Division of Licensing and Enforcement		
Positions - Other Count	(2.0)	(2.0)
Personal Services	\$57,051	\$76,068
All Other	10,500	14,000
TOTAL	\$67,551	\$90,068
Allocates funds for one Senior Inspector position and one Clerk Typist III position necessary to administer the licensure of installers of propane and natural gas equipment.		
Division of Administrative Services		
All Other	\$8,884	\$11,050
Allocates funds for the licensure of installers of propane and natural gas equipment.		
Propane and Natural Gas Board		
Personal Services	\$2,205	\$2,940
All Other	16,725	21,800
Capital Expenditures	5,000	
TOTAL	\$23,930	\$24,740
Allocates funds for the licensure of installers of propane and natural gas equipment.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	\$100,365	\$125,858

See title page for effective date.

CHAPTER 390**H.P. 946 - L.D. 1335****An Act to Amend Laws Pertaining to
On-premises Signs by Allowing for
Changeable Signs****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 23 MRSA §1914, sub-§6, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

6. On-premise signs prohibited. An on-premise sign ~~shall be~~ is prohibited if it:

A. Attempts or appears to attempt to direct the movement of traffic or ~~which~~ interferes with, imitates or resembles any official traffic sign, signal or device;

B. Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic;

C. Contains, includes or is illuminated by a flashing, intermittent or moving light or lights, except as provided in subsection 11;

D. Uses lighting in any way unless the light is in the opinion of the commissioner effectively shielded ~~as~~ to prevent beams or rays of light from being directed at any portion of the public way or is of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle or ~~as~~ to otherwise interfere with any driver's operation of a motor vehicle; or

E. Moves ~~or~~ has any animated or moving parts or has the appearance of movement, except as provided in subsection 11.

Sec. 2. 23 MRSA §1914, sub-§9, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

9. Jurisdiction by local authority in compact or built-up sections. Administration Except as otherwise provided in this chapter, administration of this chapter by the Department of Transportation shall does not apply to on-premise advertisements located in compact or built-up sections, the administration of which ~~shall be~~ is the responsibility of local authority. In compact or built-up areas adjacent to the interstate, the Department of Transportation ~~shall be~~ is responsible for the administration of this section. The "compact or built-up section" of any town or city ~~shall be~~ is the territory contiguous to any highway ~~which~~ that is built up with buildings devoted to business or

dwelling purposes ~~which~~ that are situated less than 200 feet apart for a distance of at least 1/4 of a mile.

Sec. 3. 23 MRSA §1914, sub-§11 is enacted to read:

11. Changeable signs. Notwithstanding subsection 6, paragraphs C and E, changeable signs are not prohibited as long as the sign complies with all the terms of paragraph A or B.

A. For the purpose of this subsection, changeable message board signs are those signs in which the message may be electronically, mechanically or manually changed by the complete substitution or replacement of one display by another. The message on changeable message board signs may not be changed more than once in any 4-hour period.

B. For the purposes of this subsection, time and temperature signs are signs that electronically or mechanically display the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

This size, intensity of illumination and acceptable rate of change between the time display and the temperature display must comply with rules, policy or guidelines adopted by the Department of Transportation. Time and temperature signs erected before the effective date of this subsection need not comply with the rules, policy or guidelines.

C. This subsection is administered by the Department of Transportation unless the municipality in which the sign is located and the Department of Transportation have agreed in writing that the municipality may administer this subsection.

See title page for effective date.

CHAPTER 391**H.P. 1080 - L.D. 1522****An Act to Amend the Laws
Regarding Child Placing Agency
Disclosure of a Child's Background
for the Purpose of Adoption****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 19 MRSA §1125, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

2. Child's background. This subsection governs the collection and disclosure of information about the child's background.

A. The department, the licensed child placing agency or any other person who acts to place or assist in placing the child for adoption shall obtain medical and genetic information on the birth parents and the child. Specifically, the department, the licensed child placing agency or any other person who acts to place or assist in placing the child for adoption shall attempt to obtain:

(1) A current medical, psychological and developmental history of the child, including an account of the child's prenatal care, medical condition at birth, results of newborn screening, any drug or medication taken by the child's birth mother during pregnancy, any subsequent medical, psychological or psychiatric examination and diagnosis, any physical, sexual or emotional abuse suffered by the child and a record of any immunizations and health care received since birth; and

(2) Relevant information concerning the medical, psychological and social history of the birth parents, including any known disease or hereditary disposition to disease, the history of use of drugs and alcohol, the health of the birth mother during her pregnancy and the health of the birth parents at the time of the child's birth.

B. Prior to the child being placed for the purpose of adoption, the department, the licensed child placing agency or other person who acts to place or assist in placing the child for adoption shall provide the information described in paragraph A to the prospective adoptive parents.

C. If the department, the licensed child placing agency or other person who acts to place or assists in placing the child for adoption has specific, articulable reasons to question the truth or accuracy of any of the information obtained, those reasons must be disclosed in writing to the prospective adoptive parents.

D. The prospective adoptive parents must be informed in writing if any of the information described in this subsection can not be obtained, either because the records are unavailable or because the birth parents are unable or unwilling to consent to its disclosure or to be interviewed.

E. If, after a child is placed for adoption and either before or after the adoption is final, the child suffers a serious medical or mental illness for which the specific medical, psychological or

social history of the birth parents or the child may be useful in diagnosing or treating such illness, the prospective adoptive or adoptive parents may request that the department, the licensed child placing agency, or other person who placed or assisted to place the child attempt to obtain additional information. The department, licensed child placing agency or other person shall attempt to obtain the information promptly and shall disclose any information collected to the prospective adoptive or adoptive parents as soon as reasonably possible. The department, the licensed child placing agency or other person may charge a fee to the prospective adoptive or adoptive parents to cover the cost of obtaining and providing such additional information. Fees collected by the department must be dedicated to defray the costs of obtaining and providing the additional information. Fees may be reduced or waived for low-income prospective adoptive or adoptive parents.

F. The department, the licensed child placing agency or other person who acts to place or assist in placing the child for adoption shall file the information collected with the court and, if it appears that the adoption will be granted and this information has not previously been made available to the adoptive parents pursuant to Title 22, section 4008, subsection 3, paragraph G or Title 22, section 8205, the court shall make the information available to the adoptive parents, prior to issuing the decree pursuant to subsection 6, with protection for the identity of persons other than the child.

G. If the child to be placed for adoption is from a foreign country that has jurisdiction over the child and the prospective adoptive parents are United States citizens, compliance with federal and international adoption laws is deemed to be compliance with this subsection.

Sec. 2. 22 MRSA §4008, sub-§3, ¶G, as enacted by PL 1991, c. 630, §4, is amended to read:

G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall ~~disclose fully to the prospective adoptive parents available information regarding the child's medical and genetic background and any reasonably available background or history that pertains to serious sexual, emotional or physical abuse of or harm to the child, with protection for the identity of persons other than the child~~ comply with the requirements of Title 19, section 1125, subsection 2 and section 8205.

Sec. 3. 22 MRSA §8205, as enacted by PL 1991, c. 630, §5, is repealed and the following enacted in its place:

§8205. Collection and disclosure of information about a child's background

This section governs the collection and disclosure of information about the child's background.

1. Information to be collected. The licensed child placing agency shall obtain medical and genetic information on the birth parents and the child. Specifically, the licensed child placing agency shall attempt to obtain:

A. A current medical, psychological and developmental history of the child, including an account of the child's prenatal care, medical condition at birth, results of newborn screening, any drug or medication taken by the child's birth mother during pregnancy, any subsequent medical, psychological or psychiatric examination and diagnosis, any physical, sexual or emotional abuse suffered by the child and a record of any immunizations and health care received since birth; and

B. Relevant information concerning the medical, psychological and social history of the birth parents, including any known disease or hereditary disposition to disease, the history of use of drugs and alcohol, the health of the birth mother during her pregnancy and the health of the birth parents at the time of the child's birth.

2. Disclosure before placement. Prior to the child being placed for the purpose of adoption, the licensed child placing agency shall provide the information described in subsection 1 to the prospective adoptive parents.

3. Specific reasons for concern. If the licensed child placing agency has specific, articulable reasons to question the truth or accuracy of any of the information obtained, those reasons must be disclosed in writing to the prospective adoptive parents.

4. Notice that information unavailable. The prospective adoptive parents must be informed in writing if any of the information described in subsection 2 can not be obtained, either because the records are unavailable or because the birth parents are unable or unwilling to consent to its disclosure or to be interviewed.

5. Request for additional information. If, after a child is placed for adoption and either before or after the adoption is final, the child suffers a serious medical or mental illness for which the specific medical, psychological or social history of the birth

parents or the child may be useful in diagnosing or treating such illness, the prospective adoptive or adoptive parents may request the child placing agency to attempt to obtain additional information. The child placing agency shall attempt to obtain the information promptly and shall disclose any information collected to the prospective adoptive or adoptive parents as soon as reasonably possible. The licensed child placing agency may charge a fee to the prospective adoptive or adoptive parents to cover the cost of obtaining and providing the additional information. Fees collected by the department must be dedicated to defray the costs of obtaining and providing the additional information. Fees may be reduced or waived for low-income prospective adoptive or adoptive parents.

6. International adoptions. If the child to be placed for adoption is from a foreign country that has jurisdiction over the child and the prospective adoptive parents are United States citizens, compliance with federal and international adoption laws is deemed to be compliance with this section.

See title page for effective date.

CHAPTER 392

S.P. 337 - L.D. 918

An Act to Ensure a Sustainable Urchin Fishery in the State

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

Sec. 1. 12 MRSA §6533, as enacted by PL 1993, c. 604, §1, is amended to read:

§6533. Training required for tender's license

The commissioner may not issue a sea urchin ~~boat~~ and scallop diving tender license under section 6748-B ~~6535~~ to any person for calendar year 1995 or later unless that person has attended a safety training session offered under this section.

1. Tender safety training session. ~~By August 15, 1994, the~~ The commissioner shall establish a boat tender safety training session to provide basic safety training for persons who seek to obtain a sea urchin ~~boat~~ and scallop diving tender license. The training session may be taught by the department or offered by any public or private sector association or organization authorized by the commissioner to offer the training session. At a minimum, the training session must familiarize participants with basic cardiovascular pulmonary resuscitation techniques and risk factors, including hypothermia, associated with the handharvesting of sea urchins and scallops. For any training session taught by the department, the commissioner

shall charge a fee for that session to recover all costs incurred by the department in teaching the training session.

2. Allowance for waivers. The commissioner may waive the requirement to attend a training session offered under this section for any person who demonstrates to the commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the session. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the commissioner and to provide the commissioner with any documentation the commissioner determines necessary to make a decision.

Sec. 2. 12 MRSA §6535 is enacted to read:

§6535. Sea urchin and scallop diving tender license

1. License required. It is unlawful for a person to operate a boat as a platform for the harvesting of sea urchins and scallops by hand, to act as a diving tender on a boat or to possess, strip, transport or sell scallops or sea urchins unless that person is licensed under this section, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers and operate a boat as a platform for the harvesting of sea urchins and scallops by hand and may possess, ship, transport and sell sea urchins and scallops. A sea urchin and scallop diving tender license does not authorize the holder to harvest sea urchins and scallops.

3. Eligibility. A sea urchin and scallop diving tender license may be issued only to an individual and is a resident license.

4. Fee. The fee for a sea urchin and scallop diving tender license is \$89.

5. Prima facie evidence. The failure of at least one person on board the boat operated as a platform during periods of diving to harvest scallops or sea urchins to have a license issued under section 6701 or 6748 is prima facie evidence of a violation of this section.

Sec. 3. 12 MRSA §6748-B, as enacted by PL 1993, c. 416, §2, is repealed.

Sec. 4. 12 MRSA §6748-D is enacted to read:

§6748-D. Sea urchin hand-raking and trapping license

1. License required. It is unlawful for a person to engage in the activities authorized under this section without a current sea urchin hand-raking and trapping license.

2. Licensed activity. The holder of a sea urchin hand-raking and trapping license may take sea urchins by hand-raking or by trap and may possess, ship, transport or sell sea urchins taken by that licensee.

3. Eligibility. A sea urchin hand-raking and trapping license may be issued only to an individual and is a resident license.

4. Fee. The fee for a sea urchin hand-raking and trapping license is \$89.

Sec. 5. 12 MRSA §6749, as enacted by PL 1993, c. 416, §2, is repealed and the following enacted in its place:

§6749. Sea urchin harvesting season

It is unlawful for a person to fish for or take sea urchins from May 1st to August 31st.

Sec. 6. 12 MRSA §6749-N, as amended by PL 1995, c. 198, §1, is further amended to read:

§6749-N. Closed areas; 1995 to 1998

Notwithstanding section 6749, in calendar years 1995, 1996, 1997 and 1998, it is unlawful for a person to fish for or take sea urchins from:

1. Zone 1. Zone 1, from April 1st to August 1st. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker BW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to channel marker #9 east of Great Spruce Head located in the Town of Northport, then running southerly to Graves channel marker northeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy east of Rockland harbor, then running southerly to the TB1 whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

2. Zone 2. Zone 2, from May 1st to October 1st. For the purpose of this article, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

~~The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.~~

The commissioner shall report annually to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the quantity and type of sea urchin licenses sold in each zone in each year.

Sec. 7. 12 MRSA §6749-0, as enacted by PL 1993, c. 740, §3, is repealed and the following enacted in its place:

§6749-O. Limited entry; exceptions

1. Handfishing and dragging licenses. The commissioner may not issue a handfishing sea urchin license or a sea urchin dragging license for calendar year 1994, 1995, 1996, 1997 or 1998 to any person unless that person possessed that license in the previous calendar year.

2. Hand-raking and trapping license. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1995 or 1996 to any person unless that person possessed either a handfishing sea urchin license or a sea urchin dragging license in the previous calendar year. The commissioner may not issue a sea urchin hand-raking and trapping license for calendar year 1997 or 1998 to any person unless that person possessed a sea urchin hand-raking and trapping license in the previous calendar year.

3. Exceptions. The commissioner may grant a license under this section to a person who was licensed to harvest sea urchins in the year prior to the previous calendar year but did not possess a license in the previous calendar year due to physical injury or other medical condition. The person must provide the commissioner with documentation from a physician describing the physical injury or other medical condition.

4. License transfer. The commissioner may transfer the license of a deceased holder of a license issued under this section to a member of the deceased license holder's family. For the purposes of this subsection, "member of the deceased license holder's family" means a deceased license holder's child by birth or adoption, stepchild or spouse.

Sec. 8. 12 MRSA §6749-P and §6749-Q, as enacted by PL 1993, c. 740, §3, are amended to read:

§6749-P. Licenses by zone

For calendar years 1995, 1996, 1997 and 1998, a person eligible to purchase a license under section 6749-O; may purchase those licenses only for Zone 1 or Zone 2. All of those licenses issued to any one person in any one year must be for the same zone. A handfishing sea urchin license, a sea urchin hand-

raking and trapping license or a sea urchin dragging license authorizes the licensed activity only in the zone for which it is issued. A sea urchin dragging license must list the documentation or registration number of the vessel to be used by that licensee when dragging. A vessel documentation number or registration number may not be listed on more than one sea urchin boat license.

§6749-Q. License surcharges

The following surcharges are assessed on licenses sold for calendar years 1995, 1996 and 1997:

1. Handfishing sea urchin license. One hundred and sixty dollars on a sea urchin ~~hand harvesting~~ handharvesting license;

1-A. Sea urchin hand-raking and trapping license. One hundred and sixty dollars on a sea urchin hand-raking and trapping license;

2. Sea urchin dragging license. One hundred and sixty dollars on a sea urchin dragging license;

3. Sea urchin boat tender's license. Thirty-five dollars on a sea urchin boat tender's license;

4. Wholesale seafood license with a sea urchin buyer's permit. Five hundred dollars on a wholesale seafood license with a sea urchin buyer's permit; and

5. Wholesale seafood license with a sea urchin processor's permit. Two thousand five hundred dollars on a wholesale seafood license with a sea urchin processor's permit.

~~The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.~~

The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.

Sec. 9. 12 MRSA §6749-U is enacted to read:

§6749-U. Extension of closing dates

The commissioner may by rule extend the closing dates established under sections 6749 and 6749-N for entire zones or portions of zones for the purpose of conserving spawning sea urchins.

Sec. 10. Report. The Commissioner of Marine Resources shall report by February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over marine resource matters on the feasibility of administering a roe-yield standard as a means of conserving the State's sea urchin resource. The joint standing committee of the Legislature having jurisdiction over marine resource matters may

report out legislation concerning roe-yield standards during the Second Regular Session of the 117th Legislature.

See title page for effective date.

CHAPTER 393

H.P. 837 - L.D. 1168

An Act to Implement the Recommendations of the People with Disabilities Access Commission

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

Sec. 1. 5 MRSA §4553, first ¶, as enacted by PL 1971, c. 501, §1, is amended to read:

As used in this Act, unless the context or subchapter otherwise indicates, the following words shall have the following meanings:

Sec. 2. 5 MRSA §4553, sub-§§1-A, 1-B and 1-C are enacted to read:

1-A. Commercial facilities. "Commercial facilities" means facilities that are intended for nonresidential use.

1-B. Covered entity. For purposes of subchapter III, "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. For purposes of subchapter V, "covered entity" means any applicable private entity or public entity.

1-C. Direct threat. For purposes of subchapter III, "direct threat" means a significant risk to the health or safety of others that can not be eliminated by reasonable accommodation.

Sec. 3. 5 MRSA §4553, sub-§2, as enacted by PL 1971, c. 501, §1, is amended to read:

2. Discriminate. "Discriminate" includes, without limitation, segregate or separate.

For purposes of subchapter III, "discriminate" also includes, as it relates to individuals with physical or mental disability:

A. Limiting, segregating or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee;

B. Participating in a contractual or other arrangement or relationship that has the effect of

subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this Act. A relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity or an organization providing training and apprenticeship programs;

C. Utilizing standards, criteria or methods of administration:

(1) That have the effect of discrimination on the basis of disability; or

(2) That perpetuate the discrimination of others who are subject to common administrative control;

D. Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

E. Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity;

F. Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

G. Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

H. Failing to select and administer tests concerning employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or any other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant, except

when the skills are the factors that the test purports to measure.

Sec. 4. 5 MRSA §4553, sub-§2-A, as enacted by PL 1983, c. 578, §1, is amended to read:

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program. For purposes related to disability-related discrimination, "educational institution" also means any private school or educational program approved for tuition purposes.

Sec. 5. 5 MRSA §4553, sub-§§3 and 4, as enacted by PL 1971, c. 501, §1, are amended to read:

3. Employee. "Employee" means an individual employed by an employer. "Employee" does not include any individual employed by his that individual's parents, spouse or child, except for purposes of disability-related discrimination, in which case the individual is considered to be an employee.

4. Employer. "Employer" includes any person in this State employing any number of employees, whatever the place of employment of ~~such~~ the employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees; ~~but~~. "Employer" does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity, except for purposes of disability-related discrimination, in which case the corporation or association is considered to be an employer.

Sec. 6. 5 MRSA §4553, sub-§7-B is enacted to read:

7-B. Person with physical or mental disability. "Person with physical or mental disability" or "individual with a physical or mental disability" means a person who:

- A. Has a physical or mental disability;
- B. Has a record of a physical or mental disability; or
- C. Is regarded as having a physical or mental disability.

Sec. 7. 5 MRSA §4553, sub-§8, as amended by PL 1991, c. 109, is repealed and the following enacted in its place:

8. Place of public accommodation. "Place of public accommodation" means a facility, operated by a public or private entity, whose operations fall within at least one of the following categories:

A. An inn, hotel, motel or other place of lodging, whether conducted for the entertainment or accommodation of transient guests or those seeking health, recreation or rest;

B. A restaurant, eating house, bar, tavern, buffet, saloon, soda fountain, ice cream parlor or other establishment serving or selling food or drink;

C. A motion picture house, theater, concert hall, stadium, roof garden, airdrome or other place of exhibition or entertainment;

D. An auditorium, convention center, lecture hall or other place of public gathering;

E. A bakery, grocery store, clothing store, hardware store, shopping center, garage, gasoline station or other sales or rental establishment;

F. A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, dispensary, clinic, bathhouse or other service establishment;

G. All public conveyances operated on land or water or in the air as well as a terminal, depot or other station used for specified public transportation;

H. A museum, library, gallery or other place of public display or collection;

I. A park, zoo, amusement park, race course, skating rink, fair, bowling alley, golf course, golf club, country club, gymnasium, health spa, shooting gallery, billiard or pool parlor, swimming pool, seashore accommodation or boardwalk or other place of recreation, exercise or health;

J. A nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;

K. A day-care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment;

L. Public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants;

M. A municipal building, courthouse, town hall or other establishment of the State or a local government; and

N. Any establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public.

When a place of public accommodation is located in a private residence, the portion of the residence used exclusively as a residence is not covered by this subchapter, but that portion used exclusively in the operation of the place of public accommodation or that portion used both for the place of public accommodation and for the residential purposes is covered by this subchapter. The covered portion of the residence extends to those elements used to enter the place of public accommodation, and those exterior and interior portions of the residence available to or used by customers or clients, including rest rooms.

Sec. 8. 5 MRSA §4553, sub-§§8-A, 8-B, 8-C, 8-D, 9-A and 9-B are enacted to read:

8-A. Private entity. "Private entity" means any entity other than a public entity.

8-B. Public accommodation. "Public accommodation" means a public or private entity that owns, leases, leases to or operates a place of public accommodation.

8-C. Public entity. "Public entity" means:

A. The State or any local government;

B. Any department, agency, special purpose district or other instrumentality of the State, 2 or more states or a local government; and

C. A state, local or private commuter authority as defined in the federal Rail Passenger Service Act, Section 103 (8).

8-D. Qualified individual with a disability. "Qualified individual with a disability" applies to only:

A. Subchapter III (employment); and

B. Subchapter V (public accommodations) with regard to public entities only.

For purposes of subchapter III, "qualified individual with a disability" means an individual with a physical or mental disability who, with or without reasonable accommodation, can perform the essential functions of

the employment position that the individual holds or desires.

For purposes of subchapter V, "qualified individual with a disability" means an individual with a disability who, with or without reasonable modification to rules, policies or practices, the removal of architectural, communication or transportation barriers or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

9-A. Reasonable accommodation. For purposes of subchapter III, "reasonable accommodation" may include, but is not limited to:

A. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

B. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters and other similar accommodations for individuals with disabilities.

9-B. Undue hardship; undue burden. "Undue hardship" or "undue burden" mean an action requiring undue financial or administrative hardship. In determining whether an action would result in an undue hardship, factors to be considered include:

A. The nature and cost of the accommodation needed under this Act;

B. The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of the action upon the operation of the facility;

C. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees and the number, type and location of its facilities;

D. The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of the entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity;

E. All the resources available to meet the costs of the accommodation, including any government funding or other grants available for

making public accommodations and places of employment accessible;

F. The extent to which current costs of accommodations have been minimized by past efforts to provide equal access to persons with disabilities;

G. The extent to which resources spent on improving inaccessible equipment or service could have been spent on making an accommodation so that service or equipment is accessible to individuals with disabilities, as well as to individuals without disabilities;

H. Documented good faith efforts to explore less restrictive or less expensive alternatives;

I. The availability of equipment and technology for the accommodation;

J. Whether an accommodation would result in a fundamental change in the nature of the public accommodation;

K. Efforts to minimize costs by spreading costs over time; and

L. The extent to which resources saved by failing to make an accommodation for persons who have disabilities could have been saved by cutting costs in equipment or services for the general public.

"Undue hardship" or "undue burden" is a higher standard than "readily achievable" and requires a greater level of effort on the part of the public accommodation.

Sec. 9. 5 MRSA §4554 is enacted to read:

§4554. Construction

1. Relationship to other laws. Nothing in this Act may be construed to invalidate or limit the remedies, rights and procedures of any law of any state or political subdivision of any state or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act may be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter III or in transportation or places of public accommodation covered by subchapter V.

2. Insurance. Subchapters III and V of this Act may not be construed to prohibit or restrict, with regard to individuals with disabilities:

A. An insurer, hospital, medical service company, health maintenance organization or any

agent or entity that administers benefit plans or similar organizations from underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law;

B. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks or administering risks that are based on or not inconsistent with state law; or

C. A person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide employee benefit plan that is not subject to state laws that regulate insurance.

Paragraphs A, B and C may not be used as a subterfuge to evade the requirements of subchapters III and V.

3. Accommodations and services. Nothing in this Act may be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.

Sec. 10. 5 MRSA §4555 is enacted to read:

§4555. Application

This Act does not apply to the issuance, denial, suspension, revocation or restriction of drivers' licenses by the Secretary of State until April 1, 1996.

Sec. 11. 5 MRSA §4566-A is enacted to read:

§4566-A. Certification and conformity with rules

1. Certification of state law. The commission shall take all steps required under 29 Code of Federal Regulations, Part 36, Subpart F to request federal certification that the State's laws concerning accessibility and usability of places of public accommodation meet or exceed the minimum requirements of the federal Americans with Disabilities Act of 1990. These steps include issuing public notice of an intent to file, conducting a public hearing on record and preparing and filing with the United States Department of Justice the request for certification. If the commission determines that no significant portion of the law is certifiable, the commission may cease its attempts to obtain certification and shall report its determinations to the joint standing committee of the Legislature having jurisdiction over judiciary matters. The report must include recommendations on changes to the law as necessary to achieve certification of a significant portion of the law.

2. Conformity of rules relating to special use areas. The commission shall amend its rules relating

to accessibility of places of public accommodation to include standards contained in the regulations adopted pursuant to Titles I, II, and III of the Americans with Disabilities Act of 1990 and the federal Americans with Disabilities Act of 1990 Accessibility Guidelines, 29 Code of Federal Regulations, Part 36, Subpart F, relating to restaurants and cafeterias, medical care facilities, business and mercantile establishments, libraries, accessible transient lodging and other places of public accommodation, but only to the extent that those standards provide greater accessibility than any comparable standards contained in current state law or rules.

Sec. 12. 5 MRSA §4572, sub-§1, ¶D, as amended by PL 1991, c. 885, Pt. E, §7 and affected by §47, is further amended to read:

D. For any employer, employment agency or labor organization, prior to employment or admission to membership of any individual, to:

(1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B, ~~except when a physical or mental disability is determined by the employer, employment agency or labor organization to be job related or when some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;~~

(2) Make or keep a record of race or color, sex, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B, except under physical or mental disability when an employer requires a physical or mental examination prior to employment, a privileged record of that examination is permissible if made and kept in compliance with this Act;

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title

26, chapter 7, subchapter V-B, ~~except under physical or mental disability when it can be determined by the employer that the job or jobs to be filled require that information for the well being and safety of the individual.~~ This section does not prohibit any officially recognized government agency from keeping ~~necessary~~ records permitted to be kept under this Act in order to provide free services to individuals ~~requiring requesting~~ rehabilitation or employment assistance;

(4) Print, publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter V-B, ~~except under physical or mental disability when the text of printed or published material strictly adheres to this Act;~~ or

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, physical or mental disability, religion, age, ancestry or national origin, the previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter V-B, of that group; or

Sec. 13. 5 MRSA §4572, sub-§2 is enacted to read:

2. Unlawful discrimination against qualified individual with a disability. A covered entity may not discriminate against a qualified individual with a disability because of the disability of the individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment. A qualified individual with a disability, by reason of that disability, may not be excluded from participation in or be denied the benefits of the services, programs or activities of a public covered entity, or be subjected to discrimination by any such covered entity relating to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

A. The prohibition of this subsection against discrimination includes medical examinations and inquiries.

B. Except as provided in paragraph C, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability. A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

C. A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of the applicant and may condition an offer of employment on the results of the examination, if:

(1) All entering employees are subjected to the same examination regardless of disability;

(2) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(c) Government officials investigating compliance with this Act are provided relevant information on request; and

(3) The results of the examination are used only in accordance with this Act.

D. A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job-related and consistent with business necessity.

E. A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health

program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical condition or history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3).

F. For purposes of this subsection, a test to determine the illegal use of drugs may not be considered a medical examination.

(1) A covered entity:

(a) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(b) May require that employees may not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(c) May require that employees behave in conformance with the requirements established under the federal Drug-free Workplace Act of 1988, 41 United States Code, Section 701 et seq.; and

(d) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which that entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of the employee; provided that an employer shall make reasonable accommodation to an alcoholic or drug user who is seeking treatment or has successfully completed treatment.

Sec. 14. 5 MRSA §4572-A, sub-§4, as enacted by PL 1979, c. 79, is amended to read:

4. Employer not responsible for additional benefits. Nothing in this section ~~shall~~ may be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a woman because of pregnancy or other medical conditions ~~which~~ that result from pregnancy, if ~~this~~ the employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for ~~his~~ the employer's other employees and is not otherwise required to provide those leaves or benefits under other state or federal laws.

Sec. 15. 5 MRSA §4573, sub-§1-A, ¶B, as amended by PL 1991, c. 99, §8, is further amended to read:

B. Observe the terms of any bona fide employee benefit plan such as a retirement, pension or insurance plan ~~which that~~ does not evade or circumvent the purposes of this chapter and ~~which that~~ complies with the Federal Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended and the federal Americans with Disabilities Act, 42 United States Code, Section 12101, et seq., and federal administrative interpretations provided that:

(1) No employee benefit plan requires or permits any employer to refuse or fail to hire an applicant for employment, including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual; and

(2) No employee benefit plan requires or permits the denial or termination of employment of any individual including those exempted from the Age Discrimination in Employment Act, 29 United States Code, Section 621, as amended, because of the age of the individual or after completion of a specified number of years of service.

Sec. 16. 5 MRSA §4573, sub-§2, as amended by PL 1991, c. 99, §9, is further amended to read:

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records of features regarding physical or mental disability that are collected must be collected and maintained on separate forms and in separate files and be treated as confidential records;

Sec. 17. 5 MRSA §4573, sub-§3, as amended by PL 1991, c. 99, §10, is further amended to read:

3. Required records. To record any data required by law, or by the rules and regulations of any state or federal agency, provided the records are recorded and kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act; ~~and~~

Sec. 18. 5 MRSA §4573, sub-§4, as amended by PL 1991, c. 484, §3, is repealed.

Sec. 19. 5 MRSA §4573, sub-§5, as enacted by PL 1991, c. 484, §4, is amended to read:

5. Federal Indian policy. Nothing in this Act may be construed to prohibit any employment policy or action that is permitted under 42 United States Code, Section 2000e-2(i) (1982) of the federal Equal Employment Opportunity Act governing employment of Indians; and

Sec. 20. 5 MRSA §4573, sub-§6 is enacted to read:

6. Infectious and communicable diseases. Assignment of individuals with an infectious or communicable disease is governed by the following.

A. In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the United States Secretary of Health and Human Services under the federal Americans with Disabilities Act, Title I, Section 103(d)(1), and which can not be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign the individual a job involving food handling.

B. Nothing in this Act may be construed to preempt, modify or amend any state, county or local law, ordinance, rule or regulation applicable to food handling that is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which can not be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the United States Secretary of Health and Human Services.

Sec. 21. 5 MRSA §4573-A is enacted to read:

§4573-A. Defenses

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

2. Religious entities. This subchapter does not prohibit a religious corporation, association, educational institution or society from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or

society of its activities. Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of that organization.

Sec. 22. 5 MRSA §4592, sub-§§1 and 2, as amended by PL 1991, c. 99, §22, are further amended to read:

1. Denial of public accommodations. For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of race or color, sex, physical or mental disability, religion, ancestry or national origin, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodation, advantages, facilities, goods, services and privileges may depend;

For purposes of this subsection, unlawful discrimination also includes, but is not limited to:

A. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered;

B. A failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless, in the case of a private entity, the private entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations;

C. A failure to take steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless, in the case of a private entity, the private entity can demonstrate that taking those steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden;

D. A private entity's failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals, not including barriers that can be removed only through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the removal is readily achievable;

When the entity can demonstrate that the removal of a barrier under this paragraph is not readily achievable, a failure to make the goods, services, facilities, privileges, advantages or accommodations available through alternative methods if alternative methods are readily achievable; and

E. A qualified individual with a disability, by reason of that disability, being excluded from participation in or being denied the benefits of the services, programs or activities of a public entity, or being subjected to discrimination by any such entity;

2. Communication, notice or advertisement.

For any person to directly or indirectly publish, display or communicate any notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation are refused, withheld from or denied to any person on account of race or color, sex, physical or mental disability, religion, ancestry or national origin, or that the patronage or custom of any person belonging to or purporting to be of any particular race or color, sex, physical or mental disability, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any particular race or color, physical or mental disability, religion, ancestry or national origin. The production of any communication, notice or advertisement purporting to relate to any place of accommodation is presumptive evidence in any action that the action was authorized by its owner, manager or proprietor; ~~and~~

Sec. 23. 5 MRSA §4592, sub-§3, ¶¶B and C, as enacted by PL 1989, c. 301, are amended to read:

B. That contains no more than 8 5 rooms available to be let to lodgers; and

C. In which the owner resides on the premises;

Sec. 24. 5 MRSA §4592, sub-§§4 to 7 are enacted to read:

4. Participation. For a covered entity:

A. To subject an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of that entity;

B. To afford an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage or accommodation in a manner that is not equal to that afforded to other individuals; and

C. To provide an individual or a class of individuals, on the basis of a disability or disabilities of the individual or class, directly or through contractual, licensing or other arrangements, with a good, service, facility, privilege, advantage or accommodation that is different or separate from that provided to other individuals, unless this action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage or accommodation or other opportunity that is as effective as that provided to others.

For purposes of this subsection, the term "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enters into a contractual, licensing or other arrangement;

5. Integrated setting; programs or activities not separate or different. For a covered entity to not afford goods, services, facilities, privileges, advantages and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability may not be denied the opportunity to participate in programs or activities that are not separate or different;

6. Association. For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association; and

7. Administrative methods. For an individual or an entity, directly or through contractual or other

arrangements, to utilize standards or criteria or methods of administration:

A. That have the effect of discrimination on the basis of disability; or

B. That perpetuate the discrimination of others who are subject to common administrative control.

Sec. 25. 5 MRSA §4593, sub-§§1 and 2, as amended by PL 1991, c. 99, §23, are further amended to read:

1. Public accommodations. ~~Nothing in section 4591 or 4592 related to equal access to public accommodations or indirectly denying access to persons with physical disability applies to existing structures, structures under construction or proposed construction submitted for bid before September 1, 1974.~~ For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974, but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building ~~exceeds~~ exceed \$250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide.

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict.

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high.

D. Doors that are not intended for normal use, and that are dangerous if a blind person were to enter or exit by them, must be made identifiable to touch by knurling the handle or knob.

E. There must be parking spaces designated for persons with physical disability set aside in adequate number and clearly marked for use only by the disabled. Set aside in adequate number

means that, for every 25 parking spaces made available to the public on a public or private parking lot, at least one of those spaces must be made available in an appropriate location for parking exclusively used by persons with physical disability.

In any building designed and constructed specifically for public accommodations, the bathroom facilities and all accompanying fixtures must be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. The units must be constructed on ground level and must comply with paragraph C.

2. Places of employment. ~~Existing places of employment or structures to be used for this purpose currently under construction or where proposed construction has been submitted for bid before September 1, 1974, are exempt from the requirements of this chapter as they relate to accessibility for persons with physical disability.~~ For any building or facility constructed specifically as a place of employment on or after September 1, 1974, but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceeds \$100,000, and the remodeling or enlarging is begun before January 1, 1982, the public accommodation provisions relating to walks, entries, restroom facilities and doors apply.

Sec. 26. 5 MRSA §4594-E, as corrected by RR 1993, c. 2, §4, is repealed.

Sec. 27. 5 MRSA §4594-F is enacted to read:

§4594-F. Access to places of public accommodation and commercial facilities; standards

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

A. "Alteration" means a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building or facility or any part of the building or facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions.

B. "Builder" means the applicant for a building permit in a municipality that requires such permits or the owner of a property in a municipality that does not require building permits.

C. "Design professional" means an architect or professional engineer registered to practice under Title 32.

D. "Facility" means all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots or other real or personal property, including the site where the building, property, structure or equipment is located.

E. "Historic preservation programs" means programs conducted by a public or private entity that have preservation of historic properties as a primary purpose.

F. "Historic properties" means those properties that are listed or eligible for listing in the National Register of Historic Places or the State of Maine Register of Historic Places.

G. "Maximum extent feasible" applies to the occasional case when the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration must provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible must be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities would not be feasible, the facility must be made accessible to persons with other types of disabilities.

H. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy after January 1, 1996 or an alteration affecting at least 80% of the space of the internal structure of facilities after January 1, 1996.

I. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(1) The nature and cost of the action needed under this subchapter;

(2) The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or other impacts of the action on the operation of the facility;

(3) The overall financial resources of the covered entity, the overall size of the busi-

ness of a covered entity with respect to the number of its employees and the number, type and location of its facilities; and

(4) The type of operation or operations of the covered entity, including the composition, structure and functions of the entity's work force, the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity.

J. "Standards of construction" means the standards set forth in the federal Americans with Disabilities Act Accessibility Guidelines, "ADAAG," standards. The ADAAG standards of construction replace ANSI standards and provide the architectural standards of construction.

2. Facilities attested. This section applies to any building or facility constructed specifically as a place of public accommodation or place of employment on or after January 1, 1996 or to any alterations of an existing place of public accommodation or place of employment when the alteration is begun after January 1, 1996.

3. Application. Facilities subject to this section must meet the following standards.

A. Places of employment or public accommodation and additions to those places constructed on or after January 1, 1996, must meet the standards of construction, including, but not limited to, the 5 parts of construction in paragraph B, subparagraph (2).

B. Alterations are governed by the following.

(1) Any alteration to a place of public accommodation, commercial facility or place of employment on or after January 1, 1996 must be made so as to ensure that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If existing elements, spaces or common areas are altered, then each altered element, space or area must comply with the applicable provisions of the standards of construction.

(2) This subparagraph applies to only buildings remodeled or renovated or to any alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building exceed \$100,000.

(a) Except for repairs undertaken in accordance with the rules adopted

pursuant to subsection 4, when the proposed alteration substantially affects that portion of the building normally accessible to the public, a place of employment or public accommodation altered on or after January 1, 1996 must meet the following 5 parts of the standards of construction or as otherwise indicated:

(i) 4.3 accessible routes;

(ii) 4.13 doors;

(iii) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person, for example, doors to loading platforms, boiler rooms, stages and the like, must be made identifiable to the touch by a textured surface on the door handle, knob, pull or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Textured surfaces may not be provided for emergency exit doors or any doors other than those to hazardous areas;

(iv) Parking spaces for use by persons with physical disabilities pursuant to 4.1.2 of the standards of construction; and

(v) 4.17 toilet stalls, at least one of which must be a standard toilet stall configuration pursuant to ADAAG figure 30(a). Any additional toilet stalls within the same toilet room may be either standard stall configuration, ADAAG figure 30(a) or alternate stall configuration ADAAG figure 30(b).

(b) In addition to the 5 parts of the standards of construction specified in division (a), each of which must be met regardless of the cost of the 5 parts of the standards, when the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to

the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area to the extent that the costs to provide an accessible path of travel do not exceed 20% of the cost of the alteration to the primary function area.

If the cost to provide an accessible path of travel to the altered area exceeds 20% of the costs of the alteration to the primary function area, the path of travel must be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

In determining whether the 20% cost figure has been met, the following analysis must be used. The analysis must include an evaluation of whether the following elements of access have been provided, using the following order of priority, before costing 20%, regardless of other elements of access that may have been provided which may affect the path of travel:

- (i) An accessible entrance;
- (ii) An accessible route to the altered area;
- (iii) At least one accessible restroom for each sex or a single unisex restroom;
- (iv) Accessible telephones;
- (v) Accessible drinking fountains; and
- (vi) When possible, additional accessible elements such as parking, storage and alarms.

The obligation to provide an accessible path of travel may not be evaded by performing a series of small alterations to the area served by a single path of travel if those alterations could have been performed as a single undertaking.

(3) This subparagraph applies to only buildings remodeled or renovated or to any

alterations if the estimated total costs for remodeling or renovating or for alterations to an existing building do not exceed \$100,000. When the entity is undertaking an alteration that affects or could affect usability or access to an area of the facility containing a primary function, the entity shall make the alterations in a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones and drinking fountains serving the altered area are readily accessible to and usable by individuals with disabilities, where the alterations to the path of travel or the bathrooms, telephones and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope.

C. This subsection may not be construed to require the installation of an elevator for a facility that is less than 3 stories in height or has less than 3,000 square feet per story unless the facility is a shopping center, a shopping mall, the professional office of a health care provider, a terminal, depot or other station used for specified public transportation or an airport passenger terminal or a facility covered by Title II of the Americans with Disabilities Act or unless the United States Attorney General determines that a particular category of facility requires the installation of elevators based on the usage of the facility.

4. Curb ramps. Curb ramps or other slopes are required in the following situations.

A. Newly constructed or altered streets, roads and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street-level pedestrian walkway.

B. Newly constructed or altered street-level pedestrian walkways must contain curb ramps or other sloped areas at intersections to streets, roads or highways.

5. Rules. The commission shall adopt, alter and amend rules designed to make facilities under this section accessible to, functional for and safe for use by persons with physical or mental disabilities in accordance with subsections 3 and 4 and shall adopt, alter and amend rules designed to enforce this section. The commission may repeal only those rules contrary to this chapter. The commission shall also adopt rules concerning procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1) and (2) of the Uniform Federal

Accessibility Standards, maintaining, at a minimum, the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

6. Certification; inspection. The builder of a facility to which this section applies must obtain a certification from a design professional that the plans meet the standards of construction required by this section if the costs of the construction or alterations are at least \$50,000. The builder shall provide the certification to the Office of the State Fire Marshal with the plans of the facility. The builder shall also provide the certification to the municipality where the facility exists or will be built.

7. Training, education and assistance. The commission and the Office of the State Fire Marshal, with input from organizations representing individuals with disabilities, shall develop, as necessary, information packets, lectures, seminars and educational forums on barrier-free design for the purpose of increasing the awareness and knowledge of owners, architects, design professionals, code enforcers, building contractors, individuals with disabilities and other interested parties.

8. Mandatory plan review; certification; inspection. Builders of newly constructed public buildings shall submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4.

A. For purposes of this subsection, "public building" means any building or structure constructed, operated or maintained for use by the general public, including, but not limited to, all buildings or portions of buildings used for:

- (1) State, municipal or county purposes;
- (2) Education;
- (3) Health care;
- (4) Public assembly;
- (5) A hotel, motel or inn;
- (6) A restaurant;
- (7) Business occupancy; or
- (8) Mercantile establishments occupying more than 3000 square feet.

B. The municipal authority having jurisdiction to issue building permits may not issue a building permit unless the Office of the State Fire Marshal approves the plans and certifies that the public building covered by this subsection meets

the standards of construction required by this section. If, however, no decision is rendered within 2 weeks of submission to the Office of the State Fire Marshal, the builder may submit the building permit request directly to the municipality with an attestation from the design professional that the plans meet the standards of construction.

C. If officials of the municipality in which a restaurant; motel; hotel; inn; state; municipal or county building; or an elementary or secondary school covered by this subsection is constructed, renovated, remodeled or enlarged inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the certified plans. The municipal officials shall require that a facility covered by this paragraph be inspected for compliance with construction standards before the municipal officials permit a facility covered by this paragraph to be occupied.

9. Voluntary plan review. Builders of facilities not governed by subsection 8 may submit plans to the Office of the State Fire Marshal to ensure that the plans meet the standards of construction required by subsections 3 and 4.

10. Waivers; variance. Builders of facilities governed by subsection 8 that are private entities, when the facilities are not to be owned or operated by, or leased to or by, a public entity, may file a petition with the State Fire Marshal requesting a waiver or variance of the standards of construction. If a representative of the Office of the State Fire Marshal determines, in cases covered by mandatory plan review pursuant to subsection 8, that compliance with this section and its rules is structurally impracticable, the State Fire Marshal may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting the variance or waiver to justify its allowance.

11. Appeals relating to mandatory plan reviews. Decisions of the State Fire Marshal on requests for waivers or variances in cases covered by mandatory plan review under subsection 8 are subject to review in Superior Court upon petition of the aggrieved party within 30 days after the issuance of the decision for which review is sought. The court may enter an order enforcing, modifying or setting aside the decision of the State Fire Marshal, or it may remand the proceeding to the State Fire Marshal for further action as the court may direct.

12. Fees. The Office of the State Fire Marshal shall establish fees for reviews, waivers or variances under this section. The Office of the State Fire

Marshal shall pay all fees to the Treasurer of State to be used to carry out this chapter. Any balance of these fees does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 28. 5 MRSA §4611, as enacted by PL 1977, c. 259, §2, is amended to read:

§4611. Complaint

Any person who believes ~~he~~ that the person has been subject to unlawful discrimination, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination, provided that such complaints ~~shall~~ must be filed with the commission not more than 6 months after the alleged act of unlawful discrimination. In addition, any person may file a complaint pursuant to section 4632.

Sec. 29. 5 MRSA §4613, sub-§2, ¶D is enacted to read:

D. The obtaining of an approval of a plan certified by the Office of the State Fire Marshal under section 4594-F, subsection 8 or 9 is rebuttable evidence that the plan does meet or exceed the minimum requirements of section 4594-F, subsection 8 or 9.

Sec. 30. 5 MRSA §4622, sub-§1, as amended by PL 1993, c. 327, §§3 and 4, is further amended to read:

1. Limitation. No attorneys' fees under section 4614 and no civil penal damages under section 4613 may be awarded to a plaintiff in a civil action under this Act unless the plaintiff alleges and establishes that, prior to the filing of the civil action, the plaintiff first filed a complaint with the commission and the commission either:

A. Dismissed the case under section 4612, subsection 2;

B. Failed, within 90 days after finding reasonable grounds to believe that unlawful discrimination occurred, to enter into a conciliation agreement to which the plaintiff was a party; or

C. Issued a right-to-sue letter under section 4612, subsection 6 and the action was brought by the aggrieved person not more than 2 years after the act of unlawful discrimination of which the complaint was made as provided in section 4613, subsection 2, paragraph C.

This subsection does not apply to or limit any remedies for civil actions filed under subchapter V if one or more additional causes of action are alleged in

the same civil action that do not require exhaustion of administrative remedies.

Sec. 31. Resolve 1993, c. 73, §1, sub-§§2 and 3 are amended to read:

2. Recommend changes in state laws and rules needed to ensure that compliance with state law will meet at least the minimum requirements of federal law, so that state law can be certified by the United States Department of Justice as complying with the federal Americans with Disabilities Act of 1990 and, in part, so that, with respect to standards of construction relating to access for people with disabilities, businesses may have a more efficient and cost-effective process and a "one-stop shopping" location at the Office of State Fire Marshal for review and approval of construction plans with respect to both state and federal access laws; ~~and~~

3. Plan for implementation, including development of resources and financing, to meet the needs of people with disabilities and the needs of businesses and others required to comply with the laws pertaining to access for persons with disabilities; ~~and be it further~~

Sec. 32. Resolve 1993, c. 73, §1, sub-§§4 and 5 are enacted to read:

4. Study and propose legislation concerning providing vertical access through elevators or other effective means, taking into account federal requirements, current state requirements and requirements under state law in effect June 1, 1995; and

5. Study the issuance, denial, suspension, revocation and restriction of drivers' licenses by the Secretary of State, taking into account federal requirements; and be it further

Sec. 33. Resolve 1993, c. 73, §2, first ¶ is amended to read:

Sec. 2. Initial appointment. Resolved: That the commission consists of 17 members appointed in the following manner:

Sec. 34. Resolve 1993, c. 73, §2-A is enacted to read:

Sec. 2-A. Additional appointment. Resolved: That 2 additional members are appointed after June 1, 1995 in the following manner:

1. One member from an organization representing municipalities, appointed by the Governor; and

2. The Secretary of State or the Secretary of State's designee.

The additional appointments must be made within 10 days of the effective date of this section; and be it further

Sec. 35. Resolve 1993, c. 73, §7 is amended to read:

Sec. 7. Report. Resolved: That the commission shall present ~~its~~ interim findings and any recommended legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters, the Chair of the Legislative Council and the Executive Director of the Legislative Council by February 1, 1995. The commission shall present final findings and recommendations to the Second Regular Session of the 117th Legislature and the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 15, 1996; and be it further

Sec. 36. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
PUBLIC SAFETY, DEPARTMENT OF		
Office of the State Fire Marshal		
Positions - Other Count	(4.0)	(4.0)
Personal Services	\$113,757	\$155,188
All Other	35,565	36,000
Capital Expenditures	63,600	
Allocates funds for 4 additional Fire Protection Specialist Assistant positions and general operating expenses to handle additional mandatory plan reviews.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	\$212,922	\$191,188

Sec. 37. Retroactivity. That section of this Act that amends Resolve 1993, chapter 73, section 7 applies retroactively to February 1, 1995.

See title page for effective date.

CHAPTER 394

H.P. 1008 - L.D. 1419

An Act to Modify the Licensure Act for Substance Abuse Counselors

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

Sec. 1. 5 MRSA §12004-A, sub-§41, as enacted by PL 1987, c. 786, §5, is amended to read:

41. State	Not	32 MRSA
Board of Substance	Authorized	§6201
Abuse Alcohol and		
<u>Drug</u> Counselors		

Sec. 2. 32 MRSA §6201, as amended by PL 1989, c. 503, Pt. B, §148, is further amended to read:

§6201. State Board of Alcohol and Drug Counselors

The State Board of ~~Substance Abuse Alcohol and Drug~~ Counselors within the Department of Professional and Financial Regulation as established by Title 5, section 12004-A, subsection 41, shall carry out the purposes of this chapter.

Sec. 3. 32 MRSA §6202, as amended by PL 1987, c. 395, Pt. A, §193, is further amended to read:

§6202. Objective

The objective of this legislation is to establish a State Board of ~~Substance Abuse Alcohol and Drug~~ Counselors, which ~~will establish~~ establishes and ~~ensure~~ ensures high professional standards among ~~substance abuse alcohol and drug~~ counselors and which ~~will encourage~~ encourages and ~~promote~~ promotes quality treatment and rehabilitation services for substance abusers.

Sec. 4. 32 MRSA §6203, as amended by PL 1991, c. 456, §§2 to 8, is further amended to read:

§6203. Definitions

As used in this chapter, unless ~~a different meaning clearly appears from~~ the context otherwise indicates, the following terms ~~shall~~ have the following meanings.

1. Board. "Board" means the State Board of ~~Substance Abuse Alcohol and Drug~~ Counselors.

1-A. College level course. "College level course" means any education class or program that includes at least 15 contact hours per credit.

2. Consumer of alcohol and drug counseling services. A "consumer of ~~substance abuse alcohol and drug counseling~~ services" is a person affected by or recovering from alcoholism or other drug abuse.

3. Nonprovider. A "nonprovider" means an individual who neither is presently nor has been any of the following for the past 3 years:

A. ~~A substance abuse~~ An alcohol and drug counselor;

B. An administrator or board member of a facility or program that provides ~~substance abuse~~ alcohol and drug counseling services; or

C. The spouse of any of those persons listed in paragraphs A and B.

~~4-A. Associate substance abuse counselor. "Associate substance abuse counselor" means a practitioner who provides the service of professional substance abuse counseling to the public for a fee, monetary or otherwise, who does not engage in private practice and who meets the criteria established in sections 6213 and 6214-A for an associate substance abuse counselor.~~

5. Licensed alcohol and drug counselor. "Licensed ~~substance abuse~~ alcohol and drug counselor" means an individual who is providing the service of professional ~~substance abuse~~ alcohol and drug counseling to the public for a fee, monetary or otherwise, and who meets the criteria established in sections 6213 and 6214-A for a licensed ~~substance abuse~~ alcohol and drug counselor.

5-A. Inactive alcohol and drug counselor. "Inactive ~~substance abuse~~ alcohol and drug counselor" means a licensed, ~~certified~~ or registered ~~substance abuse~~ alcohol and drug counselor who registers with the board for a leave from the field for a period not to exceed 2 years. Inactive ~~substance abuse~~ alcohol and drug counselors are not required to take the written or oral examinations nor provide documentation of continuing education during the period they have abstained from practice. Inactive ~~substance abuse~~ alcohol and drug counselors must notify the board for license renewal prior to resuming their practice.

6. Alcohol and drug counseling services. "~~Substance abuse~~ Alcohol and drug counseling services" are those counseling services offered for a fee, monetary or otherwise, as part of the treatment and rehabilitation of persons abusing alcohol or other drugs. The purpose of ~~substance abuse~~ alcohol and drug counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of alcohol or other drugs. ~~Substance abuse~~ Alcohol and drug counseling services are the 12 core functions defined by rule of the board.

Sec. 5. 32 MRSA §6203, sub-§7-A is enacted to read:

7-A. Registered alcohol and drug counselor. "Registered alcohol and drug counselor" means a practitioner who provides the service of professional alcohol and drug counseling to the public for a fee, monetary or otherwise, who does not engage in

private practice and who meets the criteria established in sections 6213 and 6214-A for a registered alcohol and drug counselor.

Sec. 6. 32 MRSA §6205, as amended by PL 1991, c. 456, §10 and affected by §36, is further amended to read:

§6205. Licensing

A person may not, unless specifically exempted by this chapter, practice as a ~~substance abuse~~ an alcohol and drug counselor or profess to the public to be, or assume or use the title or designation of, "inactive ~~substance abuse~~ alcohol and drug counselor," "licensed ~~substance abuse~~ alcohol and drug counselor," or "associate ~~substance abuse~~ alcohol and drug counselor," "licensed ~~substance abuse~~ alcohol and drug counselor" or registered alcohol and drug counselor or the abbreviation "I.S.A.C.," "L.S.A.C.," or "A.S.A.C." "I.A.D.C.," "L.A.D.C." or "R.A.D.C." or any other title, designation, words, letters or device tending to indicate that such a person is licensed or registered, unless ~~such that~~ person is licensed or registered with and holds a current and valid license or certificate of registration from the board. Any person who offers or gives ~~substance abuse~~ alcohol and drug counseling services in violation of this section must be punished, upon conviction, by a fine of not less than \$50 and not more than \$500 for each such offense.

Sec. 7. 32 MRSA §6207, as amended by PL 1991, c. 456, §12, is further amended to read:

§6207. Registration required

1. Alcohol and drug counselor. In order to safeguard the health and safety of ~~Maine's~~ citizens of this State, any person who performs or offers to perform ~~substance abuse~~ alcohol and drug counseling services for a fee, monetary or otherwise, and professes to be a ~~substance abuse~~ an alcohol and drug counselor is required to submit evidence of the qualifications to practice and must be registered, ~~certified~~ or licensed in accordance with this chapter.

2. Evidence of qualifications. Any individual who is providing the service of ~~substance abuse~~ alcohol and drug counseling to the public for a fee, monetary or otherwise, and who is not employed in a program certified or licensed by the State is required to submit evidence of the qualifications to practice and must be licensed as a licensed ~~substance abuse~~ alcohol and drug counselor as provided in this subchapter. Any individual who is providing the service of ~~substance abuse~~ alcohol and drug counseling to the public for a fee, monetary or otherwise, and who is employed in a program certified or licensed by the State is required to register or be licensed pursuant to this chapter.

Sec. 8. 32 MRSA c. 81, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

STATE BOARD OF ALCOHOL AND DRUG COUNSELORS

Sec. 9. 32 MRSA §6208-A, sub-§1, as amended by PL 1991, c. 456, §13, is further amended to read:

1. Membership. The State Board of ~~Substance Abuse~~ Alcohol and Drug Counselors, as established by Title 5, section 12004-A, subsection 41, consists of 11 members. Nine members are appointed by the Governor. One member must be the Director of the Office of Substance Abuse or a designee. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of substance abuse or alcohol and drug counselors. Of these 11 members, 5 members must be licensed ~~substance abuse~~ alcohol and drug counselors. Two members must be nonproviders, one of whom must be a family member of a consumer of ~~substance abuse~~ alcohol and drug counseling services or a consumer of ~~substance abuse~~ alcohol and drug counseling services who has abstained from the use of alcohol and other drugs for a period of at least 2 years. One member must be a public member. One member must be a representative of a regional alcohol and drug abuse council. Members must represent a broad geographic distribution of the State and must be from among the professional associations representative of the field.

Sec. 10. 32 MRSA §6212, sub-§2, as amended by PL 1991, c. 456, §16, is further amended to read:

2. Adopt criteria. The board, in cooperation with the Office of Substance Abuse, may design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in ~~substance abuse~~ alcohol and drug counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in ~~substance abuse~~ alcohol and drug counseling must be clearly defined, have an established baseline scoring procedure that is objectively measured, ~~be~~ in writing and be available to the public upon request.

Sec. 11. 32 MRSA §6212, sub-§3, as amended by PL 1991, c. 456, §17, is further amended to read:

3. Registration and standards. The board may register and set standards of practice for all persons

practicing as ~~substance abuse~~ alcohol and drug counselors who are working in ~~Maine~~ the State. Any standards set by the board for practice for ~~substance abuse~~ alcohol and drug counselors working in ~~Maine~~ the State must be clearly defined, measurable and written in accordance with accepted standards and available to the public upon request. Educational background must be a consideration in any licensing or registration standards adopted by the board.

Sec. 12. 32 MRSA §6212, sub-§12 is enacted to read:

12. Clinical supervision. For purposes of direct clinical supervision of licensed practitioners in the field of alcohol and drug counseling, the board may certify licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors and clinical social workers, who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession. Other members of any mental health profession must meet the criteria set forth by the International Certification and Reciprocity Consortium or the National Association of Alcohol and Drug Abuse Counselors or equivalent qualifications as determined by the board by rulemaking.

Sec. 13. 32 MRSA §6213, as amended by PL 1991, c. 456, §21, is further amended to read:

§6213. Eligibility requirements for persons providing alcohol and drug counseling

To be eligible to practice as a ~~substance abuse~~ an alcohol and drug counselor, an applicant must:

1. Age; education. Be at least 18 years of age, have a high school diploma or its equivalent and demonstrate trustworthiness and competence to engage in the practice of ~~substance abuse~~ alcohol and drug counseling in such a manner as to safeguard the interests of the public; and

3. Abstinence from drugs and alcohol. Have abstained from the active abuse of alcohol or any other drug that in the judgment of the board has been or could have been detrimental to the applicant's performance or competency as a ~~substance abuse~~ an alcohol and drug counselor. It is strongly recommended that applicants have abstained for at least the 2-year period immediately preceding the date on which application is made. In considering an applicant for registration, the board may not consider a history of previous alcoholism or drug addiction as an essential qualification nor disqualification for ~~certification~~ registration or licensure.

Sec. 14. 32 MRSA §6213-A, as amended by PL 1991, c. 456, §22 and affected by §36, is further amended to read:

§6213-A. Eligibility requirements for registration

An individual may not practice as ~~a substance abuse~~ an alcohol and drug counselor for a fee, monetary or otherwise, unless that individual is licensed pursuant to this chapter or registers with the board. Each individual who is not licensed and who engages in ~~substance abuse~~ alcohol and drug counseling shall register with the board every 2 years. Each individual who registers shall fill out a form designed by the board. A person registered to provide ~~substance abuse~~ alcohol and drug counseling services may not practice without supervision or engage in private practice.

Sec. 15. 32 MRSA §6214-A, as enacted by PL 1987, c. 395, Pt. A, §206, is amended to read:

§6214-A. Eligibility requirements for qualification as a licensed alcohol and drug counselor

1. Licensed alcohol and drug counselor. The board shall issue a license to practice ~~substance abuse~~ alcohol and drug counseling upon the affirmative vote of at least 5 members of the board to any applicant who has satisfactorily met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade, as established by the board, on any examinations the board may prescribe by its rules;
- C. Completed 30 semester hours of college-level course work in appropriate social science fields or its equivalent in appropriate ~~substance abuse~~ alcohol and drug training; and
- D. Met any other criteria the board may prescribe by its rules.

~~**2. Associate substance abuse counselor.** The board may issue a certificate of registration as an associate substance abuse counselor upon the affirmative vote of 5 members of the board to any applicant who has met the following minimal requirements:~~

- ~~A. Met the eligibility requirements set forth in section 6213;~~
- ~~B. Obtained a passing grade on the written exam and a provisionally passing grade on the oral exam, as established by the board and prescribed by its rules; and~~
- ~~C. Met any other criteria the board may prescribe by its rules.~~

2-A. Registered alcohol and drug counselor.

The board may issue a certificate of registration as a registered alcohol and drug counselor, upon the affirmative vote of 5 members of the board, to any applicant who has met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade on the written exam and a provisionally passing grade on the oral exam, as established by the board and prescribed by its rules; and
- C. Met any other criteria the board may prescribe by its rules.

3. Reapplication for certificate. Any applicant who is not issued a license or a certificate of registration may again apply for registration after a period of not less than 6 months from the date of the last denial.

4. Other qualifications. Any individual who has obtained a master's degree in counseling, substance abuse or a related field, who can document 1,000 hours of direct service to clients with problems related to substance abuse, is eligible to apply for licensure and must be licensed in accordance with this chapter. The board may adopt rules to recognize exceptional education or experience that qualifies an applicant to apply for licensure.

Sec. 16. 32 MRSA §6214-A, sub-§1, as amended by PL 1991, c. 456, §23 and affected by §36, is further amended to read:

1. Licensed alcohol and drug counselor. The board shall issue a license to practice as a licensed ~~substance abuse~~ alcohol and drug counselor upon the affirmative vote of at least 6 members of the board to any applicant who has satisfactorily met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade, as established by the board, on the written and oral examinations the board has prescribed by its rules;
- C-1. Obtained at least an associate's degree in an appropriate social science field from an accredited institution or program approved by the board with a concentration of course work in the 12 core functions defined by rule of the board;
- D-1. Completed a minimum of 4,000 supervised direct client service hours in the 12 core functions defined by rule of the board. This work experience may be gained in any supervised activity, including volunteer work or student

placement, that relates to the core functions described in the board's licensing examination; and

E. Provided documentation of experience with a wide range of clients, in a wide range of treatment settings while working independently.

Sec. 17. 32 MRSA §6214-A, sub-§2, as amended by PL 1991, c. 456, §23 and affected by §36, is repealed.

Sec. 18. 32 MRSA §6214-A, sub-§2-A is enacted to read:

2-A. Registered alcohol and drug counselor.

The board may issue a license to practice as a registered alcohol and drug counselor upon the affirmative vote of 6 members of the board to any applicant who has met the following minimal requirements:

A. Met the eligibility requirements set forth in section 6213;

B. Obtained a passing grade, as established by the board, on the written exam prescribed by its rules;

C. Completed 300 clock hours of education in appropriate social science fields or its equivalent in appropriate alcohol and drug abuse training, with at least 50% of the education in college level courses related to the 12 core functions defined by rule of the board;

D. Completed 4,000 supervised direct client service hours in the 12 core functions defined by rule of the board. This work experience may be gained in any supervised activity, including volunteer work or student placement, that relates to the core functions; and

E. Provided documentation of experience in alcohol and drug counseling in one particular setting or client population.

Sec. 19. 32 MRSA §6214-B, as amended by PL 1991, c. 456, §§24 and 25, is further amended to read:

§6214-B. Application

Any person registered by the board as a registered substance abuse counselor, R.S.A.C., prior to September 1, 1987; is automatically licensed as a licensed ~~substance abuse~~ alcohol and drug counselor, ~~L.S.A.C.~~ L.A.D.C.

Any person registered by the board as a registered substance abuse counselor, provisional, R.S.A.C., provisional; or not registered by the board, but who is providing the primary service of profes-

sional ~~substance abuse~~ alcohol and drug counseling to the public and who is not employed in a program certified or licensed by the State; prior to the effective date of this section; shall comply with the requirements of section 6207, subsection 2, by July 1, 1990.

Any person who is providing the primary service of professional ~~substance abuse~~ alcohol and drug counseling to the public and who is employed in a program certified or licensed by the State shall comply with the requirements of section 6207, subsection 3, by January 1, 1988.

~~Any person who is licensed by the board as an associate substance abuse counselor, licensed substance abuse counselor or inactive substance abuse counselor who was actively engaged as a substance abuse counselor for one year prior to October 1, 1993, is deemed to have met all the requirements for that person's respective credential. Any registered substance abuse counselor shall, after October 1, 1993, cease using the title "registered substance abuse counselor" or the initials "R.S.A.C." unless that person has met the standards for licensure that existed prior to that date.~~

Sec. 20. 32 MRSA §6215, as amended by PL 1991, c. 456, §26, is further amended to read:

§6215. Application; membership fees

Application for registration as a registered ~~substance abuse~~ alcohol and drug counselor; or licensure as a licensed ~~substance abuse~~ alcohol and drug counselor ~~or certification as an associate substance abuse counselor~~ must be on forms prescribed and furnished by the board. Application and examination fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. Successful applicants shall pay biennial fees of \$75 for registration, ~~\$100 for licensure as an associate substance abuse counselor~~ and \$150 for licensure as a ~~substance abuse~~ alcohol and drug counselor. The payment of fees is suspended during the term of inactive status.

Sec. 21. 32 MRSA §6216, as amended by PL 1991, c. 456, §27, is further amended to read:

§6216. Examinations

The board shall make reasonable arrangements for written and oral examinations to be held at ~~such~~ times and places as necessary to accommodate those persons applying to take the examinations. The examinations must be graded using established written base-line scores for failure or passage, be based on accepted ~~substance abuse~~ alcohol and drug counseling criteria and include measurable and clearly defined procedures for grading the results and issuing a pass or fail decision. Decisions on all examinations, oral and

written, must be in writing and include a grade, a summary of the criteria for the grade and an explanation of the procedure for reexamination or appeal. Notice of the examination results must be forwarded to the applicants within 15 days of the date on which the examination was conducted. ~~The notice must include a written explanation of the appeal process.~~ The board may use fees generated from examinations to pay examination evaluators.

~~The appeal process must include an outside review as established by rules promulgated by the board under the procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. All applicants have the right to review their test results and any scoring comments.~~

Sec. 22. 32 MRSA §6217-A, sub-§1, as amended by PL 1987, c. 395, Pt. A, §209, is further amended to read:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a license or a certificate of registration under this chapter or in connection with services rendered as a substance abuse alcohol and drug counselor;

Sec. 23. 32 MRSA §6217-A, sub-§2, as repealed and replaced by PL 1983, c. 413, §218, is amended to read:

2. Active abuse. Active abuse of alcohol, or any other drug, ~~which that~~ in the judgment of the board is detrimental to the performance or competency of a substance abuse alcohol and drug counselor;

Sec. 24. 32 MRSA §6217-A, sub-§4, as amended by PL 1987, c. 395, Pt. A, §209, is further amended to read:

4. Aiding and abetting misrepresentation. Aiding or abetting a person, not duly licensed or registered as a substance abuse alcohol and drug counselor, in representing ~~oneself that person~~ as a licensed substance abuse alcohol and drug counselor, ~~associate substance abuse counselor~~ or registered substance abuse alcohol and drug counselor in this State;

Sec. 25. 32 MRSA §6217-A, sub-§5, as amended by PL 1991, c. 456, §28, is further amended to read:

5. Unprofessional conduct or negligence. Any gross negligence, incompetency, misconduct or violation of the existing code of ethics in the performance of substance abuse alcohol and drug counseling services;

Sec. 26. 32 MRSA §6219, as amended by PL 1991, c. 456, §32, is further amended to read:

§6219. Expiration and renewal

The license and certificate of registration expire biennially on August 31st or at such other time as the Commissioner of Professional and Financial Regulation may designate. Licensure or registration may be renewed for the succeeding 2-year period upon written application of the registrant, the approval of the board and the payment of the fee provided. A fee for renewal of license or certificate of registration is \$150 biennially for licensing, ~~\$100 biennially, for licensure as an associate substance abuse counselor~~ and \$75 biennially for registration, due and payable on or before the expiration date. Before a license or certificate of registration may be renewed, the applicant must present evidence of continued professional learning and training of a type acceptable to the board.

~~Licensure, certification~~ or registration may be renewed up to 90 days after the date of 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 renewal date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration or if the applicant is a registered inactive substance abuse alcohol and drug counselor. The board ~~shall be~~ is responsible for mailing notification of the date of expiration of a license or a certificate of registration to any licensed substance abuse alcohol and drug counselor, ~~associate substance abuse counselor~~, inactive substance abuse alcohol and drug counselor or registered substance abuse alcohol and drug counselor not later than 30 days prior to the date of expiration. At a minimum, applicants for renewal must document ~~250 hours of supervised experience within the core functions defined by rule of the board~~ and the successful completion of at least 50 hours of continuing education, ~~as defined by rule by the board~~, related to substance abuse alcohol and drug counseling during the 2-year period.

Sec. 27. Transitional clause. On the effective date of this Act, all individuals licensed as Licensed Substance Abuse Counselors, L.S.A.C., are known as Licensed Alcohol and Drug Counselors, L.A.D.C. These licenses are renewable in November 1995, at which time the revised title is included on all renewed credentials.

Sec. 28. Effective date. Sections 16 to 18 of this Act take effect October 1, 1996.

See title page for effective date, unless otherwise indicated.

CHAPTER 395

H.P. 700 - L.D. 958

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997

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.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses will become due and payable on or immediately after July 1, 1995; 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. Supplemental appropriations from the General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, the following sums.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Buildings and Grounds Operations

Personal Services		\$74,428
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Provides for the appropriation of additional funds through a transfer from Pineland Center.

Bureau of Taxation

Positions - Legislative Count	(2.0)	
Personal Services	59,613	
All Other	18,613	
Capital Expenditures	13,064	

TOTAL		<hr/> 91,290
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Provides funds for one Property Appraiser II position and one Clerk-Typist II position to administer the Personal Property Tax Reform program.

Personal Property Tax Reform

All Other		4,746,068
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Provides funds for reimbursements to businesses for personal property taxes paid on certain eligible property.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TOTAL	<hr/> -0-	<hr/> \$4,911,786
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AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Administration - Agriculture

All Other	(95,481)	(98,346)
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Provides for the deappropriation of funds to establish a hunger prevention program as part of a reorganization to more accurately reflect program operations.

Food Assistance Program

All Other	95,481	98,346
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Provides for the appropriation of funds to establish a hunger prevention program as part of a reorganization to more accurately reflect program operations.			Provides for the appropriation of funds for paralegal services to support the Augusta Mental Health Institute Consent Decree.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES			Medical Care - Payments to Providers		
TOTAL	<hr/> -0-	<hr/> -0-	All Other	75,000	100,000
HUMAN SERVICES, DEPARTMENT OF			Provides for the appropriation of funds for state seed for the Medicaid waiver for home and community based services for Augusta Mental Health Institute class members for head injuries.		
Elder and Adult Services - Bureau of			Purchased Social Services		
Positions - Legislative Count	(-1.0)	(-1.0)	All Other	60,012	60,012
Personal Services	(33,538)	(32,585)	Provides for the appropriation of funds for transportation of Augusta Mental Health Institute Consent Decree class members.		
Provides for the deappropriation of funds for one Clerk Typist III position being transferred to the Medical Care Administration account.			State Supplement to Federal Supplemental Security Income		
Medical Care Administration			All Other		352,000
Positions - Legislative Count	(-0.5)	(-0.5)	Provides for the appropriation of funds for additional residential care services for Augusta Mental Health Institute Consent Decree class members.		
Provides for a reduction in headcount to correct an error.			DEPARTMENT OF HUMAN SERVICES		
Medical Care Administration			TOTAL	<hr/> 135,012	<hr/> 512,012
Positions - Legislative Count	(1.0)	(1.0)	MARINE RESOURCES, DEPARTMENT OF		
Personal Services	33,538	32,585	Administration - Marine Resources		
Provides for the appropriation of funds for one Clerk Typist III position transferred from the Bureau of Elder and Adult Services account.			Positions - Legislative Count	(2.0)	(2.0)
Elder and Adult Services - Bureau of			Personal Services	108,508	109,246
All Other	(20,000)	(21,000)	All Other	54,130	54,744
Provides for the deappropriation of funds from training and computer purchases to be transferred for paralegal services to support the Augusta Mental Health Institute Consent Decree.			TOTAL	<hr/> 162,638	<hr/> 163,990
Elder and Adult Services - Bureau of			Provides for the appropriation of funds through a transfer of one Regulation and Information Officer		
All Other	20,000	21,000			

position from the Bureau of Marine Sciences and one Clerk Typist III position from the Bureau of Marine Patrol, as part of a departmental reorganization.			Resource Technician positions to 2 Marine Resource Specialist positions.		
Marine Development - Bureau of			Marine Sciences - Bureau of		
Positions - Legislative Count	(4.0)	(4.0)	Positions - Legislative Count	(-5.0)	(-5.0)
Personal Services	187,755	187,487	Personal Services	(253,347)	(253,206)
All Other	33,005	32,950	All Other	(44,005)	(43,950)
TOTAL	220,760	220,437	TOTAL	(297,352)	(297,156)
Provides for the appropriation of funds through a transfer of one Marine Resources Specialist I position, one Marine Resources Technician position, one Marine Resources Scientist IV position, one Marine Resources Scientist I position and one Marine Resources Specialist II position from the Bureau of Marine Sciences and the transfer of one Marine Resources Scientist II position to the Bureau of Marine Sciences. This is part of the reorganization of the department.			Provides for the deappropriation of funds through the transfer of one Regulation and Information Officer position to the Bureau of Administration; one Marine Resources Specialist I position, one Marine Resources Technician position, one Marine Resources Scientist IV position, one Marine Resources Scientist I position and one Marine Resources Specialist II position to the Bureau of Marine Development; one Marine Resources Scientist II position from the Bureau of Marine Development, as part of the reorganization of the department.		
Marine Development - Bureau of			Marine Patrol - Bureau of		
Personal Services	1,415	7,332	Positions - Legislative Count	(-1.0)	(-1.0)
All Other	(1,415)	(7,332)	Personal Services	(42,916)	(43,527)
TOTAL	-0-	-0-	All Other	(43,130)	(43,744)
Provides for the appropriation of funds through a transfer from All Other to Personal Services through the reorganization of the industry resources division. The reorganization will downgrade one Marine Scientist II position to one Microbiologist I position, upgrade one Microbiologist Supervisor position; upgrade 2 Marine Scientist I positions to 2 Marine Scientist II positions, and upgrade 2 Marine			TOTAL	(86,046)	(87,271)
			Provides for the deappropriation of funds through the transfer of one Clerk Typist III position to the Bureau of Administration as part of the reorganization of the department.		
			DEPARTMENT OF MARINE RESOURCES		
			TOTAL	-0-	-0-
			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		

Administration - Mental Health
and Mental Retardation

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	100,000	100,000

Provides for the appropriation of funds for one Associate Commissioner of Programs position as an offset to a previous deappropriation.

Office of Advocacy - Mental
Health and Mental Retardation

Positions - Legislative Count	(8.5)	(8.5)
Personal Services	456,617	453,803
All Other	(321,827)	(321,185)

TOTAL	134,790	132,618
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Provides for the appropriation of funds for the Office of Advocacy, including 8.5 Advocate positions as an offset to a previous deappropriation.

Disproportionate Share - Augusta
Mental Health Institute

Provides for the substitution of the closure of the geropsychiatric unit on July 1, 1996 with the closure of 15 admitting beds on July 1, 1996 and the substitution of the closure of an admissions unit on March 1, 1997, eliminating 109 positions with the closure of 25 admitting beds on March 1, 1997, eliminating 98 positions, contingent upon expanded community development. Under this revised plan a total of 137 Other Special Revenue headcount would be eliminated. Positions are on file with the Bureau of the Budget.

Disproportionate Share - Augusta
Mental Health Institute

Personal Services	324,828	(639)
All Other	172	639

TOTAL	325,000	-0-
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Provides funds to adjust a previous deappropriation

to reflect the elimination of 21.5 positions in fiscal year 1995-96 and a total of 44 Other Special Revenue positions in fiscal year 1996-97 rather than the 43.5 positions originally planned, within the hospital to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute Consent Decree. Positions are on file with the Bureau of the Budget.

Disproportionate Share - Bangor
Mental Health Institute

Personal Services	(53,775)	(92,926)
All Other	22,302	65,398

TOTAL	(31,473)	(27,528)
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Provides funds to adjust a previous deappropriation to reflect the closure of one psychiatric unit in January 1996 rather than the closure of one long-term psychiatric unit in January 1996 as originally planned. Position headcounts are in Other Special Revenue and on file with the Bureau of the Budget.

Freeport Towne Square

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	109,089	131,040

Provides for the appropriation of funds through the transfer of one position from the Pineland Center to complete the establishment of the Freeport Towne Square as a separate organizational structure. The position is on file with the Bureau of the Budget.

Medicaid Services - Mental
Retardation

All Other	(509,285)	226,521
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Provides funds to adjust a previous appropriation for

seed for additional waiver slots for class members, Department of Mental Health and Mental Retardation community consent decree, in the home and community-based waiver program. Funds now will be used for seed for additional waiver slots in the home and community-based waiver program.			Provides for the deappropriation of funds by eliminating cost-of-living adjustments in fiscal year 1995-96 in order to expand community mental health services in compliance with the Augusta Mental Health Institute Consent Decree.		
Medicaid Services - Mental Retardation			Mental Health Services - Community Medicaid		
All Other	1,748,062	2,000,668	All Other	(214,351)	(453,831)
Provides for the appropriation of funds due to the savings from the downsizing/closing of Pineland Center, for community placements, staff retention, DRI and continuation of existing services.			Provides for the deappropriation of funds to substitute the closing of one long-stay unit at the Augusta Mental Health Institute and one long-term psychiatric unit at the Bangor Mental Health Institute in January 1996 with the closing of one long-term psychiatric unit at Bangor Mental Health Institute in January 1996 to continue community development.		
Mental Health Services - Child Medicaid			Mental Health Services - Community Medicaid		
All Other		131,864	All Other	(500,000)	
Provides for the appropriation of funds to offset a previous deappropriation and to reflect that savings from eliminating cost-of-living adjustments in fiscal year 1995-96 will be used for the state match of a federal grant and consent decree activities rather than the state match of a federal grant and seed for the home and community-based services waiver for 15 identified children as originally planned.			Provides for the deappropriation of funds as an offset to a previous appropriation.		
Mental Health Services - Community Medicaid			Mental Health Services - Children		
All Other	(226,020)	(1,546,320)	All Other		17,518
Provides for the deappropriation of funds as an offset to a previous appropriation.			Provides for the appropriation of funds as an offset to a previous deappropriation to reflect a change in the fiscal year 1996-97 cost-of-living adjustment.		
Mental Health Services - Community Medicaid			Mental Health Services - Community		
All Other			All Other	(1,049,687)	(2,656,355)
Provides for the deappropriation of funds as an offset to a previous appropriation.			Provides for the deappropriation of funds as an offset to a previous appropriation.		
Mental Health Services - Community Medicaid			Mental Health Services - Community		
All Other	(259,670)	(259,670)			

All Other	(437,114)	(437,114)	Pineland Center		
Provides for an adjustment in the deappropriation of funds by reducing contracted community inpatient services and eliminating cost-of-living adjustments for fiscal years 1995-96 and 1996-97 instead of reducing outpatient services and contracted community inpatient services and eliminating cost-of-living adjustments for fiscal year 1996-97 as originally planned, in order to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute Consent Decree.			Positions - Legislative Count	(-1.0)	(-1.0)
			Personal Services	(109,089)	(131,040)
			Provides for the deappropriation of funds to complete the establishment of Freeport Towne Square as a separate organizational structure through a transfer to a new account.		
			Pineland Center		
			Personal Services		(74,428)
			Provides for the deappropriation of additional funds through a transfer to the Bureau of General Services, Department of Administrative and Financial Services.		
Mental Retardation Services - Community			Pineland Center		
Positions - Legislative Count	(-18.0)	(-1.0)	Positions - Legislative Count	(-71.0)	(-68.0)
Personal Services	(431,730)	25,484	Personal Services	(203,992)	(3,613,084)
All Other	(495,047)	147,327	All Other	200,000	(900,000)
Capital Expenditures	(12,000)		TOTAL	(3,992)	(4,513,084)
TOTAL	(938,777)	172,811	Provides for the deappropriation of funds due to the downsizing of Pineland Center with a tentative closing date of June 30, 1996. It leaves 9 positions at Pineland Center for 4 crisis beds. Positions are on file with the Bureau of the Budget.		
Provides funds to substitute the creation of 25 positions with funds for one Crisis Systems Manager position, one Social Services Program Specialist II position and 5 Program Supervisor positions in fiscal year 1995-96; one Crisis Services Manager position, 2 Social Services Program Specialist II positions, 5 Program Supervisor positions, one Director, Division of Mental Retardation position and 15 Mental Health Worker III positions in fiscal year 1996-97 to meet the terms of the community consent decree. Services include family support, supported employment, transition services, training and consultation.			Consent Decree Reinvestment Program - Mental Health		
			All Other	214,351	453,831
			Provides for the appropriation of funds from savings from the closing of one long-stay unit at the Augusta Mental Health Institute in January 1996 to continue community development.		
			Consent Decree Reinvestment Program - Mental Health		
			All Other	2,079,789	3,575,581
			Provides for the appropriation of non-		

Medicaid seed funds for the development of necessary services for class members in the Augusta Mental Health Institute Consent Decree.		
Consent Decree Reinvestment Program - Mental Health		
All Other	2,524,146	4,652,024
Provides for the appropriation of Medicaid seed funds for the development of necessary services for class members in the Augusta Mental Health Institute.		
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
TOTAL	<u>2,955,769</u>	<u>1,495,106</u>
SECTION		
TOTAL APPROPRIATIONS	<u>3,090,781</u>	<u>6,918,904</u>

Sec. A-2. Allocation. The following funds are allocated from the Federal Expenditure Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Taxation, Bureau of		
All Other	71,000	71,000
Provides for the allocation of funds for the purpose of carrying out enforcement responsibilities under the diesel fuel grant.		

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>71,000</u>	<u>71,000</u>

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Administration - Agriculture		
Positions - Other Count	(2.5)	(2.5)
Provides for the adjustment in headcount related to a previous deallocation of funds		

through the transfer of one part-time Planning and Research Associate II position, one part-time Clerk Typist II position and one full-time Director, Surplus Foods Property position to the newly established temporary emergency food assistance program. This is part of a reorganization to more accurately reflect program operations.

Food Assistance Program

Positions - Other Count	(2.5)	(2.5)
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Provides for the adjustment in headcount related to a previous allocation of funds through the transfer of one part-time Clerk Typist III position, one part-time Planning and Research Associate II position, one part-time Clerk Typist II position and one full-time Director, Surplus Foods Property position to the newly established temporary emergency food assistance program. This is part of a reorganization to more accurately reflect program operations.

Agricultural Production

All Other	85,000	86,445
Provides for the allocation of funds for a grant to oversee and coordinate voluntary compliance.		

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

TOTAL	<u>85,000</u>	<u>86,445</u>
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ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Economic Conversion Division		
Positions - Other Count		(1.0)
Personal Services		47,000

Provides for allocation of Department of Defense funds for one Development Project Officer position.			Provides for the deallocation of funds through a transfer to the Department of Labor, which can perform the services within existing resources.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			DEPARTMENT OF EDUCATION		
TOTAL		47,000	TOTAL	(997,251)	(1,185,290)
EDUCATION, DEPARTMENT OF			ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Blind and Visually Impaired - Division for the			Oil and Hazardous Materials Control		
All Other	(300,000)	(400,000)	Positions - Other Count	(0.5)	(0.5)
Provides for the deallocation of funds for grant awards to offset a previous allocation.			Personal Services	2,696	2,664
			All Other	(5,552)	(5,521)
			TOTAL	(2,856)	(2,857)
Division of Instruction			Provides for the allocation of funds through the elimination of one 1/2-time Environmental Specialist II position and the transfer of one Clerk Typist II position from the Water Quality Control program, Federal Expenditure Fund, to be reorganized to a full-time Conservation Aide position.		
Positions - Other Count	(1.0)	(1.0)	Pollution Prevention		
Personal Services	49,375	52,299	Positions - Other Count	(1.0)	(1.0)
All Other	(49,375)	(52,299)	Personal Services	40,751	40,786
TOTAL	-0-	-0-	All Other	(39,732)	(41,806)
Provides for the allocation of funds to adjust a previous allocation including one Education Specialist III position.			TOTAL	1,019	(1,020)
Rehabilitation Services			Provides for the allocation of funds for the transfer of one Environmental Specialist III position from the Oil and Hazardous Materials Control program, Other Special Revenue fund and promotion of cleaner technologies in Maine and New England.		
All Other	(197,251)	(410,290)	Solid Waste Management		
Provides for the deallocation of funds in All Other to offset a previous allocation.			All Other	(20,750)	(20,895)
Rehabilitation Services			Provides for the deallocation of funds to		
All Other		147,800			
Capital Expenditures		(147,800)			
TOTAL		-0-			
Provides for the allocation of funds through a line category transfer to All Other from Capital Expenditures to offset a previous line category transfer.					
School to Work Transition					
All Other	(500,000)	(375,000)			

offset a previous allocation.			program, Other Special Revenue fund.		
Lake Restoration and Protection Fund			Water Quality Control		
Positions - Other Count	(-1.0)	(-1.0)	Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(40,751)	(40,786)	Personal Services	(26,699)	(26,449)
All Other	(1,019)	(1,020)	All Other	(667)	(661)
TOTAL	(41,770)	(41,806)	TOTAL	(27,366)	(27,110)
Provides for the deallocation of funds through the transfer of one Biologist I position to the Administration - Environmental Protection program, Other Special Revenue fund.			Provides for the deallocation of funds through the transfer of one Clerk Typist II position to the Oil and Hazardous Materials Control program, Federal Expenditure Fund.		
Municipal Sewerage Construction			Water Quality Control		
Positions - Other Count	(-1.0)	(-1.0)	Capital Expenditures	(60,000)	(9,000)
Personal Services	(36,877)	(36,830)	Provides for the deallocation of funds through a transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue fund.		
All Other	(996)	(994)			
			Water Quality Control		
TOTAL	(37,873)	(37,824)	Capital Expenditures	(3,000)	(3,000)
Provides for the deallocation of funds through the transfer of one Environmental Specialist II position to the Oil and Hazardous Materials Control program, Other Special Revenue fund.			Provides for the deallocation of funds through a transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue fund.		
Municipal Sewerage Construction			Water Quality Control		
Capital Expenditures	(3,000)	(3,000)	Positions - Other Count	(-1.0)	(-1.0)
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue fund.			Personal Services	(40,751)	(40,786)
			All Other	(1,100)	(1,101)
Oil and Hazardous Materials Control					
Capital Expenditures	(8,000)	(6,100)	TOTAL	(41,851)	(41,887)
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection			Provides for the deallocation of funds through the transfer of one Environmental Specialist III position to the Oil and Hazardous Materials Control program, Other Special Revenue fund.		

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

(245,447) (194,499)

Provides for the
deallocation of funds as
an offset to a previous
allocation.**HUMAN SERVICES,
DEPARTMENT OF****Bureau of Health**

All Other 162,777 162,777

Elder and Adult Services - Bureau
ofProvides for the allocation
of funds for the
continuation of the lead
poisoning prevention
program funding by the
Federal Environmental
Protection Agency.Positions - Other Count (1.0) (1.0)
Personal Services 33,538 32,585Provides for the allocation
of funds for the transfer of
one Clerk Typist III
position from the Bureau
of Medical Services.**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

(1,628,548) (1,807,680)

Health - Bureau of**MARINE RESOURCES,
DEPARTMENT OF**Positions - Other Count (1.0) (1.0)
Personal Services 36,720 38,153
All Other (36,720) (38,153)**Administration - Marine
Resources****TOTAL** -0- -0-Positions - Other Count (1.0) (1.0)
Personal Services 48,860 53,226
All Other 21,541 22,175
Capital Expenditures 5,000**TOTAL** 75,401 75,401Provides for the allocation
of funds for one Public
Health Nurse II position
for the childhood lead
poisoning prevention
program.Provides for the allocation
of funds to establish one
Assistant to the
Commissioner of Marine
Resources position in a
newly created federal
fund account to attend
federal and interstate
fisheries management
meetings.**Health - Bureau of**Positions - Other Count (1.0) (1.0)
Personal Services 26,202 26,202
All Other (26,202) (26,202)**Administration - Marine
Resources****TOTAL** -0- -0-Provides for the allocation
of funds for one Clerk
Typist III position for
implementing an office of
disability prevention and
injury control.Positions - Other Count (1.0) (1.0)
Personal Services 37,189 37,494
All Other 8,047 8,129
Capital Expenditures 1,997 1,997**TOTAL** 47,233 47,620**Medical Care Administration**Positions - Other Count (-1.0) (-1.0)
Personal Services (33,538) (32,585)Provides for the
deallocation of funds to
transfer one Clerk Typist
III position to the Bureau
of Elder and Adult
Services program account.Provides for the allocation
of funds through the
transfer of one
Accountant I position
from the Bureau of
Marine Sciences as part of
the reorganization of the
department.**Welfare Employment, Education
and Training**

All Other (1,791,325) (1,970,457)

Marine Development - Bureau of

Positions - Other Count (15.5) (15.5)

Personal Services	630,522	635,701
All Other	136,434	137,825
Capital Expenditures	33,850	33,850
TOTAL	800,806	807,376
Provides for the allocation of funds through the transfer of positions from the Bureau of Marine Sciences as part of the reorganization of the department. The positions are on file in the Bureau of the Budget.		
Marine Sciences - Bureau of		
Positions - Other Count	(-18.5)	(-18.5)
Personal Services	(735,327)	(741,367)
All Other	(159,112)	(160,734)
Capital Expenditures	(39,477)	(39,477)
TOTAL	(933,916)	(941,578)
Provides for the deallocation of funds through the transfer of positions to the Bureau of Marine Patrol, Bureau of Marine Development and Bureau of Administration as part of the reorganization of the department. Positions are one file in the Bureau of the Budget.		
Marine Patrol - Bureau of		
Positions - Other Count	(2.0)	(2.0)
Personal Services	67,616	68,172
All Other	14,631	14,780
Capital Expenditures	3,630	3,630
TOTAL	85,877	86,582
Provides for the allocation of funds through the transfer of one First Mate position and one Marine Resources Specialist I position from the Bureau of Marine Sciences, as part of the reorganization of the department.		
DEPARTMENT OF MARINE RESOURCES TOTAL	75,401	75,401
SECTION TOTAL ALLOCATIONS	(2,639,845)	(2,907,623)

Sec. A-3. Allocation. The following funds are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
BAXTER STATE PARK AUTHORITY		
Baxter State Park Authority		
All Other	750,000	750,000
Provides for the allocation of funds to offset a previous deallocation.		
Baxter State Park Authority		
Positions - Other Count	(1.5)	(1.5)
Personal Services	25,214	28,952
Provides for the allocation of funds for the addition of one seasonal Campground Ranger position, one seasonal Campground Attendant position and one seasonal Clerk II position.		
Baxter State Park Authority		
Positions - Other Count	(1.5)	(1.5)
Personal Services	26,096	27,350
Provides for the allocation of funds to increase one seasonal Park Receptionist position from 14 weeks to 40 weeks, increase one seasonal Trail Supervisor position from 28 weeks to 40 weeks and increase 2 seasonal Gatehouse Attendant positions from 25 weeks to 32 weeks.		
BAXTER STATE PARK AUTHORITY TOTAL	801,310	806,302
CONSERVATION, DEPARTMENT OF		
Mining Operations		
Personal Services	9,891	11,004
All Other	(9,891)	(11,004)
TOTAL	-0-	-0-
Provides for the allocation of funds to reorganize one Geology Technician		

position to one Geologist position and associated costs to complete the legislatively mandated statewide sand and gravel aquifer mapping program.			DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT		
			TOTAL	<hr/>	1,000,000
Boating Facilities Fund			ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Positions - Other Count	(-2.5)	(-2.5)	Administration - Environmental Protection		
Personal Services	(80,773)	(104,445)	Positions - Other Count	(1.0)	(1.0)
All Other	40,300	52,200	Personal Services	37,880	37,772
Capital Expenditures	40,473	52,245	All Other	(41,736)	(41,847)
TOTAL	<hr/>	<hr/>	Capital Expenditures	(3,000)	
	-0-	-0-	TOTAL	<hr/>	<hr/>
Provides for the allocation of funds through the elimination of one State Waterways Supervisor position and one Navigational Aids Supervisor position in the 2nd quarter of fiscal year 1995-96 and the elimination of one Assistant Park Ranger position at the beginning of fiscal year 1995-96 to provide additional grants to municipalities for boat site development and capital improvements at state-operated boat access sites.				(6,856)	(4,075)
			Provides for the allocation of funds through the transfer of one Biologist I position from the Lake Restoration and Protection Fund program, Federal Expenditure Fund, to be reorganized to a Senior Paralegal position.		
DEPARTMENT OF CONSERVATION			Oil and Hazardous Materials Control		
TOTAL	<hr/>	<hr/>	Positions - Other Count	(1.0)	(1.0)
	-0-	-0-	Personal Services	40,751	40,786
ECONOMIC AND COMMUNITY DEVELOPMENT			All Other	14,699	10,719
DEPARTMENT OF			Capital Expenditures		8,155
Economic Conversion Division			TOTAL	<hr/>	<hr/>
All Other	1,000,000			55,450	59,660
Provides for the allocation of funds granted by the Finance Authority of Maine to be used as the match to federal Economic Development Administration funds. The Finance Authority of Maine acquired these funds from an approved \$15,000,000 General Fund bond, which is to be utilized for economic development.			Provides for the allocation of funds for the transfer of one Environmental Specialist III position from the Water Quality Control program, Federal Expenditure Fund and for training, health monitoring services and equipment.		
			Oil and Hazardous Materials Control		
			Positions - Other Count	(0.5)	(0.5)
			Personal Services	22,153	22,378
			All Other	(12,099)	(12,516)
			TOTAL	<hr/>	<hr/>
				10,054	9,862
			Provides allocation of funds for the upgrade of a seasonal full-time Conservation Aide position to a full-time		

limited period position, emergency response and other equipment and support for a southern Maine spill response facility.			Provides for the allocation of funds for departmental computer equipment.		
Oil and Hazardous Materials Control			Maine Environmental Protection Fund		
Positions - Other Count	(1.0)	(1.0)	Positions - Other Count	(-6.0)	(-6.0)
Personal Services	36,877	36,830	Personal Services	(214,410)	(215,340)
All Other	(40,419)	(41,306)	All Other	(224,999)	(226,667)
TOTAL	(3,542)	(4,476)	TOTAL	(439,409)	(442,007)
Provides for the allocation of funds from the transfer of one Environmental Specialist II position from the Municipal Sewerage Construction program, Federal Expenditure Fund, emergency response equipment and contributions toward a spill response storage facility.			Provides for the deallocation of funds through the transfer of 3 Clerk Typist II positions, one Clerk Typist III position, one Conservation Aide position and one Regional Director, Department of Environmental Protection position and office rental costs to the Administration - Environmental Protection program, Other Special Revenue.		
Administration - Environmental Protection			Maine Environmental Protection Fund		
Positions - Other Count	(7.0)	(7.0)	Capital Expenditures	(52,500)	(52,500)
Personal Services	248,054	247,777	Provides for the deallocation of funds through transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.		
All Other	282,881	284,517	Oil and Hazardous Materials Control		
TOTAL	530,935	532,294	Positions - Other Count	(-1.0)	(-1.0)
Provides for the allocation of funds through the transfer of 3 Clerk Typist II positions, one Clerk Typist III position, one Conservation Aide position, one Regional Director, Department of Environmental Protection position and office rental costs from the Maine Environmental Protection Fund program, Other Special Revenue and one Clerk Typist III position and office rental costs from the Oil and Hazardous Materials Control program, Other Special Revenue.			Personal Services	(40,751)	(40,786)
Administration - Environmental Protection			All Other	(1,019)	(1,020)
Capital Expenditures	204,500	122,600	TOTAL	(41,770)	(41,806)
			Provides for the deallocation of funds through the transfer of one Environmental Specialist III position to the Pollution Prevention program, Federal Expenditures Fund.		
			Oil and Hazardous Materials Control		

Positions - Other Count	(-1.0)	(-1.0)	Personal Services	(28,862)	(28,563)
Personal Services	(33,644)	(32,437)	All Other	(779)	(771)
All Other	(57,882)	(57,850)			
TOTAL	(91,526)	(90,287)	TOTAL	(29,641)	(29,334)
Provides for the deallocation of funds through the transfer of one Clerk Typist III position and office rental cost to the Administration - Environmental Protection program, Other Special Revenue.			Provides for the deallocation of funds through the elimination of one Clerk Typist III position.		
Oil and Hazardous Materials Control			DEPARTMENT OF ENVIRONMENTAL PROTECTION		
Capital Expenditures	(21,500)		TOTAL	57,695	10,931
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.			HUMAN SERVICES, DEPARTMENT OF		
Oil and Hazardous Materials Control			Health - Bureau of		
Capital Expenditures	(33,500)	(23,500)	Positions - Other Count	(1.5)	(1.5)
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.			Personal Services	56,410	56,693
Oil and Hazardous Materials Control			Provides for the allocation of funds for the transfer of one Chemist II position and 1/2 of one Laboratory Technician II position from the Other Special Revenue health account.		
Capital Expenditures	(23,000)	(25,500)	Health - Bureau of		
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.			Positions - Other Count	(-1.5)	(-1.5)
Oil and Hazardous Materials Control			Personal Services	(56,410)	(56,693)
Capital Expenditures			Provides for the deallocation of funds from the transfer of one Chemist II position and 1/2 of one Laboratory Technician II position to the public health lab account.		
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.			Health Planning and Development		
Oil and Hazardous Materials Control			All Other	65,000	65,000
Capital Expenditures			Provides for the allocation of funds for the continuation of the certificate of need program within the hospital cooperation account.		
Provides for the deallocation of funds through the transfer of computer replacement costs to the Administration - Environmental Protection program, Other Special Revenue.			DEPARTMENT OF HUMAN SERVICES		
Oil and Hazardous Materials Control			TOTAL	65,000	65,000
Positions - Other Count	(-1.0)	(-1.0)	LEGISLATURE		
			Maine Health Care Reform Commission		
			Positions - Other Count	(-1.0)	

Personal Services	(43,000)		Provides for the allocation		
All Other	43,000		of funds through the		
			transfer of one Marine		
TOTAL	-0-		Research Scientist II		
			position, 3 part-time		
Provides for the allocation			Conservation Aide		
of funds through a line			positions and one Marine		
category to reflect the			Patrol Officer from the		
actions of the Legislature			Bureau of Marine		
in Public Law 1995,			Sciences. This transfers		
chapter 5.			the Shellfish Fund as part		
LEGISLATURE			of the reorganization of		
TOTAL	-0-		the department.		
MARINE RESOURCES,			Marine Development - Bureau of		
DEPARTMENT OF			All Other	26,210	27,497
Administration - Marine					
Resources			Provides for the allocation		
			of funds through the		
Positions - Other Count	(1.0)	(1.0)	transfer of the Toxin		
Personal Services	41,606	44,890	Monitoring Fund from the		
All Other	5,000	5,000	Bureau of Marine		
Capital Expenditures	5,000		Resources as part of the		
			reorganization of the		
TOTAL	51,606	49,890	department.		
			Marine Development - Bureau of		
Provides for the allocation			All Other	50,514	51,035
of funds to establish one					
Special Assistant to the			Provides for the allocation		
Commissioner of Marine			of funds through the		
Resources position in a			transfer of the Seafood		
newly created Other			Market Development		
Special Revenue account			program as part of the		
to do outreach to the			reorganization of the		
public for fisheries			department.		
management.			Marine Development - Bureau of		
Administration - Marine			Positions - Other Count	(-1.0)	(-1.0)
Resources			Personal Services	(43,368)	(44,653)
			All Other	(98,914)	(99,968)
Capital Expenditures	100,000	100,000	Capital Expenditures	(39,421)	(39,421)
Provides for the allocation			TOTAL	(181,703)	(184,042)
of funds for the Boat					
Conversion account			Provides for the		
established in Public Law			deallocation of funds		
1995, chapter 368 under			through the transfer of		
the Bureau of Marine			one Marine Research		
Sciences. This language			Scientist II position to the		
transfers the account to			Bureau of Marine		
the Administration -			Sciences. This transfers		
Marine Resources			the Salmon Aquaculture		
program as part of the			Monitoring and Research		
reorganization of the			Fund as part of the		
department.			reorganization of the		
Marine Development - Bureau of			department.		
Positions - Other Count	(4.5)	(4.5)	Marine Development - Bureau of		
Personal Services	182,579	182,045	All Other	(74,780)	(75,176)
All Other	33,916	34,212			
Capital Expenditures	40,622	40,622			
TOTAL	257,117	256,879			

Provides for the deallocation of funds through the transfer of funds to the Bureau of Marine Patrol as part of the reorganization of the department.			Provides for the allocation of funds through the transfer of one Marine Research Scientist II position from the Bureau of Marine Development. This transfers the Salmon Aquaculture Monitoring and Research Fund as part of the reorganization of the department.		
Marine Patrol - Bureau of			Seafood Market Development		
All Other	74,780	75,176	All Other	(50,514)	(51,035)
Provides for the allocation of funds through the transfer of the seed lobster fund account from the Bureau of Marine Development as part of the reorganization of the department.			Provides for the deallocation of funds through the transfer of this program to the Bureau of Marine Development.		
Marine Sciences - Bureau of			DEPARTMENT OF MARINE RESOURCES		
Positions - Other Count	(-4.5)	(-4.5)	TOTAL	151,606	149,890
Personal Services	(182,579)	(182,045)	MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
All Other	(33,916)	(34,212)	Augusta Mental Health Institute		
Capital Expenditures	(40,622)	(40,622)	Positions - Other Count		
TOTAL	(257,117)	(256,879)	Provides headcount to reflect the substitution of the closure of the geropsychiatric unit on July 1, 1995 with the closure of 15 admitting beds on July 1, 1996, and the substitution of the closure of an admission unit on March 1, 1997, eliminating 109 positions, with the closure of 25 admitting beds on March 1, 1997, eliminating 98 positions, contingent upon expanded community development. A total of 137 positions would be eliminated. Positions are on file with the Bureau of the Budget.		
Provides for the deallocation of funds through the transfer of one Marine Research Scientist II position, 3 part-time Conservation Aide positions and one Marine Patrol Officer position to the Bureau of Marine Development. This transfers the Shellfish Fund as part of the reorganization of the department.			Augusta Mental Health Institute		
Marine Sciences - Bureau of			Positions - Other Count		
All Other	(26,210)	(27,497)	Provides for the allocation of funds through the transfer of the Toxin Monitoring Fund to the Bureau of Marine Development as part of the reorganization of the department.		
Provides for the deallocation of funds through the transfer of the Toxin Monitoring Fund to the Bureau of Marine Development as part of the reorganization of the department.			Augusta Mental Health Institute		
Marine Sciences - Bureau of			Positions - Other Count		
Positions - Other Count	(1.0)	(1.0)	Positions - Other Count	(22.0)	(-0.5)
Personal Services	43,368	44,653	Personal Services	560,263	(1,101)
All Other	98,914	99,968	All Other	297	1,101
Capital Expenditures	39,421	39,421	TOTAL	560,560	-0-
TOTAL	181,703	184,042			

Provides funds to adjust a previous deallocation to reflect the elimination of a total of 21.5 positions in fiscal year 1995-96 and 44 positions in fiscal year 1996-97, rather than the 43.5 positions originally planned, within the hospital to reappropriate funds to expand community mental health services in compliance with the Augusta Mental Health Institute Consent Decree. Positions are on file with the Bureau of the Budget.			PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Bangor Mental Health Institute			Administrative Services - Professional and Financial Regulation		
Provides clarification that a previous deallocation of funds from the closing of one long-term psychiatric unit in January 1996 involving 16.5 positions reflected position funding for 6 months with headcount authorized for 9 months. Positions are on file with the Bureau of the Budget.			Positions - Other Count	(2.0)	(2.0)
Freeport Towne Square			Personal Services	61,250	62,000
All Other	96,085	97,094	Provides for the allocation of funds to establish 2 Information Systems Support Technician positions as part of the reorganization of the department. These positions will serve as technical support for the department's computer users.		
Provides for the allocation of funds through a transfer from the Pineland Center special revenue account to establish the Freeport Towne Square workshop as a separate organizational structure.			Banking - Bureau of		
Pineland Center			Positions - Other Count	(-1.0)	(-1.0)
All Other	(96,085)	(97,094)	Personal Services	(33,500)	(34,000)
Provides for the deallocation of funds through the elimination of one Bank Examiner position as part of the reorganization of the department.			Provides for the deallocation of funds through the elimination of one Bank Examiner position as part of the reorganization of the department.		
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION			Licensing and Enforcement		
TOTAL	560,560	-0-	Positions - Other Count	(-0.5)	(-0.5)
			Personal Services	(12,500)	(13,000)
			Provides for the deallocation of funds through the elimination of one part-time Clerk Typist III position as part of the reorganization of the department.		
			Licensing and Enforcement		
			Positions - Other Count	(1.0)	(1.0)
			Personal Services	33,250	33,800
			Provides for the allocation of funds to establish one Pharmacy Inspector position to regulate a business that has greatly expanded. This is part of the department's reorganization.		
			Real Estate Commission		
			Positions - Other Count	(-2.0)	(-2.0)
			Personal Services	(48,500)	(48,800)

Provides for the deallocation of funds through the elimination of one Clerk Typist II position and one Account Clerk I position as part of the reorganization of the department.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

-0- -0-

**RADIOLOGICAL
EMERGENCY
PREPAREDNESS
COMMITTEE**

Nuclear Emergency Planning
Fund - Maine

Positions - Legislative Count (-1.0) (-1.0)

Provides for the elimination of one vacant Planning and Research Associate I position.

**RADIOLOGICAL
EMERGENCY
PREPAREDNESS
COMMITTEE
TOTAL**

-0- -0-

SECTION

TOTAL ALLOCATIONS

2,636,171 1,032,123

Sec. A-4. Allocation. The following funds are allocated from Federal Block Grant funds for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

1995-96 1996-97

**HUMAN SERVICES,
DEPARTMENT OF**

Health - Bureau of

Positions - Legislative Count (1.0) (1.0)
Personal Services 45,914 45,914
All Other (48,414) (45,914)
Capital Expenditures 2,500

TOTAL -0- -0-

Provides for the allocation of funds for one Comprehensive Health Planner II position to support the youth violence prevention program and related All Other and Capital Expenditures.

Health - Bureau of

Positions - Legislative Count (1.0) (1.0)
Personal Services 37,737 37,737
All Other (40,237) (37,737)
Capital Expenditures 2,500

TOTAL -0- -0-

Provides for the allocation of funds for one Public Health Educator III position to staff a rabies program.

Health - Bureau of

Positions - Legislative Count (1.0) (1.0)
Personal Services 45,914 45,914
All Other (48,914) (45,914)
Capital Expenditures 3,000

TOTAL -0- -0-

Provides for the allocation of funds for one Health Program Manager position in the preventative health account along with related All Other and Capital Expenditures.

Health - Bureau of

Positions - Legislative Count (1.0) (1.0)
Personal Services 43,194 41,733
All Other (46,194) (41,733)
Capital Expenditures 3,000

TOTAL -0- -0-

Provides for the allocation of funds for one Public Health Educator III position to support the community health promotion program.

SECTION

TOTAL ALLOCATIONS

-0- -0-

Sec. A-5. Allocation. The following funds are allocated from the Potato Market Improvement Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

1995-96 1996-97

**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

Capital Construction/Repairs/
Improvements - Agriculture

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(85,519)	(85,764)
All Other	(107,336)	(108,698)
TOTAL	(192,855)	(194,462)

Provides for the deallocation of funds through a transfer of one Clerk Typist II position and one Potato Storage Consultant position to the newly established Potato Market Improvement Fund program.

Potato Market Improvement Fund

Positions - Other Count	(2.0)	(2.0)
Personal Services	85,519	85,764
All Other	107,336	108,698
TOTAL	192,855	194,462

Provides for the allocation of funds through a transfer of one Clerk Typist II position and one Potato Storage Consultant position from the Capital Construction/Repairs/Improvements program.

**DEPARTMENT OF
AGRICULTURE, FOOD AND
RURAL RESOURCES**

TOTAL -0- -0-

Sec. A-6. Allocation. The following funds are allocated from the Island Ferry Service Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

	1995-96	1996-97
TRANSPORTATION, DEPARTMENT OF		
Island Ferry Service		
Positions - Other Count	(2.0)	(2.0)
Personal Services	59,453	59,695
All Other	945	949
TOTAL	60,398	60,644

Provides for the allocation of funds for one Account Clerk I position and one Account Clerk II position transferred from the Ports and Marine Fund.

**DEPARTMENT OF
TRANSPORTATION**

TOTAL 60,398 60,644

Sec. A-7. Allocation. The following funds are allocated from the Marine Ports Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

**TRANSPORTATION,
DEPARTMENT OF**

Ports and Marine Transportation

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(59,453)	(59,695)
All Other	(945)	(949)

Provides for the deallocation of funds through the transfer of one Account Clerk I position and one Account Clerk II position to the Island Ferry Service Fund.

**DEPARTMENT OF
TRANSPORTATION**

TOTAL (60,398) (60,644)

Sec. A-8. Allocation. The following funds are allocated from the state-administered insurance fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Risk Management - Claims

All Other	74,000	74,000
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Provides for the allocation of funds to meet operating expenses associated with the establishment of a state-administered insurance fund in accordance with Public Law 1993, chapter 470.

Risk Management - Claims

All Other	1,000,000	1,000,000
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Provides for the allocation of funds for the purpose of paying claims from the state-administered insurance fund in accordance with Public Law 1993, chapter 470.

DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL

1,074,000	1,074,000
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Sec. A-9. Allocation. The following funds are allocated from the Risk Management Fund for the fiscal years ending June 30, 1996 and June 30, 1997 in order to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Risk Management - Claims		
All Other	(11,349)	(11,539)
Provides for the deallocation of funds associated with the creation of a state- administered insurance fund in accordance with Public Law 1993, chapter 470.		

DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL

(11,349)	(11,539)
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PART B

Sec. B-1. 5 MRSA c. 151-C is enacted to read:

CHAPTER 151-C

COMMISSION ON PERFORMANCE BUDGETING

§1710-K. Commission on Performance Budgeting established

The Commission on Performance Budgeting, referred to in this chapter as the "commission," is established to monitor, track and guide performance budgeting in State Government and to report to the Legislature and the Governor periodically on recommendations for improvements in performance budgeting.

§1710-L. Commission membership; appointment

1. Membership. The commission is composed of the following 13 members:

A. Two members of the Senate and 2 members of the House of Representatives who serve on the joint standing committee of the Legislature having jurisdiction over appropriations and financial

affairs, appointed by the presiding officers of their respective legislative bodies;

B. One member of the Senate and one member of the House of Representatives who serve on the joint standing committee of the Legislature having jurisdiction over state and local government matters, appointed by the presiding officers of their respective legislative bodies;

C. Four members representing state departments, appointed by the Governor;

D. The Director of the State Planning Office;

E. The State Budget Officer; and

F. The State Controller.

At least one of the legislative members appointed by the President of the Senate and one of the members appointed by the Speaker of the House of Representatives must belong to the political party that has the 2nd largest number of members in the legislative body of that appointed member.

2. Chair. The Governor, the President of the Senate and the Speaker of the House of Representatives shall appoint a chair from among the members of the commission.

3. Time of appointment; terms. Commission members must be appointed in July and serve 2-year terms, except that the initial commission members must be appointed within 30 days of the effective date of this section and serve until June 1997. The commission shall hold its first meeting, called by the Director of the State Planning Office, before August 1, 1995.

§1710-M. Duties of commission

The commission shall:

1. Provision of guidance and advice. Provide strategic guidance and advice to the Legislature and the Governor regarding performance budgeting in State Government, including the methods and strategies used by departments and agencies for the collection and evaluation of information related to programs and services provided, public benefits, services not provided, coordination, alternatives and impact;

2. Evaluation. Evaluate the structure and system of performance budgeting in State Government;

3. Review of performance budgeting information. Receive and review performance budgeting information on a periodic basis from the Legislature and the Governor;

4. Research. Research national trends among other states in the implementation of performance budgeting; and

5. Report. Report periodically to the Legislature and the Governor on recommendations for improvements in performance budgeting in State Government.

§1710-N. Staffing

The commission may receive staff assistance from the Legislative Council, the State Planning Office, the Bureau of the Budget, the Department of Audit and the Department of Administrative and Financial Services. The heads of all departments and agencies of State Government shall cooperate with the commission on matters related to performance budgeting including, as necessary, the provision of staff to work with the Bureau of the Budget, the State Planning Office, the Legislative Council, the Department of Audit and the Department of Administrative and Financial Services.

§1710-O. Meetings

The commission shall meet at least quarterly. Additional meetings may be called by a majority vote of the commission. All meetings are open to the public.

Sec. B-2. 5 MRSA §12004-I, sub-§29-C is enacted to read:

<u>29-C.</u>	<u>Commission</u>	<u>Not</u>	<u>5 MRSA</u>
<u>Finance</u>	<u>on Perform-</u>	<u>Authorized</u>	<u>§1710-K</u>
	<u>ance</u>		
	<u>Budgeting</u>		

Sec. B-3. 30-A MRSA §5252, sub-§2-C is enacted to read:

2-C. Commission. "Commission" means the Commission on Performance Budgeting established in Title 5, section 1710-K.

Sec. B-4. PL 1995, c. 368, Part FF is repealed.

PART C

Sec. C-1. 2 MRSA §6, sub-§2, as amended by PL 1995, c. 309, §1 and affected by §29, and amended by c. 368, Pt. GG, §1, is repealed and the following enacted in its place:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Executive Director, Maine Waste Management Agency; and

Deputy Commissioner, Department of Administrative and Financial Services.

Sec. C-2. 34-B MRSA §1202, sub-§2, ¶B, as amended by PL 1995, c. 368, Pt. GG, §2, is further amended to read:

B. If the office of the commissioner is vacant or if the commissioner is absent or disabled, the associate commissioner for administration programs shall perform the duties and have the powers provided by law for the commissioner.

Sec. C-3. 34-B MRSA §1202, sub-§2, ¶D is enacted to read:

D. If the offices of the commissioner and the associate commissioner for programs are vacant or if both officials are absent or disabled, the associate commissioner for administration shall perform the duties and have the powers provided by law for the commissioner.

Sec. C-4. 34-B MRSA §1204, sub-§2, ¶B, as amended by PL 1995, c. 368, Pt. GG, §4, is further amended to read:

B. The commissioner may appoint and set the salary salaries for an associate commissioner for programs and an associate commissioner for administration to assist in carrying out the responsibilities of the department.

(1) The Each appointment must be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(3) To be eligible for appointment as associate commissioner for administration, a person must have training and experience in general management.

(4) To be eligible for appointment as associate commissioner for programs, a person must have training and experience in the planning and administration of human services.

Sec. C-5. Reimbursement rates. Notwithstanding the Maine Revised Statutes, Title 22, sections 3186 and 3187 or any other provision of law, for fiscal year 1995-96 and fiscal year 1996-97 funds for principles of reimbursement established for intermediate care facilities for the mentally retarded and other providers of mental retardation services are not frozen at their fiscal year 1994-95 levels. Cost-of-living increases are not suspended for the 2-year period.

Sec. C-6. Bangor Mental Health Institute positions. If the Department of Mental Health and Mental Retardation proposes a change to the listing of positions at the Bangor Mental Health Institute that are, as of the effective date of this Part, scheduled for elimination, a copy of which listing is on file at the Bureau of the Budget and the Office of Fiscal and Program Review, and that change affects a position title or an effective date of elimination of any position on that listing, then the Superintendent of the Bangor Mental Health Institute must justify such changes to an ad hoc advisory panel composed of the Commissioner of Mental Health and Mental Retardation or the commissioner's designee, a member of the Alliance for the Mentally Ill of Maine and a Legislator who is a member of the Joint Standing Committee on Human Resources or show that a position is vacant and elimination of that vacant position will save a layoff. All changes must be submitted, in writing, to the Bureau of the Budget and the Office of Fiscal and Program Review at least one month before the effective date of this proposed change. All changes must generate savings equal to or greater than the savings from the position listed for elimination.

PART D

Sec. D-1. 5 MRSA §3305, sub-§1, ¶D, as repealed and replaced by PL 1989, c. 502, Pt. A, §21, is amended to read:

D. Upon request provide technical assistance to local and regional planning groups in the fields of planning, public housing and urban renewal. The office shall make available to municipalities and regional planning agencies existing information from state agencies to be used in the development of comprehensive plans and land use ordinances. The director shall oversee delivery of technical assistance and resources to municipalities for the purpose of flood plain management activities and enhancing and expanding parks, open spaces and recreational opportunities as a part of comprehensive community development. Within available resources, the director shall provide technical assistance to municipalities and regional planning organizations in the development and implementation of local comprehensive land use plans;

Sec. D-2. 5 MRSA §3305, sub-§1, ¶K, as amended by PL 1995, c. 345, §2, is further amended to read:

K. Coordinate the development of energy policy, including:

(1) Collecting and analyzing energy data from all available energy sources in the State. The director shall afford confidential treatment to information, documents and data dealing with sales of individual companies that are engaged in the wholesale and retail trade of petroleum products in the State, upon request of the individual companies;

(2) Preparation of an energy resources plan to be submitted to the Governor and the Legislature every 2 years that includes a description of historical energy demand by end-use sector and energy resources used to meet that demand and a forecast of energy demand by end-use sector for the next 5 years, 10 years and 20 years, which shall ~~must~~ include an electric and gas forecast;

(3) Encouragement and direction or sponsorship of research, experiments and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources that rely on renewable natural resources of the State, such as solar energy, water of tides and rivers, forests, winds and other sources that to date have not been fully explored or utilized; and

(4) Provision of conservation alternatives to proposed new electric power generating plants and assessment of the long-term and short-term energy savings realized by the conservation alternatives; ~~and~~

Sec. D-3. 5 MRSA §3305, sub-§1, ¶L, as enacted by PL 1995, c. 345, §3, is amended to read:

L. Review and update the great ponds management strategy developed by the Great Pond Task Force pursuant to Title 38, section 1843-A at least every 5 years, based on the goals and principles set forth in the original strategy report; and

Sec. D-4. 5 MRSA §3305, sub-§1, ¶M is enacted to read:

M. Administer a program of training and financial assistance for municipal code enforcement officers.

Sec. D-5. 5 MRSA §13062-A, sub-§5, as amended by PL 1993, c. 725, §1, is further amended to read:

5. Repeal. ~~The Economic Conversion Division is eliminated and this~~ This section is repealed on July 1, ~~1995~~ 1997. The Office of Business Development shall provide its recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters concerning the need for extending authorization of the division.

Sec. D-6. 5 MRSA §13072, sub-§4, as amended by 1991, c. 622, Pt. F, §8, is further amended to read:

4. Provide information. The director shall provide municipalities with information about the department's programs and services and shall refer municipalities to the offices and programs within the State that can best assist them. ~~The office shall make available to municipalities and regional planning agencies existing information from state agencies to be used in the development of comprehensive plans and land use ordinances.~~

Sec. D-7. 5 MRSA §13072, sub-§7, as amended by PL 1993, c. 92, §§12 and 13, is further amended to read:

7. Oversee community development resources and programs. The director shall oversee the implementation of community development programs to include at a minimum:

A. The Community Development Block Grant Program;

~~D. The Coastal Zone Management Local Grants Program; and~~

~~F. The National Flood Insurance Program.~~

Sec. D-8. 5 MRSA §13072, sub-§8, as amended by PL 1991, c. 622, Pt. F, §11, is further amended to read:

8. Provide technical assistance. The director shall oversee delivery of technical assistance and resources to municipalities and regional community and economic development organizations for the purpose of encouraging economic growth while maintaining the quality of life. ~~Additionally, the director shall oversee delivery of technical assistance and resources to municipalities for the purpose of flood plain management activities and enhancing and expanding parks, open spaces and recreational opportunities as a part of comprehensive community development. Within available resources, the director shall provide technical assistance to municipalities and~~

~~regional planning organizations in the development and implementation of local comprehensive land use plans.~~

Sec. D-9. 5 MRSA §13072, sub-§10, as enacted by PL 1991, c. 622, Pt. F, §12, is repealed.

Sec. D-10. 5 MRSA §13076, sub-§1, as enacted by PL 1993, c. 92, §15, is amended to read:

1. Establishment. The Natural Areas Program is established within the Department of ~~Economic and Community Development~~ Conservation and is administered by the commissioner.

Sec. D-11. 5 MRSA §13076, sub-§2, ¶A, as enacted by PL 1993, c. 92, §15, is amended to read:

A. "Commissioner" means the Commissioner of ~~Economic and Community Development~~ Conservation.

Sec. D-12. 30-A MRSA §4301, sub-§13, as amended by PL 1991, c. 780, Pt. E, §1, is further amended to read:

13. Office. "Office" means the ~~Office of Community Development in the Department of Economic and Community Development~~ State Planning Office.

Sec. D-13. 30-A MRSA §4345, first ¶, as amended by PL 1993, c. 721, Pt. A, §6 and affected by Pt. H, §1, is further amended to read:

Under the provisions of this article, a municipality may request financial or technical assistance from the ~~Office of Community Development~~ State Planning Office, referred to in this article as the office, for the purpose of planning and implementing a local growth management program. A municipality that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the office and in a manner consistent with the provisions of this article.

Sec. D-14. Transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the Natural Areas Program, the local growth management program, the Coastal Zone Management Local Grants Program, the National Flood Insurance Program and the Code Enforcement Certification and Training program from the Department of Economic and Community Development to the State Planning Office and the Department of Conservation.

1. All accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues and other available funds in any account of the Natural Areas Program affected by this Part are transferred to the Department of Conservation. All

such accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues and other available funds in any account of the local growth management program, the Coastal Zone Management Local Grants Program, the National Flood Insurance Program and the Code Enforcement Certification and Training program affected by this Part are transferred to the State Planning Office.

2. All employees and positions of the Natural Areas Program are transferred to the Department of Conservation. All employees and positions of the local growth management program, the Coastal Zone Management Local Grants Program, the National Flood Insurance Program and the Code Enforcement Certification and Training program are transferred to the State Planning Office. Additionally, one employee position within the Office of Administration of the Department of Economic and Community Development is transferred to the State Planning Office. All personnel transferred by this Part retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.

3. All equipment, records and property of the State used by the programs and employees transferred in this Part must be transferred to the State Planning Office. All equipment, records and property used by the Natural Areas Program and its staff must be transferred to the Department of Conservation.

4. All contracts, agreements, compacts, rules and procedures in effect and in operation pertaining to the local growth management program, the Coastal Zone Management Local Grants Program, the National Flood Insurance Program, the Code Enforcement Certification and Training program and the Natural Areas Program remain in effect until rescinded, revised or amended by the proper authority.

Sec. D-15. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
CONSERVATION, DEPARTMENT OF		
Natural Areas Program		
All Other	\$40,000	\$40,000
Provides for the appropriation of funds through the transfer of All Other funds from the Office of Community Development. These funds are utilized as a match for federal funds.		

**DEPARTMENT OF
CONSERVATION
TOTAL**

40,000

40,000

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

**Administration - Economic
and Community
Development**

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(36,827)	(36,649)

Provides for the deappropriation of funds through the transfer of one Accountant I position from the Office of Administration.

**Office of Community
Development**

Positions - Legislative Count	(-8.0)	(-8.0)
Personal Services	(386,739)	(389,966)
All Other	(902,918)	(911,512)

TOTAL	(1,289,657)	(1,301,478)
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Provides for the deappropriation of funds through the transfer of the following positions: One Development Program Manager position, 3 Senior Planner positions, 3 Planner II positions, one Development Project Officer position and funds for the general operation of the program.

**Office of Community
Development**

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	42,950	43,850
All Other	7,688	7,910

TOTAL	50,638	51,760
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Provides for the appropriation of funds for one Development Project Officer position to remain in the department to provide the required state match to the Community Development Block Grant program.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

(1,275,846)	(1,286,367)
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**EXECUTIVE
DEPARTMENT**

State Planning Office

Positions - Legislative Count	(8.0)	(8.0)
Personal Services	380,616	382,765
All Other	795,730	863,602
Capital Expenditures	59,500	

Provides for the appropriation of funds through the transfer of one Development Program Manager position, 3 Senior Planner positions, 3 Planner II positions and one Accountant I position to the State Planning Office. Also provides All Other funds for the general operation and grants for technical assistance to municipalities. Also provides Capital Expenditure funds to provide computers and workstations.

**EXECUTIVE
DEPARTMENT
TOTAL**

1,235,846	1,246,367
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SECTION

TOTAL APPROPRIATIONS	-0-	-0-
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Sec. D-16. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

1995-96	1996-97
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**CONSERVATION,
DEPARTMENT OF**

Natural Areas Program

Positions - Other Count	(2.0)	(2.0)
Personal Services	97,600	99,490
All Other	100,000	100,000
Capital Expenditures	4,000	4,000

TOTAL	201,600	203,490
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Provides for the allocation of funds through the transfer of one Chief

Planner position and one Senior Planner position. Provides All Other and Capital Expenditure funds for the operation of the program.

Natural Areas Program

Personal Services	88,600	93,825
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Provides for the allocation of funds through the transfer from the Office of Community Development due to the reorganization of the Department of Economic and Community Development.

**DEPARTMENT OF
CONSERVATION
TOTAL**

290,200	297,315
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**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

**Office of Community
Development**

Positions - Other Count	(-11.5)	(-11.5)
Personal Services	(536,769)	(537,833)
All Other	(671,767)	(673,069)
Capital Expenditures	(4,000)	(4,000)

TOTAL	(1,212,536)	(1,214,902)
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Provides for the deallocation of funds through the transfer of the following positions: Two Planning and Research Associate I positions, one Chief Planner position, 5 Senior Planner positions, 2 1/2 Planner II positions and one Clerk Typist II position and funds for the general operation of the program.

**Office of Community
Development**

Personal Services	(88,600)	(93,825)
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Provides for the deallocation of funds through the transfer to the Administrative Services - Conservation program

due to the reorganization of the Department of Economic and Community Development.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

(1,301,136) (1,308,727)

**EXECUTIVE
DEPARTMENT**

State Planning Office

Positions - Other Count	(9.5)	(9.5)
Personal Services	439,169	438,343
All Other	571,767	573,069

Provides for the allocation of funds through the transfer of 2 Planning and Research Associate I positions, 4 Senior Planner positions, 3 Planner II positions and one Clerk Typist II position. Also provides All Other funds for the general operating expenses and technical assistance to municipalities.

**EXECUTIVE
DEPARTMENT
TOTAL**

1,010,936 1,011,412

**SECTION
TOTAL ALLOCATIONS**

-0- -0-

Sec. D-17. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1995-96 1996-97

**CONSERVATION,
DEPARTMENT OF**

Natural Areas Program

Positions - Other Count	(2.5)	(2.5)
Personal Services	112,115	115,306
All Other	36,251	37,720
Capital Expenditures	5,000	5,000

Provides for the allocation of funds through the transfer of one Planning and Research Associate II position, one Planner II

position and 1/2 Chief Planner position. Also provides All Other and Capital Expenditure funds for the operation of the program.

**DEPARTMENT OF
CONSERVATION
TOTAL**

153,366 158,026

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

**Office of Community
Development**

Positions - Other Count	(-2.5)	(-2.5)
Personal Services	(112,115)	(115,306)
All Other	(36,251)	(37,720)
Capital Expenditures	(5,000)	(5,000)

Provides for the deallocation of funds through the transfer of the following positions: one Planner II position, one Planning and Research Associate II position and 1/2 Chief Planner position. Also transferred are funds to provide for the general operation of the program.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

(153,366) (158,026)

**SECTION
TOTAL ALLOCATIONS**

-\$0- -\$0-

Sec. D-18. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 5, section 13062-A, subsection 5 applies retroactively to July 1, 1995.

PART E

Sec. E-1. 5 MRSA §945, sub-§1, ¶B, as amended by PL 1989, c. 348, §1, is further amended to read:

B. Chief, Bureau of Marine Patrol; ~~and~~

Sec. E-2. 5 MRSA §945, sub-§1, ¶D, as enacted by PL 1989, c. 348, §1, is amended to read:

D. Assistant to the Commissioner for Public Information-;

Sec. E-3. 5 MRSA §945, sub-§1, ¶¶E and F are enacted to read:

E. Assistant to the Commissioner; and

F. Special Assistant to the Commissioner.

PART F

Sec. F-1. PL 1993, c. 707, Pt. G, §12 is amended to read:

Sec. G-12. Maine Labor Relations Board unit clarification decisions that result in the determination of positions as confidential. Notwithstanding any other provision of law, the employer cost of the pick-up retirement from unit clarification decisions of the Maine Labor Relations Board that result in the determination of positions as confidential may be funded in ~~fiscal year 1993-94 and fiscal year 1994-95~~ the fiscal year in which the unit clarification decision is made and in each fiscal year of the ensuing biennium from accrued salary savings within an appropriation or allocation for Personal Services in the account where the savings exist or in another account in the same fund and department. These costs are considered ongoing current services items in subsequent fiscal year budget submissions. The Commissioner of Administrative and Financial Services shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than February 1, ~~1995~~ 1st of each fiscal year with the number of cases that have been settled or are expected to be settled and the cost of any settlement, segregated by funding source.

Sec. F-2. Transfer from salary plan. The salary plan program in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the payment of premium overtime in accordance with the federal Fair Labor Standards Act to employees in the Department of Corrections, Division of Probation and Parole, in fiscal year 1995-96.

Sec. F-3. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$30,486 from the Intermediate Care - Payments to Providers, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1996.

Sec. F-4. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$104,526 in fiscal year 1995-96 and

\$160,012 in fiscal year 1996-97 from the Bureau of Medical Services, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1996 and June 30, 1997, respectively.

Sec. F-5. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$352,000 from the Aid to Families with Dependent Children, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1997.

PART G

Sec. G-1. 5 MRSA §946, sub-§1, ¶F, as enacted by PL 1983, c. 729, §4, is repealed.

Sec. G-2. 5 MRSA §946, sub-§1, ¶J, as amended by PL 1989, c. 501, Pt. BB, §3, is further amended to read:

J. Assistants to the Commissioner; ~~and~~

Sec. G-3. 5 MRSA §946, sub-§1, ¶K, as enacted by PL 1989, c. 501, Pt. BB, §3, is amended to read:

K. Assistant Associate Commissioners-; and

Sec. G-4. 5 MRSA §946, sub-§1, ¶L is enacted to read:

L. Director, Division of Mental Retardation.

Sec. G-5. 5 MRSA §12004-I, sub-§60-A, as amended by PL 1993, c. 360, Pt. H, §1, is repealed.

Sec. G-6. 18-A MRSA §5-608, as enacted by PL 1979, c. 540, §1, is amended to read:

§5-608. Determination of need for guardianship of mentally retarded persons in institutions and residence facilities

Whenever a mentally retarded minor has been admitted to ~~the Pineland Center or to any other~~ a state-operated institution or residence facility for the mentally retarded, and has not been discharged ~~therefrom~~ from the institution or residence facility, the head ~~thereof~~ of the institution or residence facility shall, within 6 months prior to the 18th birthday of such mentally retarded person, cause ~~him~~ the mentally retarded person to be examined to ascertain whether such person will, by reason of mental retardation, be in need of guardianship on attainment of ~~his~~ the mentally retarded person's majority. If, in the opinion of the examiner such need will exist, the institutional or residence facility head may advise in writing the parent, next of kin, or guardian of such minor of the need to institute proceedings for appointment of a guardian. In the event no guardian has been appointed,

or no guardianship proceedings are pending when such minor has attained age 18, or the institutional or residence facility head ~~shall have~~ has determined that nomination of the public guardian is advisable in lieu of petition for guardianship by any of such persons, such institutional or residence facility head shall nominate the public guardian to serve as guardian of such mentally retarded person.

Prior to release of any mentally retarded person from ~~the Pineland Center, or from any other~~ a state-operated institution or residence facility for the mentally retarded, the head ~~thereof of the institution or residence facility~~ shall cause such person to be examined to ascertain whether such person will, by reason of mental retardation, be in need of guardianship upon release from such institution or residence facility, and if in the opinion of such examiner such need will exist upon release, the institutional or residence facility head may advise in writing the parent or next of kin of such mentally retarded person of the need to institute proceedings for appointment of a guardian. If neither the parent nor next of kin is willing to institute proceedings for the appointment of a guardian for such mentally retarded person, or the institutional or residence facility head ~~shall have~~ has determined that nomination of the public guardian is advisable in lieu of petition for guardianship by any of such persons, the institutional or residence facility head shall, prior to the release of such mentally retarded person, nominate the public guardian.

Sec. G-7. 22 MRSA §2883, first paragraph, as amended by PL 1989, c. 56, is further amended to read:

All public officers, agents and servants of any and every county and municipality, and of any and every almshouse, prison, morgue, hospital or any other public institution having charge or control over dead human bodies required to be buried at the public expense are required to notify immediately the board of distribution, or the person or persons as may from time to time be designated by the board, or its duly authorized officer or agent, whenever any body or bodies come into their possession, charge or control, and shall, without fee or reward, deliver the body or bodies to the board or its duly authorized officer or agent, and permit and suffer the board or its agents, or the physicians and surgeons from time to time designated by it or them, who comply with this chapter, to take and remove any and all bodies to be used within the State for the advancement of medical education. No notice need be given and no body ~~shall~~ must be delivered if any person, satisfying the authorities in charge of the body that the person is a member of the family or next of kin to the deceased, shall claim the body for burial, but it ~~shall must~~ be surrendered to the person for interment, and no notice may be given and no body delivered to the board or its

agents if the deceased person was a traveler and not a vagabond, who died suddenly, in which case the body ~~shall must~~ be buried. No notice may be given and no body delivered to the board or its agents by the Department of Corrections if, at its option, the department assumes responsibility for the expenses of burial. The option may be exercised by the Department of Corrections regardless of whether the body is claimed by a member of the family or next of kin, but in such a case it may only be exercised with the agreement of the person making the claim. The superintendents and medical staffs of the Augusta Mental Health Institute, and the Bangor Mental Health Institute ~~and Pineland Center~~, having charge or control over dead human bodies required to be buried at public expense, when no person satisfies the superintendent of either hospital for the mentally ill ~~or the Pineland Center~~, and the Department of Mental Health and Mental Retardation that the person is a member of the family of, or has some family connection or is next of kin to the deceased, and wishes to claim the body for burial, may for the advancement of science hold an autopsy and examine the body of the deceased person, notwithstanding any provisions of this chapter.

Sec. G-8. 29-A MRSA §2301, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2, and affected by Pt. B, §5, is amended to read:

4. School-age persons. "School-age persons" means all children up to the age of 18 years; and persons 18 years and older who are enrolled in a state-approved program of primary or secondary education, as defined in Title 20-A, ~~and persons as described in Title 34-B, section 5402, subsection 1 living at Pineland Center or in any of its residential facilities who are bused to and from sites off the center grounds as part of their treatment.~~

Sec. G-9. 34-A MRSA §3070, as amended by PL 1991, c. 314, §58, is repealed.

Sec. G-10. 34-B MRSA §1001, sub-§8, ¶C, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. G-11. 34-B MRSA §1204, sub-§2, ¶C, as amended by PL 1993, c. 410, Pt. CCC, §11, is further amended to read:

C. The commissioner shall appoint the following officials to serve at the commissioner's pleasure:

- (1) Associate Commissioners;
- (3) Superintendent, Augusta Mental Health Institute;
- (4) Superintendent, Bangor Mental Health Institute;
- ~~(6) Superintendent, Pineland Center;~~

(7) Director, Bureau of Children with Special Needs;

(8) Director, Mental Retardation Facility;

(9) Director, Elizabeth Levinson Center;

(10) Assistant to the Commissioner for Public Information;

(11) Assistant to the Commissioner; ~~and~~

(12) Director, Bath Children's Home; ~~and~~

(13) Director, Division of Mental Retardation.

Sec. G-12. 34-B MRSA §1401, sub-§1, ~~¶B~~, as amended by PL 1993, c. 667, §2, is further amended to read:

B. The Chief Administrative Officer of the Bangor Mental Health Institute reports directly to the Chief Administrative Officer of the Augusta Mental Health Institute, who in turn reports directly to the commissioner. The Chief Administrative Officer of the Aroostook Residential Center reports ~~directly to the Chief Administrative Officer of the Pineland Center, who in turn reports~~ directly to the commissioner, or the commissioner's designee.

Sec. G-13. 34-B MRSA §1403-A, as amended by PL 1993, c. 360, Pt. H, §2, is repealed.

Sec. G-14. 34-B MRSA §5401, as amended by PL 1985, c. 503, §6, is further amended to read:

§5401. Maintenance of facilities

The department shall maintain the following ~~2~~ residential ~~facilities~~ facility for the care and treatment of mentally retarded persons:

~~1. Pineland Center; and~~

2. Aroostook Residential Center.

Sec. G-15. 34-B MRSA §5402, as amended by PL 1993, c. 667, §§3 to 5, is repealed.

Sec. G-16. 34-B MRSA §5403, sub-§3, ~~¶C~~, as amended by PL 1993, c. 667, §6, is further amended to read:

C. Have direct supervision, management and control of the grounds, buildings, property, officers and employees of the Aroostook Residential Center, ~~subject to the approval of the Superintendent of the Pineland Center.~~

Sec. G-17. 34-B MRSA §5473, sub-§4, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. G-18. 34-B MRSA §6254, sub-§1, as enacted by PL 1985, c. 503, §12, is amended to read:

1. Policy direction. All programs and services provided to children and adolescents at Augusta Mental Health Institute and Bangor Mental Health Institute ~~or Pineland Center shall~~ must be coordinated with the Bureau of Children with Special Needs and ~~shall~~ be operated in concert with general policy of the bureau as outlined in this chapter.

Sec. G-19. Crisis-emergency facility. The Department of Mental Health and Mental Retardation shall maintain a 4-bed crisis-emergency facility available to former Pineland Center residents effective July 1, 1996. The location of this facility must be determined by the department prior to July 1, 1996.

Sec. G-20. Effective date. Sections 1 to 18 of this Part take effect July 1, 1996.

PART H

Sec. H-1. Consent Decree Reinvestment Fund - MR. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, there is established the Consent Decree Reinvestment Fund - MR program to transfer available appropriation balances and General Fund revenues in excess of baseline estimates in order to satisfy consent decree plans and obligations. Funds must be utilized and transferred from this account pursuant to the provisions of this Part.

Sec. H-2. Funding. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for the period beginning with the fiscal year ending June 30, 1996, the State Controller shall transfer all available appropriation balances within all mental retardation General Fund programs to the Consent Decree Reinvestment Fund - MR program. For the period beginning July 1, 1995 and ending June 30, 1996, the State Controller, upon the review and approval by the Bureau of the Budget, shall transfer on or before June 30, 1996 an amount equivalent to the revenues in excess of the baseline General Fund revenue estimates related to mental retardation from the unappropriated surplus of the General Fund to the Consent Decree Reinvestment Fund - MR program.

Sec. H-3. Transfers. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Mental Health and Mental Retardation is authorized to transfer funds from the Consent Decree Reinvestment Fund - MR program to the appropriate mental retardation programs in order to satisfy consent decree obligations and plans. The transfers and allotment of available funds must be implemented by financial order contingent upon the recommendation of the

State Budget Officer and approval of the Governor and upon review by the Joint Standing Committee on Appropriations and Financial Affairs. This financial order must include a specific plan outlining how these funds will be expended. This financial order takes effect upon approval by the Governor.

Sec. H-4. Position creation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Mental Health and Mental Retardation is authorized to establish limited period positions as needed to satisfy consent decree obligations and plans. Establishment of these positions must be implemented by financial order following the rules set forth in sections 3 and 7 of this Part. These positions terminate on March 31st of the fiscal year in which the positions are established unless extended through legislative approval.

Sec. H-5. Consent Decree Reinvestment Fund - MH. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, there is established the Consent Decree Reinvestment Fund - MH program to transfer available appropriation balances and General Fund revenues in excess of baseline estimates in order to satisfy consent decree plans and obligations. Funds must be utilized and transferred from this account pursuant to the provisions of this Part.

Sec. H-6. Funding. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for the period beginning with the fiscal year ending June 30, 1996, the State Controller shall transfer all available appropriation balances within all mental health programs to the Consent Decree Reinvestment Fund - MH program. For the period beginning July 1, 1995 and ending June 30, 1996, the State Controller, upon review and approval by the Bureau of the Budget, shall transfer on or before June 30, 1996 an amount equivalent to the revenues in excess of the baseline General Fund revenue estimates related to mental health from the unappropriated surplus of the General Fund to the Consent Decree Reinvestment Fund - MH program.

Sec. H-7. Transfers. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Mental Health and Mental Retardation is authorized to transfer funds from the Consent Decree Reinvestment Fund - MH program to the appropriate mental health programs in order to satisfy consent decree obligations and plans. The transfers and allotment of available funds must be implemented by financial order contingent upon the recommendation of the State Budget Officer and approval of the Governor and upon review by the Joint Standing Committee on Appropriations and Financial Affairs. This financial order must include a specific plan outlining how these

funds will be expended. This financial order takes effect upon approval by the Governor.

Sec. H-8. Carrying balance. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law except Title 5, section 1589, subsection 1, any balance remaining on June 30, 1996 in all General Fund accounts in the Department of Mental Health and Mental Retardation may not lapse but must be carried forward to June 30, 1997 to be used for the consent decree reinvestment funds.

Sec. H-9. Appropriation and position transfers. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Mental Health and Mental Retardation as an interim strategy to downsize the Augusta Mental Health Institute and the Pineland Center is authorized by financial order to transfer positions authorized by the Legislature between accounts within the same fund and to transfer available balances of appropriations and allocations between line categories and accounts within the same fund, as the positions and funds become available through the downsizing of the Augusta Mental Health Institute and the Pineland Center, in order to achieve provisions of the consent decree plans. Positions and funding from the Augusta Mental Health Institute budget must be transferred as needed for reassignment to support and establish geographical Local Mental Health Authority Districts within the Division of Mental Health, Community Program and necessary services consistent with the AMHI Consent Decree Plan. Positions and funding from the Pineland Center budget must be transferred as needed to ensure the adequate provision of community and crisis supports for Pineland Center residents. The transfer of positions and funding is authorized in order to comply with the consent decree plans consistent with the substantially detailed plan submitted to and reviewed by the Joint Standing Committee on Appropriations and Financial Affairs.

Sec. H-10. Repeal. This Part is repealed June 30, 1997.

PART I

Sec. I-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Economic Conversion Division		

Positions - Legislative Count	(1.0)	(1.0)			
Personal Services	\$43,702	\$44,609			
All Other	81,298	80,391			
			DEPARTMENT OF HUMAN SERVICES		
			TOTAL	\$605,000	\$612,000
TOTAL	\$125,000	\$125,000	MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Provides for the appropriation of funds to offset a previous deappropriation.			Contingency Account - Mental Health and Mental Retardation		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			All Other	(\$2,109,790)	(\$3,207,046)
TOTAL	\$125,000	\$125,000	Provides for the deappropriation of funds as an offset to a previous appropriation concerning the consent decrees.		
EXECUTIVE DEPARTMENT					
Office of Substance Abuse			DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
All Other	\$125,000		TOTAL	(\$2,109,790)	(\$3,207,046)
Provides for the appropriation of funds to partially offset a deappropriation in Public Law 1995, c. 368, Part HHH.			SACO RIVER CORRIDOR COMMISSION		
EXECUTIVE DEPARTMENT			Saco River Corridor Commission		
TOTAL	\$125,000		All Other	\$5,000	\$5,000
HUMAN SERVICES, DEPARTMENT OF			Provides funds for operating costs of the commission.		
Elder and Adult Services - Bureau of			SACO RIVER CORRIDOR COMMISSION		
All Other	\$255,000	\$262,000	TOTAL	\$5,000	\$5,000
Provides for the appropriation of funds to support community-based services for patients with Alzheimer's disease.			SAINT CROIX INTERNATIONAL WATERWAY COMMISSION		
Purchased Social Services			Saint Croix International Waterway Commission		
All Other	350,000	350,000	All Other	\$10,000	\$10,000
Provides \$175,000 annually for family crisis services to increase services to new geographic areas, increase services to children, sustain existing services and build infrastructure. Also provides \$175,000 annually for additional rape crisis services.			Provides funds for operating costs of the commission.		
			SAINT CROIX INTERNATIONAL WATERWAY COMMISSION		
			TOTAL	\$10,000	\$10,000
			MAINE WORLD TRADE ASSOCIATION		

Maine World Trade Association

All Other	\$125,000	\$125,000
Provides for the appropriation of funds for the operations of the Maine World Trade Association.		

MAINE WORLD TRADE ASSOCIATION

TOTAL	\$125,000	\$125,000
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SECTION

TOTAL APPROPRIATIONS	(\$1,114,790)	(\$2,330,046)
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PART J

Sec. J-1. 20-A MRSA §§9 and 10 are enacted to read:

§9. Education Coordinating Committee

The Education Coordinating Committee, referred to in this section as the "committee," is established to promote efficiency, cooperative effort and strategic planning between the Department of Education, the State Board of Education, the University of Maine System, the Maine Technical College System and the Maine Maritime Academy. The committee consists of the Commissioner of Education, the Chair of the State Board of Education, the Chancellor of the University of Maine System, the Chair of the Board of Trustees of the University of Maine System, the President of the Maine Technical College System, the Chair of the Board of Trustees of the Maine Technical College System, the President of the Maine Maritime Academy and the Chair of the Board of Trustees of the Maine Maritime Academy.

The committee shall meet at least twice each year. The commissioner shall convene the first meeting of the committee by October 15, 1995. The committee shall elect a chair from among its members to serve for a term to be determined by the committee. The committee shall report on its deliberations and any recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters by February 15th each year.

§10. Education Research Institute

The Education Research Institute, referred to in this section as the "institute," is established to collect and analyze education information and perform targeted education research for the Legislature. The institute shall create and maintain an education information system that tracks important education data for kindergarten and grades one to 12. The

institute shall also conduct exploratory, long-term research on education issues.

1. Legislature to contract with university.

The Legislature, through the joint standing committee of the Legislature having jurisdiction over education matters, shall contract with the University of Maine System to establish and maintain the institute. Personnel coordinating the work of the institute must be appointed by the University of Maine System in consultation with the Legislature and those personnel shall consult with and act on behalf of the Legislature, performing such data collection, analysis and research as the Legislature may require.

2. Steering committee.

The Education Research Institute Steering Committee, referred to in this section as the "steering committee," is established to advise the Legislature and the University of Maine System on all matters related to the institute. Steering committee members must be appointed by the joint standing committee of the Legislature having jurisdiction over education matters for a term of 2 years. The steering committee shall meet at least 4 times each year and must include one member of each of the following:

- A. The joint standing committee of the Legislature having jurisdiction over education matters;
- B. The Department of Education;
- C. The State Board of Education;
- D. The University of Maine System;
- E. The Maine School Management Association;
- F. The Maine Education Association;
- G. The Maine Municipal Association; and
- H. The Maine Principals Association.

The steering committee shall elect a chair from among its members to serve a term of 2 years.

3. Location and access.

The education information system and research results gathered pursuant to this section must be maintained by the institute at the University of Maine System. The education information system and research results must be available for use by any interested group or individual in the form available from the institute.

Sec. J-2. 20-A MRSA §405, sub-§3, ¶Q, as amended by PL 1993, c. 290, §2, is further amended to read:

Q. Serve as state agency for administering federal funds for construction of school facilities and for vocational education; ~~and~~

Sec. J-3. 20-A MRSA §405, sub-§3, ¶¶S, as enacted by PL 1993, c. 290, §3, is amended to read:

S. Develop long-range education goals and standards for school performance and student performance to improve learning results and recommend to the commissioner and to the Legislature a plan for achieving those goals and standards;

Sec. J-4. 20-A MRSA §405, sub-§3, ¶¶T to V are enacted to read:

T. Establish and maintain a 5-year plan for education that includes goals and policies for the education of children in kindergarten and grades one to 12 and that promotes services for pre-school children. The plan must incorporate and build upon the work of the Task Force on Learning Results, established in Public Law 1993, chapter 290 and the federal GOALS 2000: Educate America Act;

U. Review the organization of school administrative units statewide to identify current cooperative agreements between school administrative units. Cooperative agreements may include, but are not limited to: purchasing or contract agreements; administrative functions; shared staff and staff training; and technology initiatives. Based on the review, and in consultation with the department, the state board may require that school administrative units develop and carry out a plan for a cooperative agreement with one or more other school administrative units. "Cooperative agreement" may include agreements between school administrative units and applied technology regions and applied technology centers; and

V. Study school consolidation statewide, develop a school consolidation plan that includes criteria for evaluating opportunities for consolidation and, if desirable, develop a time line for implementation.

Sec. J-5. Progress report. The State Board of Education shall provide a progress report on its review pursuant to the Maine Revised Statutes, Title 20-A, section 405, subsection 3, paragraph U to the Joint Standing Committee on Education by December 1, 1995. The report must include an analysis of current cooperative agreements and a framework for requiring additional agreements statewide.

Sec. J-6. Implementation plan. Beginning in March 1996, the State Board of Education shall develop for the Legislature an implementation plan for funding essential programs and essential services. The plan must be based on the criteria for student learning developed by the Task Force on Learning Results

established in Public Law 1993, chapter 290. The plan must include establishment of a system to measure and ensure that schools are held accountable for student learning results. The board shall present its plan and implementing legislation to the joint standing committee of the Legislature having jurisdiction over education matters by December 1, 1996. The committee may report out a bill based on the proposal.

Sec. J-7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

EDUCATION, DEPARTMENT OF

General Purpose Aid for Local Schools

All Other	(\$75,000)
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Provides for the deappropriation of anticipated general purpose aid balances.

DEPARTMENT OF EDUCATION TOTAL

(75,000)

LEGISLATURE

Education Research Institute

All Other	75,000
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Provides for the appropriation of funds to the Education Research Institute for continued development of the grades K to 12 education data base and for the conduct of targeted education research.

LEGISLATURE TOTAL

\$75,000

SECTION TOTAL APPROPRIATION

\$-0-

Sec. J-8. Expenditure authorization. The Commissioner of Education is authorized to expend up to \$25,000 from the fiscal year 1995-96 General Purpose Aid for Local Schools appropriation to contract for the acquisition of normalized regional cost adjustment data for use in the school funding formula.

PART K

Sec. K-1. 36 MRSA §187-B, sub-§2, as amended by PL 1995, c. 281, §8, is amended to read:

2. Failure to pay. The following penalties apply.

A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid tax.

B. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available pursuant to section 151 and the Maine Administrative Procedure Act is liable for a penalty in the amount of 25% of the amount of the tax due if the payment of the tax is not made within 10 days of the person's receipt of notice of demand for payment as provided by this Title. This penalty must be explained in the notice of demand and is final when levied.

This subsection does not apply to taxes due pursuant to chapter 369.

PART L

Sec. L-1. Allocation. In order to provide the necessary expenses of operation and administration of the Bureau of Alcoholic Beverages and Lottery Operations and the State Liquor and Lottery Commission, the following amounts are allocated from revenues derived from operations of the State Lottery Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Lottery Operations		
All Other	(\$2,500,650)	(\$4,617,600)
Provides for the deallocation of funds to more accurately reflect the operating costs associated with instant card vending machines.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>(\$2,500,650)</u>	<u>(\$4,617,600)</u>

PART M

Sec. M-1. 12 MRSA §7910, sub-§14 is enacted to read:

14. Savings fund; offset against future fee increases. A savings fund, referred to in this subsection as the "fund," is established in the department. Appropriations to the fund are considered funds appropriated to the department under the meaning of the Constitution of Maine, Article IX, Section 22. Money appropriated to the fund does not lapse but must be carried forward and may be used by the department only to offset license fee increases if the use of that money for that purpose is approved by the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters.

Sec. M-2. Fish and Wildlife Technician; vacancy. If the Fish and Wildlife Technician positions in the Department of Inland Fisheries and Wildlife having the position numbers 01868-0895, 01868-0896 and 01865-0897 become vacant for any reason at any time after the effective date of this Part, the Commissioner of Inland Fisheries and Wildlife may not fill those vacancies on a permanent or temporary basis without the prior approval of the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters.

Sec. M-3. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1996 and June 30, 1997 the following sums.

	1995-96	1996-97
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Administrative Services - Inland Fisheries and Wildlife		
Personal Services	(\$3,148)	(\$5,109)
Provides for the deappropriation of funds as an offset.		
Enforcement Operations - Inland Fisheries and Wildlife		
Personal Services	4,118	4,118
Provides funds for a reclassification.		
Fisheries and Hatcheries Operations		

Positions - Legislative Count	(-1.0)	(-2.0)
Positions - Other Count	(1.0)	(2.0)
Personal Services	(11,895)	(24,017)

Provides for the
deappropriation of funds
as an offset.

**Public Information and
Education, Division of**

Capital Expenditures	(13,000)	
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Provides for the
deappropriation of funds
as an offset.

Savings Fund Program

All Other	23,925	25,008
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Provides for the
appropriation of funds to
the Savings Fund
Program. Money in this
fund may only be used to
offset future license fee
increases.

**DEPARTMENT OF
INLAND FISHERIES AND
WILDLIFE
TOTAL**

-0-	-0-
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Sec. M-4. Allocation. The following funds
are allocated from the Federal Expenditure Fund for
the fiscal years ending June 30, 1996 and June 30,
1997 to carry out the purposes of this Part.

1995-96	1996-97
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**INLAND FISHERIES AND
WILDLIFE,
DEPARTMENT OF
Office of the Commissioner -
Inland Fisheries and
Wildlife**

All Other	(120,000)	(120,000)
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Provides for the
deallocation of funds as
an offset.

**Endangered Nongame
Operations**

Capital Expenditures	(5,000)	(5,000)
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Provides for the
deallocation of funds as
an offset.

**DEPARTMENT OF
INLAND FISHERIES AND
WILDLIFE
TOTAL**

(125,000)	(125,000)
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Sec. M-5. Allocation. The following funds
are allocated from Other Special Revenue funds for
the fiscal years ending June 30, 1996 and June 30,
1997 to carry out the purposes of this Part.

1995-96	1996-97
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**INLAND FISHERIES AND
WILDLIFE,
DEPARTMENT OF**

**Endangered Nongame
Operations**

All Other	(36,366)	(37,831)
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Provides for the
deallocation of funds as
an offset.

**Endangered Nongame
Operations**

All Other	(36,366)	(37,831)
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Provides for the
deallocation of funds as
an offset.

**Endangered Nongame
Operations**

All Other	(4,000)	(2,000)
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Provides for the
deallocation of funds as
an offset.

**Endangered Nongame
Operations**

All Other	(58,139)	(57,426)
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Provides for the
deallocation of funds as
an offset.

**Public Information and
Education, Division of**

Capital Expenditures		(4,000)
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Provides for the
deallocation of funds as
an offset.

**Waterfowl Habitat
Acquisition and
Management**

All Other	(16,952)	(17,427)
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Provides for the
deallocation of funds as
an offset.

**DEPARTMENT OF
INLAND FISHERIES AND
WILDLIFE**

TOTAL	(\$151,823)	(\$156,515)
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PART N

Sec. N-1. Modify 1996 and 1997 state valuations. Notwithstanding any other provision in the Maine Revised Statutes, Title 36, the 1996 and 1997 state valuations for the Town of Millinocket, for the purposes of calculating county taxes, school appropriations and municipal revenue sharing funds must be based on a valuation that values the property of Bowater Corporation in the Town of Millinocket at \$110,000,000.

PART O

Sec. O-1. Contingency plan by departments receiving federal funding. All departments and agencies of State Government that receive federal funding or federal block grants shall prepare contingency plans that anticipate lower amounts of federal funding or federal block grants for the 1996-1997 biennium. The departments and agencies shall submit the plans to the Legislative Council no later than September 30, 1995.

PART P

Sec. P-1. 32 MRSA §1863-B, as enacted by PL 1991, c. 819, §3, is repealed.

Sec. P-2. 32 MRSA §1866, sub-§7, as amended by PL 1991, c. 819, §9, is repealed.

Sec. P-3. 32 MRSA §1866-A, as amended by PL 1991, c. 819, §§10 and 11, is repealed.

Sec. P-4. 32 MRSA §1866-B is enacted to read:

§1866-B. State payments to deposit initiators

1. Overpayments. If a deposit initiator has paid the Treasurer of State more than 50% of its unclaimed minimum deposits during calendar year 1995, the deposit initiator may apply for a refund of the overpayment. Applications for refunds must be filed with the Treasurer of State between March 1, 1996 and April 20, 1996. The Treasurer of State shall refund to the initiator documented claims of overpayment.

2. Over-redemptions. If a deposit initiator retained a carry-over credit of 50% of over-redeemed

minimum deposits from prior years at the end of calendar year 1994, the deposit initiator may apply for a cash payment of any amount of the carry-over credit that remains as of December 31, 1995. Applications for payment of carry-over credits must be filed with the Treasurer of State between March 1, 1996 and April 20, 1996. After the payments have been made, and to the extent that sufficient revenues from deposits collected during calendar year 1995 remain, the Treasurer of State may equitably pay deposit initiators for a maximum of 50% of documented over-redeemed minimum deposits in calendar year 1995. Deposit initiators seeking payment for 50% of over-redeemed deposits from 1995 must file application for payment with the Treasurer of State between March 1, 1996 and April 20, 1996.

Sec. P-5. 32 MRSA §1866-C is enacted to read:

§1866-C. Reporting and payment obligations

Any distributor or manufacturer who was subject to the reporting and payment obligations under former section 1866-A and who failed to comply with the requirements of that section shall file reports and immediately make payments to the Treasurer of State in accordance with that former section. Deposit initiators who fail to comply with this section are subject to the penalties in section 1869, subsections 1 and 2. If reports were not filed in accordance with former section 1866-A, reimbursements or credits for over-redeemed minimum deposits may not be allowed. The Treasurer of State may conduct audits of any distributor or manufacturer subject to the former section 1866-A to determine whether that distributor or manufacturer has come into compliance.

Sec. P-6. 32 MRSA §1869, sub-§3, as amended by PL 1991, c. 591, Pt. R, §5, is repealed.

Sec. P-7. 32 MRSA §1871, 2nd ¶, as enacted by PL 1991, c. 591, Pt. R, §6, is repealed and the following enacted in its place:

The Treasurer of State has continuing authority to enforce rules, previously adopted in implementation of former section 1866, subsection 7 and former section 1866-A, to conduct audits, to pursue payments owed or to seek penalties against any deposit initiator in accordance with section 1869, subsections 1 and 2, who failed to meet that initiator's responsibilities under former sections 1866, subsection 7 and 1866-A.

Sec. P-8. 38 MRSA §2201, last ¶, as repealed and replaced by PL 1993, c. 410, Pt. C, §8, is amended to read:

Funds related to administration may ~~only~~ be expended only in accordance with allocations approved by the Legislature for administrative

expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may ~~only~~ be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. ~~Beginning in the fiscal year ending June 30, 1994 and thereafter, the fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866 A by the Treasurer of State.~~ Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

Sec. P-9. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Part.

	1995-96	1996-97
(OFFICE OF)		
TREASURER OF STATE		
Administration - Treasury		
Positions	(-1.0)	(-2.0)
Personal Services	(\$27,872)	(\$64,566)
All Other	(5,596)	(5,747)
Deallocates funds due to the repeal of the unclaimed beverage container program including the elimination of one Clerk II position in fiscal year 1995-96 and the additional elimination of an Auditor I position in fiscal year 1996-97.		

(OFFICE OF)

TREASURER OF STATE

TOTAL (\$33,468) (\$70,313)

Sec. P-10. Transition provisions.

1. Notwithstanding the repeal of the reporting requirements contained in the Maine Revised Statutes, Title 32, section 1866-A, subsection 1 by this Part, each deposit initiator shall submit a final report on or before March 20, 1996.

2. Notwithstanding the repeal by this Part of Title 32, section 1866-A, subsection 2, each deposit initiator shall submit a final payment to the Treasurer of State on or before March 20, 1996 in an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator for the 3-month period ending on the last day of December 1995.

3. Subject to audit, all unclaimed minimum deposits in deposit transaction accounts remaining after any required payment to the State or as of March 20, 1996, whichever is later, may be retained by and become the property of the deposit initiator.

4. Notwithstanding the repeal by this Part of the provisions relating to the administrative costs of the Treasurer of State in Title 38, section 2201, the Maine Solid Waste Management Fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the phaseout of the unclaimed beverage container deposit laws through June 30, 1996. Auditing and reimbursement costs of the Treasurer of State may be paid from any amounts recovered in enforcement efforts continuing beyond June 30, 1996.

Sec. P-11. Effective date. Sections 1 to 3 and 5 to 8 of this Part take effect December 31, 1995.

PART Q

Sec. Q-1. Commission established. The Commission on Higher Education Governance, referred to in this Part as the "commission," is established.

Sec. Q-2. Commission membership. The commission consists of 11 members, none of whom may be employed by public or private institutions of higher education in the State, appointed as follows:

1. Five members, including the chair of the commission, appointed by the Governor;
2. Three members appointed by the President of the Senate; and
3. Three members appointed by the Speaker of the House of Representatives.

Sec. Q-3. Appointments; meetings. All appointments must be made no later than 30 days following the effective date of this Part. Within 15 days of the appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the commission.

Sec. Q-4. Duties. The commission shall:

1. Review the missions, roles, organizational structure and leadership structure of the State's public institutions of higher education, including the Maine Maritime Academy, the Maine Technical College System and the University of Maine System;
2. Examine the adequacy of opportunities offered to meet the diverse needs of people of the State by public institutions of higher education and the role of the State's private institutions of higher education in complementing those opportunities;
3. Examine how effectively and productively resources are utilized to achieve higher education institutional missions and address the State's economic and social needs;
4. Conduct a review of state funding levels among all constituent entities of public higher education in the State in relationship to each other and to national averages and trends;
5. Review the level and type of state-funded financial aid available to resident students;
6. Examine the provision of community college services, associate degree programs, baccalaureate programs and graduate programs to ensure that the full range of needed academic programs are widely available in the State and are delivered without wasteful overlap by the appropriate institutions;
7. Examine the role, scope, nature and resource needs of distance learning through instructional television provided by the University of Maine System; and
8. Examine the relationship between State Government and the State's private institutions of higher education, including the role of the Legislature in approving degree programs at private institutions of higher education.

Sec. Q-5. Staff assistance. The commission shall request staffing assistance from the Legislative Council and the University of Maine System. The commission may also contract for necessary professional assistance.

Sec. Q-6. Reimbursement. The members of the commission are entitled to receive the legislative per diem and must be reimbursed for expenses upon approval of the chair of the commission and applica-

tion to the Executive Director of the Legislative Council.

Sec. Q-7. Report. The commission shall submit a report outlining its findings pursuant to section 4 of this Part, together with any necessary implementing legislation, to the Second Regular Session of the 117th Legislature no later than December 15, 1995.

Sec. Q-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

LEGISLATURE

Commission on Higher Education Governance

Personal Services	\$6,050
All Other	68,950

Provides funds to the Commission on Higher Education Governance for the per diem and expenses of members, to contract for professional services and for miscellaneous commission expenses.

LEGISLATURE TOTAL

\$75,000

PART R

Sec. R-1. 22 MRSA §391, sub-§1, as amended by PL 1995, c. 368, Pt. W, §1, is further amended to read:

1. Assessments. Every hospital subject to regulation under this chapter is subject to an assessment of not more than .15% of its gross patient service revenues. Notwithstanding any other provision of law, the commission shall reduce the assessment to hospitals. The commission shall determine the assessments annually prior to July 1st and shall assess each hospital for its pro rata share. Each hospital shall pay the assessment charged to it on a quarterly basis, with payments due on or before July 1st, October 1st, January 1st and April 1st of each year. For fiscal year 1995-96, the assessments may not exceed in total ~~\$1,600,000~~ \$1,300,000.

Sec. R-2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1995-96

MAINE HEALTH CARE FINANCE COMMISSION

Health Care Finance Commission

Unallocated (\$300,000)

Deallocates funds due to a reduction in the assessment on hospitals. The Executive Director of the Maine Health Care Finance Commission must report to the Joint Standing Committee on Appropriations and Financial Affairs no later than September 1, 1995 on the specific reductions that will be made to achieve \$300,000 in savings in fiscal year 1995-96.

PART S

Sec. S-1. 36 MRSA §191, sub-§2, ¶Q, as amended by PL 1995, c. 368, Pt. W, §7, is further amended to read:

Q. The listing of special fuel suppliers possessing certificates under section 3204; ~~and~~

Sec. S-2. 36 MRSA §191, sub-§2, ¶R, as enacted by PL 1995, c. 368, Pt. W, §8, is amended to read:

R. The disclosure to the Department of Human Services, Bureau of Medical Services of information relating to the administration and collection of the tax imposed by chapter 369-; and

Sec. S-3. 36 MRSA §191, sub-§2, ¶S is enacted to read:

S. The disclosure to an authorized representative of the Department of Human Services of the names and social security numbers of applicants for the Maine Residents Property Tax Relief Program for the purpose of identifying those who are not eligible for that program pursuant to section 6207, subsection 3. The Department of Human Services may not disclose names or social security numbers to any person, agency or organization, other than the Bureau of Taxation, nor may those names and social security numbers be used for any purpose other than the purpose stated in this paragraph.

Sec. S-4. 36 MRSA §6207, sub-§3, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

3. Subsidized housing; special needs payment. ~~No A claim may not be granted under this section to claimants whose housing costs for the year for which relief is requested were subsidized by government programs which limit housing costs to a percentage of household income.;~~

A. Whose housing costs for the year for which relief is requested were subsidized by government programs that limit housing costs to a percentage of household income; and

B. Who are receiving Aid to Families with Dependent Children and are eligible for the housing special needs payment pursuant to Title 22, section 3760-D.

Sec. S-5. PL 1995, c. 368, Pt. I, §1 is repealed.

Sec. S-6. Task force to study the impact of reducing the Aid to Families with Dependent Children housing special needs payment. The Commissioner of Human Services shall establish a task force to study the impact of reducing the Aid to Families with Dependent Children housing special needs payment, including the financial impact on municipalities and families.

The department shall submit a report by February 1, 1996 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over human resource matters.

The report must show the amount and source of funds necessary to continue the program at the benefit level in effect on July 1, 1995 or recommend a plan to redesign the program to operate within existing resources in a manner that will minimize the impact on families and municipalities.

Sec. S-7. Balance in General Assistance, General Fund account may not lapse. Notwithstanding any other provision of law, any balance remaining in the General Assistance, General Fund account on June 30, 1995 may not lapse but must be carried forward to June 30, 1996 to be used for the same purposes.

Sec. S-8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
Maine Residents Property Tax Program		
All Other	(\$544,500)	(\$544,500)
Deappropriates funds no longer required due to the exclusion of people eligible for the Aid to Families with Dependent Children housing special needs payment from circuit-breaker eligibility.		

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	(544,500)	(544,500)

HUMAN SERVICES, DEPARTMENT OF

Aid to Families with Dependent Children

All Other	750,000	544,500
Provides for the appropriation of funds to continue the housing special needs payment through fiscal year 1995-96. Housing special needs payments during fiscal year 1996-97 are limited to the amounts appropriated for that purpose.		

General Assistance

All Other	(205,500)	
Provides for the deappropriation of funds due to an available balance from fiscal year 1994-95.		

DEPARTMENT OF HUMAN SERVICES		
TOTAL	544,500	544,500
SECTION		
TOTAL APPROPRIATION	-0-	-0-

Sec. S-9. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

HUMAN SERVICES, DEPARTMENT OF

Aid to Families with Dependent Children

	1995-96	1996-97
All Other	\$1,293,596	\$939,961
Provides for the allocation of funds to continue the housing special needs payment through fiscal year 1995-96. Housing special needs payments during fiscal year 1996-97 are limited to the amounts allocated for that purpose.		

PART T

Sec. T-1. Transfer of funds; Maine Health Care Finance Commission. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$500,000 from the Maine Health Care Finance Commission, Other Special Revenue account in the Maine Health Care Finance commission to General Fund undedicated revenue no later than June 30, 1996.

Sec. T-2. Transfer of funds; Management Support Fund. Notwithstanding any other provision of law, the State Controller is authorized to transfer \$643,240 from the Management Support Fund, Other Special Revenue account in the Maine Health Care Finance Commission to General Fund undedicated revenue no later than June 30, 1996.

Sec. T-3. General Purpose Aid for Local Schools; lapsed balances. Notwithstanding any other provision of law, \$161,883 in fiscal year 1995-96 in the General Purpose Aid for Local Schools account lapses to the General Fund as a result of construction audit recoveries and \$255,604 lapses to the General Fund from fiscal year 1994-95 estimated account balances.

Sec. T-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
ADMINISTRATION AND FINANCIAL SERVICES, DEPARTMENT OF		
Public Improvements - Planning - Construction - Administration		
Capital Expenditures	(\$681,405)	(\$1,681,405)

Provides for a deappropriation of funds to partially offset a deappropriation in Public Law 1995, chapter 368, Part DD.

Maine Residents Property Tax Program

All Other	(244,968)	(255,032)
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Deappropriates funds that are no longer provided.

Departments and Agencies - Statewide

Personal Services	(125,000)	(140,000)
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Deappropriates additional funds from savings realized from a less than anticipated increase in state employees' health insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provisions of law, the State Budget Officer shall calculate the amounts that apply against each General Fund account and shall cause the amounts to be transferred from each account by financial order.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

(1,051,373)	(2,076,437)
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EDUCATION, DEPARTMENT OF

Educational Restructuring and Improvements

All Other	(148,821)
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Provides for the deappropriation of additional funds to reflect reduced funding for the Technology Enhancement program in fiscal year 1995-96.

DEPARTMENT OF EDUCATION TOTAL

(148,821)

TOTAL APPROPRIATIONS	(\$1,200,194)	(\$2,076,437)
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Sec. T-5. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

1995-96	1996-97
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HUMAN SERVICES, DEPARTMENT OF

Disability Determination - Division of

Positions - Other Count	(1.0)	(1.0)
Personal Services	\$40,455	\$42,320
All Other	3,000	3,000
Capital Expenditures	2,500	

Provides for the allocation of one Disability Claims Hearing Officer position in the Division of Disability Determination. All Other and Capital Expenditure funds are needed to support the position.

DEPARTMENT OF HUMAN SERVICES TOTAL ALLOCATIONS

\$45,955	\$45,320
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Sec. T-6. Allocation. The following funds are allocated from the Solid Waste Management Fund to carry out the purposes of this Part.

1995-96	1996-97
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ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Solid Waste Management

Positions	(2.0)	(2.0)
Personal Services	\$53,647	\$73,091
All Other	10,193	13,887

Provides funds for an Environmental Specialist II position and an Environmental Specialist III position to ensure better compliance in achieving emissions reduction requirements of the federal Clean Air Act. Expenditures from these allocations may be made only after the allocations made from this fund in Public Law 1995, chapter

368, Part NN are
assumed.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

TOTAL ALLOCATIONS	\$63,840	\$86,978
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PART U

Sec. U-1. PL 1995, c. 368, Pt. P, §1 is amended to read:

Sec. P-1. Transfer of unexpended balance. Notwithstanding Private and Special Law 1987, chapter 126, section 3, on or before June 30, 1996, the Treasurer of State shall transfer ~~\$1,200,000~~ \$1,400,000 of the unexpended balance in the Maine State Housing Authority's oil storage and removal bond fund, authorized by Private and Special Law 1987, chapter 126, to the debt service earnings account in the office of the Treasurer of State.

Sec. U-2. PL 1995, c. 368, Pt. P, §2, under the caption "TREASURY DEPARTMENT" in that part relating to "Debt Service - Treasury," the blocked paragraph is amended to read:

Provides for the deappropriation of funds in conjunction with the transfer of funds from the oil storage and removal bond fund in the Maine State Housing Authority in the amount of ~~\$1,200,000~~ \$1,400,000 in fiscal year 1995-96 as specified in section 1 of this Part. Transfers will be made from the General Fund Debt Service Account, the account set up for the retirement of bonds and notes authorized under the Maine Revised Statutes, Title 5, section 151-A, which will provide sufficient funds to cover the projected debt service requirement.

Sec. U-3. PL 1995, c. 368, Pt. UU, §§6 and 7 are repealed.

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

Effective June 30, 1995.

CHAPTER 396

H.P. 1045 - L.D. 1464

An Act to Preserve Fishing Stocks

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

Whereas, the Groundfish Hatchery Fund will be repealed July 30, 1995 unless the date is altered by law; and

Whereas, although no additional dollars will be credited to the fund, a balance exists which may be used to implement the hatchery raising of groundfish; 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. 12 MRSA §6591, sub-§2, as enacted by PL 1993, c. 194, §1, is repealed.

Sec. 2. 12 MRSA §6591, sub-§3 is enacted to read:

3. Balance carried forward. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward.

Sec. 3. 12 MRSA §6594, as enacted by PL 1993, c. 194, §1, is amended to read:

§6594. Repeal

This subchapter is repealed July 30, ~~1995~~ 1996. All unencumbered money in the fund on July 30, ~~1995~~ 1996 must be deposited into the General Fund.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96

**MARINE RESOURCES,
DEPARTMENT OF**

Groundfish Hatchery Study

All Other	\$20,077
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Allocates funds for the continuation of the Groundfish Hatchery Fund for fiscal year 1995-96.

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

Effective June 30, 1995.

CHAPTER 397

H.P. 1102 - L.D. 1549

An Act to Create Uniformity in Laws Governing Various Professional Licensing Boards and Commissions

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

Sec. 1. 9-A MRSA §6-116, sub-§2, as enacted by PL 1985, c. 763, Pt. A, §51, is amended to read:

2. Financial information not normally available to the public that is submitted in confidence by an applicant for a license individual or organization to comply with the licensing, registration or other regulatory functions of the administrator; and

Sec. 2. 10 MRSA c. 901 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 901

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department is composed of the following ~~bureaus, boards and commissions~~:

Sec. 4. 10 MRSA §8001, sub-§§1 to 3, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are amended to read:

1. **Bureau of Banking.** Bureau of Banking; ~~Bureau of;~~

2. **Bureau of Consumer Credit Protection.** Bureau of Consumer Credit Protection; ~~Bureau of;~~

3. **Bureau of Insurance.** Bureau of Insurance; ~~Bureau of;~~

Sec. 5. 10 MRSA §8001, sub-§§4 to 22, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are repealed.

Sec. 6. 10 MRSA §8001, sub-§22-A, as enacted by PL 1993, c. 600, Pt. A, §6, is repealed.

Sec. 7. 10 MRSA §8001, sub-§§23 to 32, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are repealed.

Sec. 8. 10 MRSA §8001, sub-§32-A, as amended by PL 1993, c. 389, §3, is repealed.

Sec. 9. 10 MRSA §8001, sub-§33, as amended by PL 1993, c. 600, Pt. A, §7, is repealed.

Sec. 10. 10 MRSA §8001, sub-§§35 to 36, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, are repealed.

Sec. 11. 10 MRSA §8001, sub-§§37 and 38 are enacted to read:

37. Real Estate Commission. Real Estate Commission; and

38. Division of Licensing and Enforcement. Division of Licensing and Enforcement. The Division of Licensing and Enforcement is composed of the following:

A. Board of Accountancy;

B. Acupuncture Licensing Board;

C. Arborist Examining Board;

D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers;

E. Maine Athletic Commission;

F. Board of Licensing of Auctioneers;

G. Board of Barbering and Cosmetology;

H. Board of Chiropractic Licensure;

I. Board of Commercial Driver Education;

J. Board of Counseling Professionals Licensure;

K. Board of Licensing of Dietetic Practice;

L. Electricians' Examining Board;

M. State Board of Licensure for Professional Foresters;

N. State Board of Funeral Service;

O. State Board of Certification for Geologists and Soil Scientists;

P. Board of Hearing Aid Dealers and Fitters;

Q. Board of Licensure for Professional Land Surveyors;

R. Manufactured Housing Board;

S. Nursing Home Administrators Licensing Board;

T. Board of Occupational Therapy Practice;

U. Oil and Solid Fuel Board;

V. Board of Commissioners of the Profession of Pharmacy;

W. Board of Examiners in Physical Therapy;

X. Maine State Pilotage Commission;

Y. Plumbers' Examining Board;

Z. Board of Licensure of Podiatric Medicine;

AA. State Board of Examiners of Psychologists;

BB. Radiologic Technology Board of Examiners;

CC. Board of Real Estate Appraisers;

DD. Board of Respiratory Care Practitioners;

EE. State Board of Social Worker Licensure;

FF. Board of Examiners on Speech Pathology and Audiology;

GG. State Board of Substance Abuse Counselors; and

HH. State Board of Veterinary Medicine.

The Division of Licensing and Enforcement also has the following regulation functions: licensure of athletic trainers; registration of massage therapists; registration of persons pursuant to the Charitable Solicitations Act; and registration of transient sellers, including door-to-door home repair transient sellers.

Sec. 12. 10 MRSA §8003, sub-§2, as amended by PL 1987, c. 609, §2, is further amended to read:

2. Division of Licensing and Enforcement.

There is created a Division of Licensing and Enforcement, which ~~shall constitute~~ constitutes a division within the department, to provide assistance to the commissioner and to direct the ~~agencies~~ boards and commissions within the ~~department~~ division, as set forth in section 8001, subsection 38, in complaint procedure and investigation, disciplinary actions and enforcement, ~~and in~~ examinations and licensing ~~examinations~~, and to perform such other duties as the commissioner may designate. The commissioner may employ a ~~Director~~ Regulatory Board Administrator of Licensing and Enforcement and such clerical and technical assistants as are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the Civil Service Law. The division has the following powers, duties and functions:

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory functions of the boards and commissions. There is one divisional budget that includes a separate account for each board or commission. The division has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or would seriously jeopardize a board's or commission's fiscal well-being; and

C. To provide all staffing necessary and appropriate to assist the various boards and commissions. All clerks, technical support staff and supervisors must be assigned to the division and allocated to the various boards and commissions according to need.

Sec. 13. 10 MRSA §9003, sub-§5, as amended by PL 1993, c. 642, §10, is repealed.

Sec. 14. 30-A MRSA §3962, sub-§1, ¶B-1, as enacted by PL 1993, c. 59, §2, is amended to read:

B-1. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of ~~31 days~~ one month at the same rate of interest upon request in writing or in person; and

Sec. 15. 30-A MRSA §3963, sub-§5, as enacted by PL 1993, c. 59, §3, is amended to read:

5. Extension required upon request. A consumer is entitled to at least one extension of the pawn transaction of ~~31 days~~ one month at the same rate of interest upon request in writing or in person.

Sec. 16. 32 MRSA §§60-B to 60-I are enacted to read:

§60-B. Compensation

Members of a board or commission are entitled to compensation in accordance with Title 5, chapter 379. If the fees collected by a board or commission are insufficient to pay the compensation provided by Title 5, chapter 379, the members are entitled to a pro rata payment in any year in which those fees are insufficient.

§60-C. Disposition of fees

All money received by a board or commission must be paid to the Treasurer of State and credited to the account for that board or commission within the budget of the Division of Licensing and Enforcement.

Money received by a board or commission must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony and procuring the attendance of witnesses, the costs of all legal proceedings initiated for enforcement and administrative expenses.

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

§60-D. Contracts

A board or commission may enter into contracts to carry out its statutory responsibilities. The Department of Professional and Financial Regulation, Division of Licensing and Enforcement may enter into contracts in its own right, or on behalf of boards and commissions, in order to ensure the provision of goods and services necessary to fulfill statutory responsibilities.

§60-E. Budget

The budget account of a board or commission must be prepared and administered as provided in Title 10, section 8003.

§60-F. Employees

The Commissioner of Professional and Financial Regulation shall appoint, subject to the Civil Service Law, employees as may be necessary to carry out the duties and functions of the various boards and commissions. A person so employed must be located in the department, allocated to the Division of Licensing and Enforcement and under the administrative and supervisory direction of the commissioner.

§60-G. Disciplinary actions

1. Filing of complaints. A board or commission shall file complaints received from a person or

initiated by a board or commission with the Division of Licensing and Enforcement.

2. Investigation of allegations of unlicensed practice; prosecution. Allegations of unlicensed practice may be investigated by a board's or commission's complaint officer or inspector in conjunction with the division's case compliance coordinator. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

§60-H. Investigations; enforcement duties; assessments

When there is a finding of a violation, a board or commission may assess the licensed person or entity for actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed.

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers not to exceed \$800, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record.

The board or commission, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board, which may not be less than 30 days.

§60-I. Citations and fines

Any board or commission may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by the Division of Licensing and Enforcement must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation.

Sec. 17. 32 MRSA §63-A, sub-§§4 and 5, as amended by PL 1993, c. 600, Pt. A, §28, are repealed.

Sec. 18. 32 MRSA §63-A, sub-§6, as amended by PL 1991, c. 341, §3, is repealed.

Sec. 19. 32 MRSA §63-A, sub-§7, as amended by PL 1993, c. 600, Pt. A, §28, is further amended to read:

7. Reports; budget. No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to the commis-

sioner a complete statement of all receipts and expenditures of the board, attested by affidavit of its chair. ~~The board shall submit to the commissioner its budgetary requirements in the same manner as provided in Title 5, section 1665.~~

Sec. 20. 32 MRSA §63-B, sub-§7, as enacted by PL 1985, c. 233, §6, is repealed.

Sec. 21. 32 MRSA §213-A, as amended by PL 1991, c. 396, §§6 and 7, is repealed.

Sec. 22. 32 MRSA §214, sub-§3, as enacted by PL 1983, c. 413, §6, is repealed.

Sec. 23. 32 MRSA §217-B, as amended by PL 1987, c. 395, Pt. A, §113, is repealed.

Sec. 24. 32 MRSA §217-C, as enacted by PL 1991, c. 396, §10, is repealed.

Sec. 25. 32 MRSA §271-A, as amended by PL 1985, c. 748, §31, is repealed.

Sec. 26. 32 MRSA §501, as amended by PL 1993, c. 600, Pt. A, §43, is further amended to read:

§501. Membership; qualifications; term; removal

The Board of Chiropractic Licensure, as established by Title 5, section 12004-A, subsection 8, and in this chapter called the "board," consists of 7 individuals appointed by the Governor. These individuals must be residents of this State, 5 of whom must be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic and must be, at the time of their appointment, actively engaged in the practice of their profession for a period of at least 3 years in this State. Two members must be representatives of the public. Each appointment is for a period of 3 years. Appointments of members must comply with section 60. A member of the board may be removed from office for cause by the Governor. ~~Members of the board are entitled to compensation in accordance with the provisions of Title 5, chapter 379.~~

Sec. 27. 32 MRSA §506, as amended by PL 1993, c. 600, Pt. A, §47, is further amended to read:

§506. License expiration

~~The board shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without revision or change.~~

~~With the advice of the board, the commissioner may appoint, subject to the Civil Service Law, employees necessary to carry out this chapter.~~

~~Employees must be located in the department and shall act under the administrative and supervisory direction of the commissioner.~~

All licenses expire ~~biennially~~ biennially, beginning on December 31, 1992 or at any other time the commissioner designates.

Sec. 28. 32 MRSA §1151, last ¶, as amended by PL 1991, c. 438, §1, is repealed.

Sec. 29. 32 MRSA §1152, first ¶, as amended by PL 1993, c. 220, §1, is further amended to read:

~~The Commissioner of Professional and Financial Regulation, with the advice and consent of the board, may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. At no time may there be fewer than 6 electrical inspectors to carry out the mandates of this chapter. The board shall raise funds as necessary to support the costs of its employees and their administrative support. Any person so employed must be located in the Department of Professional and Financial Regulation and under the administrative and supervisory direction of the Commissioner of Professional and Financial Regulation.~~

Sec. 30. 32 MRSA §1154, as amended by PL 1983, c. 553, §27, is repealed.

Sec. 31. 32 MRSA §1451, 4th ¶, as amended by PL 1983, c. 812, §206, is repealed.

Sec. 32. 32 MRSA §1451, 5th ¶, as amended by PL 1983, c. 553, §30, is further amended to read:

The board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses and cause inspections to be made at least once every 3 years of all establishments or places of business of any person engaged in the profession of funeral service in the State. The inspection ~~shall~~ must be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the regulations of the board and of the Department of Human Services relating to the conduct of these establishments are observed. ~~The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and the~~ The inspection may be made by members of the board upon authorization by the board, and ~~may otherwise enter into contracts to carry out its responsibilities under this chapter or by professional technical staff.~~

Sec. 33. 32 MRSA §1452-B, as amended by PL 1981, c. 703, Pt. A, §47, is repealed.

Sec. 34. 32 MRSA §1453, as amended by PL 1967, c. 253, §3, is repealed.

Sec. 35. 32 MRSA §1660-B, sub-§6-A, as enacted by PL 1983, c. 413, §84, is repealed.

Sec. 36. 32 MRSA §1660-B, sub-§10, as amended by PL 1985, c. 785, Pt. B, §133, is repealed.

Sec. 37. 32 MRSA §1660-D, as corrected by RR 1993, c. 1, §86, is repealed.

Sec. 38. 32 MRSA §2001, last ¶, as repealed and replaced by PL 1983, c. 812, §215, is repealed.

Sec. 39. 32 MRSA §2002, sub-§4, as enacted by PL 1983, c. 413, §104, is repealed.

Sec. 40. 32 MRSA §2004, as amended by PL 1987, c. 735, §62, is repealed.

Sec. 41. 32 MRSA §2153-A, sub-§11, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

11. Budget. 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 or change, 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 subchapter;

Sec. 42. 32 MRSA §2153-A, last ¶, as enacted by PL 1993, c. 600, Pt. A, §123, is repealed and the following enacted in its place:

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. 43. 32 MRSA §2273, sub-§4, as repealed and replaced by PL 1983, c. 862, §77, is repealed.

Sec. 44. 32 MRSA §2274, sub-§5, as enacted by PL 1983, c. 746, §2, is repealed.

Sec. 45. 32 MRSA §2275, sub-§2, as amended by PL 1985, c. 785, Pt. B, §134, is repealed.

Sec. 46. 32 MRSA §2275, sub-§3, as enacted by PL 1983, c. 746, §2, is repealed.

Sec. 47. 32 MRSA §2351, 5th ¶, as repealed and replaced by PL 1983, c. 812, §219, is repealed.

Sec. 48. 32 MRSA §2354, as amended by PL 1991, c. 198, §17, is repealed.

Sec. 49. 32 MRSA §3112, sub-§2, as amended by PL 1983, c. 812, §227, is further amended to read:

2. Meetings. The board shall meet at least once a year to conduct its business and to elect a ~~chairman~~ chair and a secretary, who ~~shall~~ shall serve for 2 years. Additional meetings ~~shall~~ must 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. The board shall keep ~~such~~ records and minutes as are necessary to the ordinary dispatch of its functions. ~~Members of the board shall be compensated according to the provisions of Title 5, chapter 379.~~

Sec. 50. 32 MRSA §3112, sub-§5, ¶I, as amended by PL 1983, c. 553, §46, is further amended to read:

I. To submit, no later than August 1st of each year to the Commissioner of Professional and Financial Regulation for the preceding fiscal year ending June 30th, an annual report of its operations and financial position together with such comments and recommendations as the board ~~deems~~ considers essential;

Sec. 51. 32 MRSA §3112, sub-§5, ¶J, as amended by PL 1985, c. 785, Pt. B, §137, is repealed.

Sec. 52. 32 MRSA §3112, sub-§5, ¶K, as enacted by PL 1983, c. 413, §131, is repealed.

Sec. 53. 32 MRSA §3119, as enacted by PL 1985, c. 389, §15, is repealed.

Sec. 54. 32 MRSA §3401, last ¶, as enacted by PL 1987, c. 597, §9, is amended to read:

Any member of the board may be removed from office for cause, by the Governor. ~~The members of the board shall each be compensated according to the provisions of Title 5, chapter 379.~~

Sec. 55. 32 MRSA §3402, first ¶, as amended by PL 1985, c. 785, Pt. B, §138, is repealed.

Sec. 56. 32 MRSA §3405, as amended by PL 1985, c. 389, §20, is repealed.

Sec. 57. 32 MRSA §3603, as amended by PL 1993, c. 600, Pt. A, §236, is repealed.

Sec. 58. 32 MRSA §3605-B, sub-§5, as enacted by PL 1993, c. 600, Pt. A, §239, is repealed.

Sec. 59. 32 MRSA §3606, as amended by PL 1993, c. 659, Pt. B, §17, is repealed.

Sec. 60. 32 MRSA §3823, as amended by PL 1985, c. 389, §21, is further amended to read:

§3823. Grants

~~All fees charged and collected by the board shall be deposited by it in the State Treasury to the credit of the board. The board may accept grants from foundations or institutions, which shall also. These grants must be deposited in the State Treasury to the credit of the board. All those moneys are appropriated to be used by the board in carrying out this chapter. The expenditures of the board may be paid only from those moneys. Any balance of these fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.~~

Sec. 61. 32 MRSA §3824, sub-§4, as corrected by RR 1993, c. 1, §88, is repealed.

Sec. 62. 32 MRSA §4855, 2nd ¶, as enacted by PL 1975, c. 477, §4, is repealed.

Sec. 63. 32 MRSA §4855, 3rd ¶, as amended by PL 1985, c. 785, Pt. B, §141, is repealed.

Sec. 64. 32 MRSA §4858, as repealed and replaced by PL 1983, c. 812, §242, is repealed.

Sec. 65. 32 MRSA §4907, sub-§3, as repealed and replaced by PL 1983, c. 812, §244, is repealed.

Sec. 66. 32 MRSA §4907, sub-§6, as enacted by PL 1983, c. 413, §176, is repealed.

Sec. 67. 32 MRSA §4908, 2nd ¶, as repealed and replaced by PL 1979, c. 300, §3, is repealed.

Sec. 68. 32 MRSA §4908, sub-§2, as amended by PL 1987, c. 395, Pt. A, §176, is further amended to read:

2. Reports. On or before August 1st of each year, the board shall submit to the Commissioner of Professional and Financial Regulation for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the commissioner ~~deems~~ considers essential.

~~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.~~

Sec. 69. 32 MRSA §4908, sub-§3, as amended by PL 1987, c. 395, Pt. A, §177, is repealed.

Sec. 70. 32 MRSA §5006, as repealed and replaced by PL 1983, c. 812, §246, is repealed.

Sec. 71. 32 MRSA §5009, sub-§4, as enacted by PL 1983, c. 413, §189, is repealed.

Sec. 72. 32 MRSA §5010, as repealed and replaced by PL 1985, c. 389, §23, is repealed.

Sec. 73. 32 MRSA §5011-B, as amended by PL 1989, c. 450, §32, is repealed.

Sec. 74. 32 MRSA §5011-C, as amended by PL 1989, c. 450, §33, is repealed.

Sec. 75. 32 MRSA §5018, 3rd ¶, as amended by PL 1987, c. 395, Pt. A, §190, is further amended to read:

The board is empowered to designate a person or persons to investigate and report to it upon the charge. Such person or persons so designated ~~shall be reimbursed~~ are entitled to reimbursement for expenses in the same manner as prescribed for the board in ~~section 5010 this chapter and section 60-B.~~

Sec. 76. 32 MRSA §6012, as repealed and replaced by PL 1983, c. 812, §248, is repealed.

Sec. 77. 32 MRSA §6013, sub-§5, as enacted by PL 1983, c. 413, §202, is repealed.

Sec. 78. 32 MRSA §6028, last ¶, as enacted by PL 1975, c. 705, §4, is repealed.

Sec. 79. 32 MRSA §6029, as enacted by PL 1975, c. 705, §4, is amended to read:

§6029. Notice

The board shall publish, in an appropriate manner, the licensure standards prescribed by this chapter, any amendments ~~thereto~~ to those standards and such rules and regulations as it may ~~promulgate~~ adopt under the authority vested by ~~section 6012 this chapter.~~

Sec. 80. 32 MRSA §6211, as amended by PL 1983, c. 812, §251, is repealed.

Sec. 81. 32 MRSA §6212, sub-§5, as enacted by PL 1977, c. 466, §2, is repealed.

Sec. 82. 32 MRSA §6222, as enacted by PL 1985, c. 389, §25, is repealed.

Sec. 83. 32 MRSA §7028, as repealed and replaced by PL 1987, c. 113, §1, is repealed.

Sec. 84. 32 MRSA §7030, sub-§4, as enacted by PL 1983, c. 413, §225, is repealed.

Sec. 85. 32 MRSA §7061, as repealed and replaced by PL 1985, c. 389, §26, is repealed.

Sec. 86. 32 MRSA §9553-A, sub-§5, as enacted by PL 1983, c. 413, §234, is repealed.

Sec. 87. 32 MRSA §9554, as repealed and replaced by PL 1983, c. 812, §255, is repealed.

Sec. 88. 32 MRSA §9606, as enacted by PL 1981, c. 456, Pt. A, §113, is repealed.

Sec. 89. 32 MRSA §9703, sub-§4, as amended by PL 1989, c. 503, Pt. B, §152, is repealed.

Sec. 90. 32 MRSA §9704, sub-§5, as enacted by PL 1985, c. 288, §3, is repealed.

Sec. 91. 32 MRSA §9704, sub-§7, as amended by PL 1985, c. 785, Pt. B, §145, is repealed.

Sec. 92. 32 MRSA §9704, sub-§8, as enacted by PL 1985, c. 288, §3, is repealed.

Sec. 93. 32 MRSA §9853, sub-§4, as repealed and replaced by PL 1985, c. 295, §49, is repealed.

Sec. 94. 32 MRSA §9853, sub-§6, ¶¶H and I, as enacted by PL 1983, c. 524, are amended to read:

H. To conduct hearings to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise ~~deemed~~ determined necessary to the fulfillment of its responsibilities under this chapter.

The board ~~shall~~ may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license 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 a written notice of the denial of ~~his~~ the application, the reasons ~~therefor~~ for the denial 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; and

I. After hearing, to censure or proceed as provided in section 9860; ~~and~~.

Sec. 95. 32 MRSA §9853, sub-§6, ¶J, as enacted by PL 1983, c. 524, is repealed.

Sec. 96. 32 MRSA §9862, as enacted by PL 1983, c. 524, is repealed.

Sec. 97. 32 MRSA §9903, sub-§4, as enacted by PL 1985, c. 389, §28, is repealed.

Sec. 98. 32 MRSA §9904, sub-§5, as enacted by PL 1985, c. 389, §28, is repealed.

Sec. 99. 32 MRSA §9905, as amended by PL 1987, c. 313, §4, is repealed.

Sec. 100. 32 MRSA §9911, sub-§2, as enacted by PL 1985, c. 389, §28, is repealed.

Sec. 101. 32 MRSA §11002, sub-§2, as enacted by PL 1985, c. 702, §2, is amended to read:

2. Conducting business in this State. "Conducting business in this State" means the collection or attempted collection of a debt due another by a debt collector located in this State ~~or~~; the face-to-face solicitation of creditors in this State as clients; and the collection or attempted collection of their debts; by a debt collector, wherever located; or the collection or attempted collection of debts incurred between a consumer in this State and creditor in this State by a debt collector, wherever located.

Sec. 102. 32 MRSA §12214, sub-§§2, 3, 5, 8 and 10, as enacted by PL 1987, c. 489, §2, are repealed.

Sec. 103. 32 MRSA §12406, sub-§5, as enacted by PL 1987, c. 488, §3, is repealed.

Sec. 104. 32 MRSA §12407, sub-§§5 and 6, as enacted by PL 1987, c. 488, §3, are repealed.

Sec. 105. 32 MRSA §12410, sub-§3, as enacted by PL 1987, c. 488, §3, is repealed.

Sec. 106. 32 MRSA §13504, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. 107. 32 MRSA §13507, sub-§4, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. 108. 32 MRSA §13716, sub-§3, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 109. 32 MRSA §13717, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 110. 32 MRSA §13719, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 111. 32 MRSA §13723, sub-§9, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 112. 32 MRSA §13731, sub-§6, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. 113. 32 MRSA §13852, sub-§6, as enacted by PL 1989, c. 465, §3, is repealed.

Sec. 114. 32 MRSA §13853, sub-§§6, 7 and 9, as enacted by PL 1989, c. 465, §3, are repealed.

Sec. 115. 32 MRSA §13902, sub-§3, as enacted by PL 1989, c. 346, §3, is repealed.

Sec. 116. 32 MRSA §13903, sub-§§4, 5 and 7, as enacted by PL 1989, c. 346, §3, are repealed.

Sec. 117. 32 MRSA §13910, sub-§2, as enacted by PL 1989, c. 346, §3, is repealed.

Sec. 118. 32 MRSA §13967, sub-§§7 and 9, as enacted by PL 1989, c. 806, §3, are repealed.

Sec. 119. 32 MRSA §13968, sub-§§6, 7 and 9, as enacted by PL 1989, c. 806, §3, are repealed.

Sec. 120. 32 MRSA §14211, sub-§§3 and 4, as enacted by PL 1991, c. 397, §6, are repealed.

Sec. 121. 32 MRSA §14212, sub-§§5 and 7, as enacted by PL 1991, c. 397, §6, are repealed.

Sec. 122. 32 MRSA §14214, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 123. 32 MRSA §14238, sub-§2, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 124. 32 MRSA §14303, as enacted by PL 1991, c. 403, §1, is repealed.

Sec. 125. 38 MRSA §90-B, as amended by PL 1983, c. 758, §15, is repealed and the following enacted in its place:

§90-B. Budget

The commission's budget must be prepared and administered as provided in Title 10, section 8003.

Sec. 126. 38 MRSA §90-C is enacted to read:

§90-C. Employees

The Commissioner of Professional and Financial Regulation may appoint employees as necessary, as provided in Title 32, section 60-F.

Sec. 127. 38 MRSA §106, as enacted by PL 1985, c. 389, §40, is repealed and the following enacted in its place:

§106. Disposition of fees

All money received by the commission must be paid to the Treasurer of State and credited to the account for the commission within the budget of the Division of Licensing and Enforcement within the Department of Professional and Financial Regulation.

Money received by the commission must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony and procuring the attendance of witnesses, the costs of all legal proceedings initiated for enforcement and administrative expenses.

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 128. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Accountancy - Board of		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(\$30,222)	(\$40,294)
All Other	(37,284)	(51,672)
TOTAL	(\$67,506)	(\$91,966)
Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Acupuncture Licensing Board		
All Other	(\$2,078)	(\$2,853)
Deallocates funds to accomplish a funding transfer to the Division of		

Licensing and Enforcement.			TOTAL	(\$39,949)	(\$47,777)
Arborist Examining Board			Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Personal Services	(\$563)	(\$750)			
All Other	(3,464)	(4,699)			
TOTAL	(\$4,027)	(\$5,449)			
Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.			Commercial Driver Education		
			Personal Services	(\$315)	(\$420)
			All Other	(10,727)	(14,490)
			TOTAL	(\$11,042)	(\$14,910)
			Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Architects, Landscape Architects and Interior Designers - Maine State Board for Licensure of			Counseling Professionals Licensure - Board of		
Positions - Other Count	(-1.0)	(-1.0)	Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(\$28,107)	(\$37,143)	Personal Services	(\$17,231)	(\$22,811)
All Other	(32,414)	(46,124)	All Other	(24,627)	(34,060)
TOTAL	(\$60,521)	(\$83,267)	TOTAL	(\$41,858)	(\$56,871)
Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.			Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Maine Athletic Commission			Electricians' Examining Board		
Personal Services	(\$1,500)	(\$2,000)	Positions - Other Count	(-8.0)	(-8.0)
All Other	(5,146)	(6,861)	Personal Services	(\$254,932)	(\$339,995)
TOTAL	(\$6,646)	(\$8,861)	All Other	(69,706)	(92,908)
Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.			TOTAL	(\$324,638)	(\$432,903)
			Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Barbering and Cosmetology - Board of			Foresters - State Board of Licensure for		
Positions - Other Count	(-7.0)	(-7.0)	Personal Services	(\$1,125)	(\$1,500)
Personal Services	(\$198,494)	(\$262,904)	All Other	(10,355)	(14,186)
All Other	(85,143)	(116,151)	TOTAL	(\$11,480)	(\$15,686)
TOTAL	(\$283,637)	(\$379,055)	Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.		
Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.					
Chiropractic Licensure - Board of					
Positions - Other Count	(-1.0)	(-1.0)			
Personal Services	(\$24,511)	(\$33,538)			
All Other	(10,438)	(14,239)			

Funeral Service - State Board of

Personal Services	(\$7,586)	(\$10,408)
All Other	(10,156)	(13,874)

TOTAL	(\$17,742)	(\$24,282)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Licensing and Enforcement

Positions - Other Count	(32.0)	(32.0)
Personal Services	\$999,701	\$1,331,735
All Other	685,022	935,926

TOTAL	\$1,684,723	\$2,267,661
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Geologists and Soil Scientists - State Board of Certification for

Personal Services	(\$735)	(\$980)
All Other	(1,882)	(2,583)

TOTAL	(\$2,617)	(\$3,563)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Allocates funds to accomplish the consolidation of 35 professional regulatory board programs into one program. This funding transfer includes all operating costs and the following positions: one Clerk Typist III position from the Board of Accountancy; one Clerk Typist III position from the State Board for Licensure of Architects, Landscape Architects and Interior Designers; 2 Clerk Typist II positions, 2 Clerk Typist III positions, 2 Compliance Officer positions and one Case Compliance Coordinator position from the Board of Barbering and Cosmetology; one Clerk Typist II position from the Board of Chiropractic Licensure; 1/2 Clerk Typist II position from the Board of Counseling Professionals Licensure; one Clerk Typist II position, one Clerk Typist III position, 5 Electrical Inspector positions and one Senior Electrical Inspector position from the Electricians' Examining Board; 1/2 Clerk Typist II position, one Clerk Typist III position, one Manufactured Housing Inspector position and one Executive Director position from the Manufactured Housing Board; one Clerk Typist

Hearing Aid Dealers and Fitters - Board of

Personal Services	(\$3,780)	(\$5,040)
All Other	(5,446)	(7,458)

TOTAL	(\$9,226)	(\$12,498)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Land Surveyors - Board of Registration for

Personal Services	(\$2,250)	(\$3,000)
All Other	(16,814)	(23,242)

TOTAL	(\$19,064)	(\$26,242)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Licensing of Auctioneers - Board of

Personal Services	(\$1,350)	(\$1,800)
All Other	(4,545)	(6,089)

TOTAL	(\$5,895)	(\$7,889)
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III position, 2 Oilburner Inspector positions and one Senior Oilburner Inspector position from the Oil and Solid Fuel Board; one Clerk Typist II position, one Clerk Typist III position, one Plumbing Inspector position and one Senior Plumbing Inspector position from the Plumbers' Examining Board; and one Clerk Typist II position and one Clerk Typist III position from the State Board of Social Worker Licensure.

Licensing of Dietetic Practice - Board of

Personal Services	(\$1,050)	(\$1,400)
All Other	(4,658)	(6,280)
TOTAL	(\$5,708)	(\$7,680)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Manufactured Housing Board

Positions - Other Count	(-3.5)	(-3.5)
Personal Services	(\$112,091)	(\$147,806)
All Other	(70,052)	(93,403)
TOTAL	(\$182,143)	(\$241,209)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Nursing Home Administrators Licensing Board

Personal Services	(\$2,205)	(\$2,940)
All Other	(7,743)	(10,660)
TOTAL	(\$9,948)	(\$13,600)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Occupational Therapists - Board of

Personal Services	(\$1,050)	(\$1,400)
All Other	(1,877)	(2,574)
TOTAL	(\$2,927)	(\$3,974)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Oil and Solid Fuel Board

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$124,977)	(\$168,017)
All Other	(25,043)	(34,254)
TOTAL	(\$150,020)	(\$202,271)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Pharmacy - Board of Commissioners of the Profession of

Personal Services	(\$2,940)	(\$3,920)
All Other	(37,279)	(50,904)
TOTAL	(\$40,219)	(\$54,824)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Physical Therapy - Board of Examiners

Personal Services	(\$1,125)	(\$1,500)
All Other	(11,423)	(15,847)
TOTAL	(\$12,548)	(\$17,347)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Maine State Pilotage Commission

All Other	(\$482)	(\$659)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Plumbers' Examining Board

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(\$116,036)	(\$155,377)
All Other	(30,089)	(40,510)
TOTAL	(\$146,125)	(\$195,887)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Licensure of Podiatric Medicine - Board of

Personal Services	(\$938)	(\$1,250)
All Other	(5,103)	(7,006)
TOTAL	(\$6,041)	(\$8,256)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Psychologists - Board of Examiners

Personal Services	(\$4,523)	(\$5,670)
All Other	(20,378)	(28,235)
TOTAL	(\$24,901)	(\$33,905)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Radiologic Technology Board of Examiners

All Other	(\$7,107)	(\$9,766)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Real Estate Appraisers - Board of

Personal Services	(\$1,838)	(\$2,450)
All Other	(46,328)	(64,204)
TOTAL	(\$48,166)	(\$66,654)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Respiratory Care Practitioners - Board of

Personal Services	(\$2,100)	(\$2,800)
All Other	(7,211)	(9,911)
TOTAL	(\$9,311)	(\$12,711)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Social Worker Licensure - State Board of

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(\$51,319)	(\$68,212)
All Other	(57,780)	(79,805)
TOTAL	(\$109,099)	(\$148,017)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Speech Pathology and Audiology - Board of Examiners on

Personal Services	(\$1,838)	(\$2,450)
All Other	(4,403)	(5,835)
TOTAL	(\$6,241)	(\$8,285)

Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Substance Abuse Counselors - State Board of

All Other	(\$12,468)	(\$17,189)
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Deallocates funds to accomplish a funding transfer to the Division of Licensing and Enforcement.

Veterinary Medicine - State Board of

Personal Services	(\$2,970)	(\$3,960)
All Other	(5,373)	(7,395)
TOTAL	(\$8,343)	(\$11,355)

Deallocates funds to accomplish a funding transfer to the Division of

Licensing and
Enforcement.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL
REGULATION**

TOTAL	\$-0-	\$-0-
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Sec. 129. Transition provisions. All employees of the following boards are employees of the Department of Professional and Financial Regulation and allocated to the Division of Licensing and Enforcement: the Electricians' Examining Board; the State Board of Social Worker Licensure; the Manufactured Housing Board; the Board of Chiropractic Licensure; the Board of Barbering and Cosmetology; the State Board of Funeral Service; the Board of Counseling Professionals Licensure; the State Board for Licensure of Architects, Landscape Architects and Interior Designers; the Board of Accountancy; the Oil and Solid Fuel Board; and the Plumbers' Examining Board. The accrued fringe benefits of those employees, including vacation and sick leave, health and life insurance, seniority and retirement, remain with those employees.

See title page for effective date.

CHAPTER 398

H.P. 1101 - L.D. 1548

An Act to Clarify and Amend Provisions of the Maine Insurance Code and Workers' Compensation Self-insurance

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

Whereas, self-insurers may assume considerable expenses that may otherwise be avoided under the provisions contemplated by this legislation; and

Whereas, current requirements are cost-prohibitive for many self-insurers; and

Whereas, the law currently requires the Maine Self-Insurance Guarantee Association to assess all new members of the association for their respective contributions to the Maine Self-Insurance Guarantee Fund; and

Whereas, the association relies upon information concerning new members received from the Superintendent of Insurance in making these assessments; and

Whereas, the association makes its annual assessments in July of each year; and

Whereas, it is necessary for the Superintendent of Insurance to notify the association of new members in advance of the annual assessment date; 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. 24-A MRSA §2385-F is enacted to read:

§2385-F. Coverage denial

Workers' compensation coverage may not be issued to an employer until the employer pays any undisputed premiums or assessments to a previous workers' compensation insurer, including a domestic mutual insurer established pursuant to section 3703, a group self-insurer approved pursuant to Title 39-A, section 403, subsection 4, or the workers' compensation residual market mechanism.

Sec. 2. 39-A MRSA §403, sub-§3, as amended by PL 1993, c. 510, §1, is repealed and the following enacted in its place:

3. Proof of solvency and financial ability to pay; trust. The employer may comply with this section by furnishing satisfactory proof to the Superintendent of Insurance of solvency and financial ability to pay the compensation and benefits, and depositing cash, satisfactory securities, irrevocable standby letters of credit issued by a qualified financial institution or a surety bond with the board, in such sum as the superintendent may determine pursuant to subsection 8, the bond to run to the Treasurer of State and to be conditional upon the faithful performance of this Act relating to the payment of compensation and benefits to any injured employee. In case of cash or securities being deposited, the cash or securities must be placed in an account at interest by the Treasurer of State, and the accumulation of interest on the cash or securities so deposited must be credited to the account and may not be paid to the employer to the extent that the interest is required to support any present value discounting in the determination of the amount of the deposit. Any security deposit must be held by the Treasurer of State in trust for the benefit of the self-insurer's employees for the purposes of making payments under this Act. If the superintendent determines that the self-insurer has experienced a deterioration in financial condition that adversely

affects the self-insurer's ability to pay obligations under this Act, the security amount may be in excess of the minimum amount required by this Title.

A self-insurer may, with the approval of the Superintendent of Insurance, use the following types of security to satisfy the self-insurer's responsibility to post security required by the superintendent: a surety bond; an irrevocable standby letter of credit; cash deposits and acceptable securities; and an actuarially determined fully funded trust. For purposes of this section, "tangible net worth" means equity less assets that have no physical existence and depend on expected future benefits for their ascribed value. A group self-insurer that maintains a trust actuarially funded to the confidence level required by the superintendent may use an irrevocable standby letter of credit as follows: only in an amount not greater than the difference between the funding to the required confidence level and funding to the confidence level reduced by 10 percentage points; only as long as the trust assets are not used as collateral for the letter of credit; and only as long as the value of trust assets, excluding the value of the letter of credit, are at least equal to the present value of ultimate expected incurred claims, claims settlement costs and, if determined necessary by the superintendent, administrative costs.

A. An individual self-insurer providing an irrevocable standby letter of credit as security shall file with the Superintendent of Insurance a letter of credit, on a form approved by the superintendent, copies of any agreements or other documents establishing the terms and conditions of the employer's reimbursement obligations to the financial institution issuing the letter of credit, together with copies of any required security agreements, mortgages or other agreements or documents granting security for the employer's reimbursement obligations and any other agreements that contain conditions, restrictions or limitations of any kind upon the employer, the superintendent or the Treasurer of State. The form of letter of credit approved by the superintendent must include, but is not limited to, all terms specifically required by this subsection and all terms reasonably required to secure the payment of compensation and benefits to claimants as required under this Act. The superintendent, upon receipt of the original irrevocable standby letter of credit, shall promptly forward it to the Treasurer of State.

The Superintendent of Insurance shall adopt rules to establish the qualifications for financial institutions issuing irrevocable standby letters of credit that must include maintenance of a long-term unsecured debt rating of at least A by either Moody's Investors Service, Inc. or Standard and

Poor's Corporation, or with commercial paper within the 3 highest short-term rating categories established by Moody's Investors Service, Inc. or Standard and Poor's Corporation. The irrevocable standby letter of credit must be the individual obligation of the issuing financial institution, may not be subject to any agreement, condition, qualification or defense between the financial institution and the employer and may not in any way be contingent on reimbursement by the employer. If the rating of an issuing financial institution that has issued an irrevocable standby letter of credit pursuant to this section falls below the required standard, the employer must obtain a new irrevocable standby letter of credit from a qualified financial institution or must provide other eligible security of equal value approved by the superintendent. The irrevocable standby letter of credit is automatically extended for one year from the date of expiration unless, 90 days prior to any expiration date, the issuing financial institution notifies the superintendent that the financial institution elects not to renew the irrevocable standby letter of credit.

An irrevocable standby letter of credit that has been issued by a qualified financial institution and accepted by the Superintendent of Insurance binds the issuing financial institution to pay one or more drafts drawn by the Treasurer of State, as directed by the superintendent, as long as the draft does not exceed the total amount of the irrevocable standby letter of credit. Any draft presented by the Treasurer of State, as directed by the superintendent, must be promptly honored if accompanied by the certification of the superintendent that any obligation under this chapter has not been paid when due or that a proceeding in bankruptcy has been initiated by or with respect to the employer in a court of competent jurisdiction.

If the Superintendent of Insurance certifies that the superintendent has been notified by the issuing financial institution that the irrevocable standby letter of credit will expire by its terms in 30 days or less and that the irrevocable standby letter of credit was not replaced within 15 days after that notice to the superintendent by other eligible security of equal value approved by the superintendent, then the financial institution must remit within 15 days the full amount of the irrevocable letter of credit to the Treasurer of State without further certification.

Any proceeds from a draw on such an irrevocable standby letter of credit by the Treasurer of State, as directed by the Superintendent of Insurance, must be held by the Treasurer of State on behalf of workers' compensation claimants to

secure payment of claims until either the superintendent authorizes the Treasurer of State to release those proceeds to the employer upon provision by the employer of replacement security adequate to meet the requirements for security set by the superintendent or the superintendent directs distribution of the proceeds in accordance with this Title.

To the extent not inconsistent with state law, the letter of credit is subject to and governed by the Uniform Customs and Practice for Documentary Credits, 1983, International Chamber of Commerce Publication No. 400. If any legal proceedings are initiated with respect to payment of the letter of credit, those proceedings are subject to the State's courts and law.

B. The Superintendent of Insurance shall prescribe the form of the surety bond that may be used to satisfy, in whole or in part, the self-insurer's responsibility under this section to post security. The bond must be continuous, be subject to nonrenewal only upon not less than 60 days notice to the superintendent, cover payment of all present and future liabilities incurred under this Act while the bond is in force and cover payments that become due while the bond is in force that are attributable to injuries incurred in prior periods and otherwise unsecured by cash, irrevocable standby letters of credit or acceptable securities. A bond must be held until all payments secured by the bond have been made or until the bond has been replaced by other eligible security approved by the superintendent that covers all outstanding liabilities. Payments under the bond are due within 30 days after notice has been given to the surety by the board that the principal has failed to make a payment required under the terms of an award, agreement or governing law. A trust established to satisfy the requirements of this section may not be funded by a surety bond.

C. A self-insurer may establish an actuarially determined fully funded trust, funded at a level sufficient to discharge those obligations incurred by the employer pursuant to this Act as they become due and payable from time to time, as long as the Superintendent of Insurance requires that the value of trust assets be at least equal to the present value of ultimate expected incurred claims and claims settlement costs, plus required safety margins and, if determined necessary by the superintendent, administrative costs for the operation of the plan of self-insurance. An actuarially determined fully funded trust must be funded as follows, as determined by the superintendent.

(1) For individual and group self-insurers, the amount of security must be determined based upon an actuarial review. The actuarial review must take into consideration the use by a group self-insurer of any irrevocable standby letter of credit. Except as provided in subparagraph (3), initial funding for each plan year must be maintained at the 90% or higher confidence level. Funding after the completion of the initial plan year may be established no lower than the 75% confidence level if the following has occurred:

(a) A year considered for reduction is completed;

(b) The supporting actuarial report includes an evaluation of the completed year experience with claims evaluated not less than 6 months from the end of the plan year; and

(c) Prior approval from the superintendent is obtained.

For the purposes of determining the confidence level, all completed years at the same confidence level may be aggregated. Funds may not be released from the trust or transferred between years except as approved by the superintendent.

(2) A group self-insurer may elect to fund at a higher confidence level through the use of cash, marketable securities or reinsurance. If a member of a group self-insurer terminates membership in the group for any reason, that member shall fund the member's proportionate share of the liabilities and obligations of the trust to the 95% confidence level. If for any reason the departing member fails to fund the member's proportionate share of the trust's exposure to the 95% level of confidence, the remaining members of the group shall make the additional contribution no later than the anniversary date of the program as required to fund the departing member's exposure in accordance with this provision.

(3) Depending upon the financial condition of the self-insurer, and if approved by the superintendent, a self-insurer that has maintained an actuarially determined fully funded trust for a period of 5 or more consecutive years may fund all years, including the prospective fund year, in the aggregate at the 75% or higher confidence level.

(4) Trust assets must consist of cash or marketable securities of a type and risk character as specified in subsection 9. The trustee shall submit a report to the superintendent not less frequently than quarterly that lists the assets comprising the corpus of the trust, including a statement of their market value and the investment activity during the period covered by the report. The trust must be established and maintained subject to the condition that trust assets may not be transferred or revert in any manner to the employer except to the extent that the superintendent finds that the value of the trust assets exceeds the present value of incurred claims and claims settlement costs with an actuarially indicated margin for future loss development. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and payout, must be as approved by the superintendent, except that the value of the trust account must be actuarially calculated at least annually by a casualty actuary who is a member of the American Academy of Actuaries and adjusted to the required level of funding.

D. Notwithstanding any provision of this chapter, any bond or security deposit required of a public employer that is a self-insurer may not exceed \$50,000, as long as the public employer has a state-assessed valuation equal to or in excess of \$300,000,000 and either a bond rating equal to or in excess of the 2nd highest standard as set by a national bond rating agency or a net worth equal to or in excess of \$35,000,000. If a county, city or town relies upon a bond rating, it shall value or cause to be valued its unpaid workers' compensation claims pursuant to sound accepted actuarial principles. This value must be incorporated in the annual audit of the county, city or town, together with disclosure of funds appropriated to discharge incurred claims expenses. "Public employer" includes the State, the University of Maine System, counties, cities and towns.

E. In consideration of a self-insuring entity's application for authorization to operate a plan of self-insurance, the Superintendent of Insurance may require or permit an applicant to employ valid risk transfer by the utilization of primary reinsurance, subject to the provisions of subsection 8. Standards respecting the application of reinsurance must be contained in a rule adopted by the superintendent pursuant to the Maine Administrative Procedure Act. Reinsurance must be defined as insurance covering workers'

compensation exposures in excess of risk retained by a self-insurer.

F. An employer may be eligible for approved self-insurance status pursuant to this Act if the employer submits a written guarantee of the obligations incurred pursuant to this Act, the guarantee to be issued by a United States or Canadian corporation that is a member of an affiliated group of which the employer is a member, and which corporation is solvent and demonstrates an ability to pay the compensation and benefits, and the guarantee is in a form acceptable to the Superintendent of Insurance. The guarantor shall provide audited annual financial statements and such other information as the superintendent may require, including quarterly financial statements, and the employer shall provide a cash deposit, satisfactory securities, irrevocable standby letters of credit issued by a qualified financial institution or a surety bond as otherwise required by this Act in an amount not less than \$100,000. The guarantor is deemed to have submitted to the jurisdiction of the board and the courts of this State for purposes of enforcing the guarantee. The guarantor, in all respects, is bound by and subject to the orders, findings, decisions or awards rendered against the employer for payment of compensation and any penalties or forfeitures provided under this Act. The superintendent, following hearing, may revoke the self-insured status of the employer if at any time the assets of the guarantor become impaired or encumbered or are otherwise found to be inadequate to support the guarantee.

G. A subsidiary employer may be eligible for approved self-insurance status pursuant to this Act if: the subsidiary employer files an application jointly with a qualified parent corporation that has direct ownership of a majority voting interest of the subsidiary employer; the parent corporation and subsidiary employer submit an irrevocable contract of assignment, on a form approved by the Superintendent of Insurance, of the subsidiary employer's obligations incurred pursuant to this Act; the parent corporation is solvent and demonstrates an ability to pay the compensation and benefits of the subsidiary employer; and the subsidiary employer meets all other requirements for application and qualification as a self-insurer under this chapter and under any applicable rules adopted by the superintendent. If the parent corporation is not a United States corporation, the superintendent may, in the superintendent's sole discretion, establish the conditions of any approval of the foreign parent corporation or deny the application of the foreign parent corporation. As part of its application for approval, a foreign parent corporation must pro-

vide the following information to the superintendent: evidence that its country of domicile has substantially similar laws with respect to submission to the jurisdiction of the board and the courts of this State for the purposes of payment of workers' compensation claims of the subsidiary employer; audited financial statements, as otherwise required by this Act, prepared in the English language by a certified public accountant licensed in a state in the United States in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants; and security, as otherwise required by the Act, in United States currency. The irrevocable contract of assignment and application must be signed by a duly authorized officer of each corporation and the application must include a board of directors' resolution from each entity as evidence of each officer's authority to enter into the contract. The superintendent may determine the subsidiary employer's eligibility for self-insurance authority and the amount of required security based upon the parent corporation's consolidated financial statement, as long as the employer complies with paragraph H. A subsidiary employer currently authorized to self-insure need not pay the application fee required of a new applicant in order to file an application to qualify under this subsection, but the subsidiary employer and parent corporation must provide all information required under this subsection as if they were a new applicant. Once the subsidiary employer becomes authorized to self-insure under this section, the parent corporation assumes liability for all prior workers' compensation liabilities incurred by the subsidiary employer during the period of self-insurance prior to the date of authorization under this subsection, unless the subsidiary employer files an alternative plan approved by the superintendent. The parent corporation and the subsidiary employer must both be named on the certificate of authorization for self-insurance authority. Upon issuance of a certificate of authorization pursuant to this subsection, the following applies.

(1) The parent corporation is deemed to have submitted to the jurisdiction of the board and the courts of the State for the purposes of payment of workers' compensation claims of the subsidiary employer and is deemed to have submitted to the jurisdiction of the superintendent for purposes of implementation of this Act. The parent corporation, in all respects, is bound by and subject to all orders, findings, decisions or awards rendered against the subsidiary employer for payment of

compensation and any penalties or forfeitures provided under this Act.

(2) A subsidiary employer authorized under this subsection and the parent corporation are considered one employer for the purposes of membership in the Maine Self-Insurance Guarantee Association. In the event of termination, transfer, insolvency, dissolution or bankruptcy of a subsidiary employer qualifying under this subsection, the parent corporation assumes all assessment obligations of the subsidiary employer for its period of self-insurance and is not considered a new member of the association.

(3) If the subsidiary employer fails for any reason to pay compensation and benefits as required under this Act, the parent corporation stands in the place of the subsidiary employer and is deemed to be the employer, subject to all requirements and provisions of this Act. For the purposes of payment of benefits and compensation under this Act, an employee of the subsidiary employer is deemed to be concurrently employed by both corporations. Concerning notification of injury to an employee of the subsidiary employer, notice to or knowledge of the occurrence of the injury on the part of the subsidiary employer is deemed notice or knowledge on the part of the parent corporation. The transfer, insolvency, dissolution or bankruptcy of a subsidiary employer qualifying under this subsection does not relieve the parent corporation from payment of compensation for injuries or death sustained by an employee during the time the subsidiary employer was approved for self-insurance authority under this subsection and the parent corporation continues to be deemed an employer until such time as all outstanding workers' compensation claims have been discharged.

(4) The transfer, insolvency, dissolution or bankruptcy of a parent corporation causes the termination of the subsidiary employer's authorization to self-insure and a termination plan must be filed pursuant to subsection 14.

H. Each individual self-insurer shall submit with its application, and not less frequently than annually thereafter, a financial statement of current origin that has been audited by a certified public accountant. When a self-insurer qualifies on the basis of a financial guarantee or on the basis of an irrevocable contract of assignment, the Super-

intendent of Insurance may accept an audited financial statement of the guarantor or parent corporation in satisfaction of this requirement and may also require combining statements provided in an array that is reconciled to the consolidated report.

Sec. 3. 39-A MRSA §403, sub-§6, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. Any approval granted by the Superintendent of Insurance to an individual self-insurer or group self-insurer must be for a term of not more than one year. ~~Application~~ A complete application for renewal of approval to self-insure must be submitted to the superintendent not less than 21 days prior to the self-insurer's renewal date, except that evidence of reinsurance coverage may be submitted up to 3 working days prior to renewal. Notwithstanding this paragraph, when a self-insurer has made a timely and complete application for renewal, the existing authorization does not expire until the renewal has been determined by the superintendent. A renewal application must contain: all reports, statements and other data required to be filed annually under rules adopted by the superintendent; copies of any proposed reinsurance contracts, binders or cover notes; evidence of security posted; notice of any changes in servicing arrangements; and notice of any change in control of the self-insurer and its effect, if any, on guarantees provided pursuant to subsection 3. The superintendent may refuse to grant or renew self-insurance approval based upon any of the following grounds:

- (1) Failure to submit any information that is required by law or rule or is reasonably requested by the superintendent;
- (2) Failure of a self-insurer to establish that it has met all applicable requirements of law or rule;
- (3) Fraud or misrepresentation in the application; or
- (4) Any ground upon which approval may be suspended or revoked as provided in subsection 13.

The effective date of any notice of nonrenewal under this subsection is on or after the date of the notice. A notice of nonrenewal under this subsection may not include nonrenewal for any approved period of self-insurance prior to the notice.

Sec. 4. 39-A MRSA §403, sub-§9, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

9. Acceptable deposit funds or investments for trust funds. In addition to cash, the deposit ~~or~~ funds or permissible investments for trust funds acceptable to the Superintendent of Insurance as a security deposit ~~include United States Government bonds, notes or bills, issued or guaranteed by the United States of America; bonds secured by the full faith, credit and taxing power of political subdivisions of the United States rated in the 3 highest grades by a national rating agency such as Moody's Investors Service, Inc., Standard and Poor's Corporation or Fitch Investors Service, Inc. as of the foregoing year end; money market funds invested only in United States Government or government agency obligations with a maturity not exceeding one year; high grade are bonds, notes and bills that are issued by and are the direct obligation of the United States Treasury; the direct obligations of the following United States Government agencies: the Government National Mortgage Association; the Federal Home Loan Bank; the Federal Farm Credit Bank; the Student Loan Marketing Association; and the Federal National Mortgage Association; the direct obligations of any state of the United States or any subdivision of any state to which are pledged the full faith and credit of the state or subdivision, the unsecured debt of which is rated "A" or better by Standard and Poor's Corporation or the rating equivalent of Moody's Investors Service, Inc., Fitch Investors Service, Inc. or any other nationally recognized statistical rating agency; commercial paper rated as either "A-1" or "P-1" by a nationally recognized bond rating service such as Moody's Investors Service, Inc., Standard and Poor's Corporation or the rating equivalent of Fitch Investors Service, Inc.; or money market funds invested in such paper or any other nationally recognized statistical rating agency; money market funds rated "Aam" or "Aam-G" or better by Standard and Poor's Corporation or the rating equivalent of any other nationally recognized statistical rating agency; certificates of deposit issued by a duly chartered commercial bank or thrift institution in the State protected by the Federal Deposit Insurance Corporation if such a bank or institution possesses assets of at least \$100,000,000 and maintains a ratio of capital to assets equal to or greater than 6 1/2%; savings certificates issued by any savings and loan association in the State protected by the Federal Savings and Loan Deposit Insurance Corporation if such an association possesses assets of at least \$100,000,000 and maintains a ratio of capital to assets equal to or greater than 6 1/2%; surety bonds in a form prescribed by the superintendent issued by any corporate surety that meets the qualifications prescribed by rule of the superintendent; irrevocable standby letters of credit issued to the Treasurer of State by financial institutions with long term unse-~~

~~cured debt ratings of at least A by either Moody's Investors Service, Inc. or Standard and Poor's Corporation or with commercial paper within the 3 highest short term rating categories established by Moody's Investors Service, Inc. or Standard and Poor's Corporation; and such other investments approved by the superintendent corporate bonds rated "Aaa," "Aa1" or "Aa2" by Moody's Investors Service, Inc., or rated "AAA," "AA+" or "AA" by Standard and Poor's Corporation, or the rating equivalent of Fitch Investors Service, Inc. or any other nationally recognized statistical agency, in an amount not to exceed 20% of the total investment portfolio; and such other investments approved by the superintendent.~~

Investments must be diversified in a prudent manner to ensure that funds are maintained at a sufficient level to discharge workers' compensation obligations incurred by the employer pursuant to this Title as those obligations become due and payable.

Sec. 5. 39-A MRSA §404, sub-§4, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended by amending subparagraphs (2) and (3) to read:

(2) Shall assess each member of the association as follows:

(a) Each individual self-insurer must be annually assessed an amount equal to 1% of the annual standard premium that would have been paid by that individual self-insurer during the prior calendar year; payment to the association must be made by September 15th following the close of that calendar year. When any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, the next year's assessment must include an adjustment of the assessment of ~~such that~~ prior year based on actual audited annual standard premium. ~~Regardless of the size of the fund referred to in subparagraph (3), during its first 30 months of membership, no individual self-insurer may discount or reduce this 1% assessment;~~

(b) Each group self-insurer must be annually assessed an amount equal to .1% of the total annual standard premium that would have been paid by all the members of that group self-insurer during the prior calendar year; payment to the association must be made by September 15th following the close of that calendar year. When

any such assessment is paid based in whole or in part upon estimates of annual standard premium for the prior calendar year, the next year's assessment must include an adjustment of the assessment of ~~such that~~ prior year based on actual audited annual standard premium. ~~Regardless of the size of the fund referred to in subparagraph (3), during its first 30 months of membership, no group self-insurer may discount or reduce this .1% assessment;~~

(c) Each member self-insurer must be notified of the assessment at least 30 days before it is due;

(d) If a self-insurer is a member of the association for less than a full calendar year, the annual standard premium must be adjusted by that portion of the year the self-insurer is not a member of the association; ~~and~~

(e) If application of the contribution rates referred to in divisions (a) and (b) would produce an amount in excess of the limits of the fund established in subparagraph (3), an equitable proration must be made; and

(f) Upon notification by the superintendent, pursuant to subsection 7, paragraph C, of the existence and identity of a new member self-insurer and regardless of the size of the fund referred to in subparagraph (3), the association shall assess each new member self-insurer annually, whether individual or group, in accordance with divisions (a) and (b) for the first 30 months of its membership in the association. An individual or group self-insurer may not discount or reduce its assessment during the first 30 months of membership as determined in accordance with the superintendent's notification of new member status;

(3) Shall administer a fund, to be known as the Maine Self-Insurance Guarantee Fund, which must receive the assessments required in subparagraph (2). Prior to December 1, 1992, this fund may not exceed \$1,000,000, except that once the fund reaches \$1,000,000, the fund may not exceed \$1,000,000 plus all subsequent initial assessments of new member self-insurers

that are required to be made in subparagraph (2), ~~divisions (a) and (b)~~ division (f). After November 30, 1992, this fund may not exceed \$2,000,000, except that once the fund reaches \$2,000,000, the fund may not exceed \$2,000,000 plus all subsequent initial assessments of new member self-insurers that are required to be made in subparagraph (2), ~~divisions (a) and (b)~~ division (f). The costs of administration by the association must be borne by the fund and the association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the fund to effectuate the purpose of the association, subject to the approval of the Superintendent of Insurance.

(a) The association may purchase primary excess insurance from an insurer licensed in this State for the appropriate lines of authority to defray its exposure to loss occasioned by the default of one or more of its members. Any excess insurance so purchased must be limited to coverage of post-assessment liability of the association's members and the association shall fund any such purchase by levying a special assessment on its members for this purpose or by application of any unencumbered funds available that have not been raised by imposition of any preassessment or postassessment. The association may obtain from each member any information it may reasonably require in order to facilitate the securing of this primary excess insurance. The association shall establish reasonable safeguards designed to ensure that information so received is used only for this purpose and is not otherwise disclosed;

Sec. 6. 39-A MRSA §404, sub-§7, ¶C is enacted to read:

C. The Superintendent of Insurance shall notify the association of the existence and identity of each self-insurer that is a new member of the association within 30 days of the superintendent's determination of the self-insurer's membership.

Sec. 7. Report required. The Commissioner of Professional and Financial Regulation shall convene a study group of representatives from the Maine Self-Insurance Guarantee Association, the Bureau of Insurance and the Public Advocate. The group shall study the Maine Self-Insurance Guarantee

Fund, focusing on the financial position of the fund, the current level of assessments and whether or not the fund can meet the expenses for the payment of covered claims in the event of a self-insurer's insolvency. At least 2 weeks prior notice of group meetings must be given to the public. The group shall submit a report to the Joint Standing Committee on Banking and Insurance on or before January 1, 1996.

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

Effective June 30, 1995.

CHAPTER 399

H.P. 1119 - L.D. 1563

An Act to Address a Shortfall in the Ground Water Oil Clean-up Fund and Change the Financial Assistance Program for Owners of Underground Oil Storage Facilities

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

Whereas, the Ground Water Oil Clean-up Fund is established to pay clean-up costs and damages associated with leaks and spills from oil storage facilities; and

Whereas, the Commissioner of Environmental Protection has determined that the potential liabilities of the fund will exceed projected fund income unless changes are made in fee collection and disbursement; 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. 10 MRSA §1023-D, sub-§2, as amended by PL 1989, c. 543, §3, is further amended to read:

2. Sources of money. There ~~shall~~ must be paid into the fund the following:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of un-

derground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

C. Subject to any pledge, contract or other obligations, any money ~~which~~ the authority receives in repayment of advances from the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any money for inclusion in the fund, including but not limited to the assessment or transfer of fees under Title 38, section 569-A, subsection 6, the authority may borrow funds for application to the fund. All funds borrowed pursuant to this authorization, including interest on the borrowed funds, must be repaid from such fees or by other appropriation.

Sec. 2. 38 MRSA §551, first ¶, as amended by PL 1989, c. 500, §1, is further amended to read:

The Maine Coastal and Inland Surface Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund ~~shall be~~ is limited to \$6,000,000, the sum of which ~~shall include~~ includes all funds credited under this section ~~and any funds loaned to the Ground Water Oil Clean-up Fund established pursuant to subchapter II-B.~~ The Department of Environmental Protection shall collect fees in accordance with subsection 4. To this fund ~~shall be~~ are credited all license fees, penalties, reimbursements and other fees and charges related to this subchapter, and to this fund ~~shall be~~ are charged any and all expenses of the department related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, restoration of water supplies and ~~3rd-party~~ 3rd-party damages covered by this subchapter.

Sec. 3. 38 MRSA §551, 2nd ¶, as amended by PL 1985, c. 496, Pt. A, §13, is further amended to read:

Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this subchapter ~~and not on loan to the Ground Water Oil Clean-up Fund~~ shall must be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute. Interest received on that

investment ~~shall~~ must be credited to the Maine Coastal and Inland Surface Oil Clean-up Fund.

Sec. 4. 38 MRSA §551, sub-§5, ¶A, as amended by PL 1991, c. 817, §17, is further amended to read:

A. Administrative expenses, personnel expenses and equipment costs of the commissioner related to the enforcement of this subchapter ~~and any loans to the Ground Water Oil Clean-up Fund made pursuant to section 569-A or 569-B;~~

Sec. 5. 38 MRSA §561, 2nd ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §129, is further amended to read:

The Legislature intends by the enactment of this subchapter to exercise the police power of the State through the department by conferring upon the department the power to deal with the hazards and threats of danger and damage posed by the storage and handling of oil in underground facilities and related activities; to require the prompt containment and removal of pollution occasioned thereby; to provide procedures whereby persons suffering damage from these occurrences may be promptly made whole; to establish a fund to provide for the investigation, mitigation and removal of discharges or threats of discharge of oil from aboveground and underground storage facilities, including the restoration of contaminated water supplies; and to guarantee the prompt payment of reasonable damage claims resulting therefrom.

Sec. 6. 38 MRSA §568-B, sub-§1, as enacted by PL 1993, c. 363, §12 and affected by §21, is amended to read:

1. Fund Insurance Review Board. The Fund Insurance Review Board, as established by Title 5, section 12004-G, subsection 11-A, is created for the purposes of hearing and deciding appeals from insurance claims-related decisions of the commissioner as well as adopting rules and guidelines necessary to the furtherance of its duties and responsibilities under this subchapter. The review board consists of ~~8~~ 10 members appointed for 3-year terms as follows:

A. Three persons representing the petroleum industry, appointed by the Governor, one of whom is nominated by the Maine Oil Dealers Association, one of whom is nominated by the Maine Petroleum Association and one of whom is a retailer who owns fewer than 5 retail outlets, as defined in Title 10, section 1672, subsection 6, to be chosen by the Governor;

B. ~~Three~~ Five members of the public who are not employed in the petroleum industry and who

do not have a direct and substantial financial interest in the petroleum industry to be appointed by the Governor;

C. The commissioner or the commissioner's designee; and

D. The State Fire Marshal or the fire marshal's designee.

Members described in paragraphs A and B are entitled to reimbursement for direct expenses of attendance at meetings of the review board or the appeals panel.

Sec. 7. 38 MRSA §568-B, sub-§2, ¶¶B and C, as enacted by PL 1993, c. 363, §12 and affected by §21, are amended to read:

B. To adopt rules in accordance with Title 5, chapter 375, subchapter II establishing criteria for determining substantial compliance for aboveground oil storage facilities; ~~and~~

C. To contract with the Finance Authority of Maine for such assistance in fulfilling the board's duties as the board may require; ~~and~~

Sec. 8. 38 MRSA §568-B, sub-§2, ¶D is enacted to read:

D. To monitor income and disbursements from the Ground Water Oil Clean-up Fund under section 569-A and adjust fees pursuant to section 569-A, subsection 5, paragraph E, as required to avoid a shortfall in the fund.

Sec. 9. 38 MRSA §569-A, first and 2nd ¶¶, as enacted by PL 1991, c. 817, §26, are amended to read:

The Ground Water Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The balance in the fund is limited to ~~\$15,000,000~~ \$12,500,000. To this fund are credited all registration fees, fees for late payment or failure to register, penalties, transfer fees, reimbursements, assessments and other fees and charges related to this subchapter. To this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, payment of 3rd-party damages covered by this subchapter, costs of removal of discharges of oil and costs of cleanup of discharges from aboveground and underground storage facilities, including, but not limited to, restoration of water supplies and any obligations of the State pursuant to Title 10, section 1024, subsection 1. The fund may be used only for the purposes specified in this subchapter and may not be diverted for any other use by the department, the Governor or the Legislature. Any person who proposes to enact or

amend a law to allow use of the fund for a purpose not specified in this subchapter must submit the proposal to the Legislative Council and to the joint standing committee of the Legislature having jurisdiction over natural resource matters at least 30 days prior to any vote or public hearing on the proposal. An appropriation or allocation of the fund for use other than that specified in this subchapter is not authorized unless the required submittals have been made in a timely manner and the Legislature has approved the proposal by a 2/3 vote of each body.

~~The commissioner may authorize the borrowing~~ Borrowing of funds by and between the Maine Coastal and Inland Surface Oil Clean-up Fund and the Ground Water Oil Clean-up Fund ~~to carry out the provisions of subchapters II-A and II-B is not permitted after June 30, 1995. All funds borrowed pursuant to this section prior to June 30, 1995 by the Ground Water Oil Clean-up Fund from the Maine Coastal and Inland Surface Oil Clean-up Fund must be repaid with interest to the fund of origin, in as prompt a manner as revenues allow and in no event more than 2 years after the date the funds were transferred, at a rate of interest determined by the Treasurer of State based on the average rate of interest earned on funds invested during the period of the loan.~~

Sec. 10. 38 MRSA §569-A, sub-§5, ¶D, as amended by PL 1993, c. 553, §5 and affected by §8, is further amended to read:

D. When the fund balance reaches ~~\$15,000,000~~ \$12,500,000, the collection of fees under paragraph A abates. When the commissioner projects that the fund balance will reach ~~\$15,000,000~~ \$12,500,000, the commissioner must provide a 15-day advance notice of the abatement to persons assessed the fee under paragraph A. The ~~\$15,000,000~~ \$12,500,000 fund limit may be exceeded to accept transfer fees assessed or received after the 15-day notice has been issued. When the fund balance is reduced to ~~\$12,500,000~~ \$10,000,000, the fees assessed under paragraph A are reimposed. The commissioner shall provide a 15-day advance notice of the reimposition of those fees.

Sec. 11. 38 MRSA §569-A, sub-§5, ¶E is enacted to read:

E. If the fund balance is reduced to \$3,000,000 or less, the Fund Insurance Review Board may adopt rules increasing the fees imposed under paragraph A by up to 10¢ per barrel for gasoline and up to 5¢ per barrel for other petroleum products, except liquid asphalt and #6 fuel oil, as necessary to avoid a shortfall in the fund. The board may use the emergency rule-making procedures under Title 5, section 8054 if necessary

to ensure that the fee increase is instituted in time to avoid a shortfall. Any fee increase adopted pursuant to this paragraph terminates and the fees imposed under paragraph A apply when the fund balance reaches \$5,000,000.

Sec. 12. 38 MRSA §569-A, sub-§6, as repealed and replaced by PL 1993, c. 680, Pt. A, §36, is amended to read:

6. Allocation from Ground Water Oil Clean-up Fund. From the fees assessed in subsection 5, 6¢ per barrel of gasoline, refined petroleum products and their by-products, other than liquid asphalt and #6 fuel oil, must be transferred by the department upon receipt as follows to the Finance Authority of Maine until an aggregate amount of \$13,000,000 has been transferred. To avoid a shortfall in the fund, money may not be transferred pursuant to this subsection when the fund balance is \$3,000,000 or less.

A. Sixty two and one half percent of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine for deposit in the Under-ground Oil Storage Replacement Fund, and after \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to paragraph B, 100% of the 6¢ per barrel fee must be transferred to the Finance Authority of Maine.

B. Thirty seven and one half percent of the 6¢ per barrel fee must be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks located on owner occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned. After \$3,000,000 has been transferred, the Maine State Housing Authority does not receive a percentage of the 6¢ per barrel fee.

After an aggregate sum of ~~\$10,000,000~~ \$13,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to subsection 5 must be reduced by 6¢ per barrel. For the purposes of this subsection, the transfers from the Underground Oil Storage Replacement Fund under Public Law 1993, chapter 6 and under unified appropriations and allocations for fiscal year 1993-94 and fiscal year 1994-95 are not included in calculating the amount transferred from the Ground Water Oil Clean-up Fund to the Underground Oil Storage Replacement Fund.

Sec. 13. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1993, c. 355, §20, is further amended to read:

A. Administrative expenses, personnel expenses and equipment costs of the department related to the administration and enforcement of this subchapter and any loans to the Maine Coastal and Inland Surface Oil Clean-up Fund made prior to June 30, 1995 pursuant to this section. Except for disbursements for capital costs related to paragraph B or C, administrative expenses, personnel expenses and equipment costs may not exceed \$1,734,000 per fiscal year;

Sec. 14. 38 MRSA §569-A, sub-§8, ¶¶B and C, as enacted by PL 1991, c. 817, §26, are amended to read:

B. All costs involved in the removal of a prohibited discharge, the abatement of pollution and the implementation of remedial measures, including restoration of water supplies, related to the discharge of oil to ground water covered by this subchapter, whether from an aboveground or underground storage facility, not paid by a responsible party or an applicant for coverage by the fund;

C. Sums allocated to research and development in accordance with this section, except that money may not be disbursed for this purpose when the fund balance is \$3,000,000 or less;

Sec. 15. 38 MRSA §569-A, sub-§9, as enacted by PL 1991, c. 817, §26, is amended to read:

9. Reporting mechanism. If the potential liabilities of the fund exceed projected income for the fund, the commissioner shall notify the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters Fund Insurance Review Board within 30 days of determining that a shortfall will occur and submit recommendations for revising coverage of the fund or generating the needed income.

Sec. 16. 38 MRSA §569-B, first ¶, as enacted by PL 1991, c. 817, §26, is amended to read:

The Ground Water Oil Clean-up Fund is established to be used by the department as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. To this fund are credited all registration fees, fees for late payment or failure to register, penalties, transfer fees, reimbursements and other fees and charges related to this subchapter. To this fund are charged any and all expenses of the department related to this subchapter, including administrative expenses, payment of 3rd-party damages covered by this subchapter, costs of removal of discharges of oil

and costs of cleanup of discharges from aboveground and underground storage facilities, including, but not limited to, restoration of water supplies and any obligations of the State pursuant to Title 10, section 1024, subsection 1.

Sec. 17. 38 MRSA §569-B, 2nd ¶, as enacted by PL 1991, c. 817, §26, is repealed.

Sec. 18. 38 MRSA §569-B, sub-§4, as enacted by PL 1991, c. 817, §26, is amended to read:

4. Funding. A fee of 9¢ per barrel of gasoline and 8¢ per barrel of refined petroleum products and their by-products other than gasoline and liquid asphalt, including #6 fuel oil, #2 fuel oil, kerosene, jet fuel and diesel fuel, is assessed on the transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7. These fees must be paid monthly by the oil terminal facility licensees on the basis of records certified to the commissioner and credited to the Ground Water Oil Clean-up Fund upon receipt by the department, except that the commissioner shall transfer the amount of these fees in excess of 3¢ per barrel of gasoline and 2¢ per barrel of refined petroleum products and their by-products, other than gasoline and liquid asphalt, as follows.

A. Sixty-two and one half percent of the excess must be transferred to the Finance Authority of Maine for deposit in the Underground Oil Storage Replacement Fund.

B. Thirty-seven and one half percent of the excess must be transferred to the Maine State Housing Authority for deposit in the Housing Opportunities for Maine Fund to be used initially for loans and grants to finance the costs of removal, disposal, replacement or abandonment of underground oil storage facilities and tanks that are located on owner-occupied or residential rental property, which facilities and tanks have been identified by the department as leaking or posing an environmental threat or as having been abandoned.

After an aggregate sum of \$5,000,000 has been transferred to the Finance Authority of Maine and an aggregate sum of \$3,000,000 has been transferred to the Maine State Housing Authority pursuant to this subsection, the per barrel fee assessed pursuant to this subsection must be reduced by 6¢ per barrel.

If the fund balance is reduced to \$3,000,000 or less, the Fund Insurance Review Board may adopt rules increasing the fees imposed under this subsection by up to 10¢ per barrel for gasoline and up to 5¢ per barrel for other petroleum products, except liquid asphalt and #6 fuel oil, as necessary to avoid a shortfall in the fund. The board may use the emergency rule-making procedures under Title 5, section

8054 to ensure that the fee increase is instituted in time to avoid a shortfall. Any fee increase adopted pursuant to board rules terminates and the original fees imposed by this subsection apply when the fund balance reaches \$5,000,000.

Sec. 19. 38 MRSA §569-B, sub-§5, ¶¶B and C, as enacted by PL 1991, c. 817, §26, are amended to read:

B. All costs involved in the removal of a prohibited discharge, the abatement of pollution and the implementation of remedial measures, including restoration of water supplies, related to the discharge of oil, petroleum products and their by-products to ground water covered by this subchapter from an aboveground or underground storage facility;

C. Sums allocated to research and development in accordance with this section, except that money may not be disbursed for this purpose when the fund balance is \$3,000,000 or less;

Sec. 20. 38 MRSA §570-H, sub-§2, as amended by PL 1993, c. 363, §15 and affected by §21, is further amended to read:

2. Adequacy of fund. On or before February 15th of each year, the commissioner with the cooperation of the Fund Insurance Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature with jurisdiction over energy and natural resources on the department's and the board's experience administering the fund, clean-up activities and 3rd-party damage claims. The report must also include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this section, the board may order an independent audit of disbursements from the fund.

Sec. 21. Transition. Notwithstanding the Maine Revised Statutes, Title 38, section 568-B, subsection 1, in order to establish staggered terms for members of the Fund Insurance Review Board, the first series of appointments or reappointments made to the Fund Insurance Review Board after the effective date of this section are made for the following terms. When the terms of current petroleum industry representatives expire in 1996, the persons appointed or reappointed to fill those positions have the following terms: the representative who is a retailer is appointed for a one-year term; the representative who is nominated by the Maine Oil Dealers Association is appointed for a 2-year term; and the representative who is nominated by the Maine Petroleum Association is appointed for a 3-year term. Representatives of those groups appointed after the initial appointments serve for 3-year terms.

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~~ 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~~ an 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 ~~on~~ , 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 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 licensee 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

the licensee are 100% of the amounts prescribed by the sections listed in subsection 3.

3. Reduced payments. Notwithstanding any other provisions of law, the amounts payable to the Treasurer of State or to the State Harness Racing Commission are reduced, as prescribed in subsection 2, for the following:

A. Section 275-F, subsection 1;

B. Section 275-G, subsection 1;

C. Section 275-I, subsection 1, paragraph A; and

D. Section 275-L, subsection 1.

4. Retention of commissions. Any amount not required to be paid to the Treasurer of State or the State Harness Racing Commission as a result of this section is added to the amount retained by the off-track betting parlor under section 275-K.

5. Repeal. This section is repealed on July 2, 1997.

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

Effective July 3, 1995.

CHAPTER 404

S.P. 129 - L.D. 321

An Act to Implement the Recommendations of the Maine HIV Advisory Committee Concerning HIV Testing

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

Sec. 1. 5 MRSA §19201, sub-§§1-A and 1-B are enacted to read:

1-A. Bona fide occupational exposure. "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment.

1-B. Employer; employer of the person exposed. "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person.

Sec. 2. 5 MRSA §19201, sub-§4-A, as enacted by PL 1987, c. 811, §1, is amended to read:

4-A. HIV test. "HIV test" means a test for the presence of an antibody to HIV or a test for an HIV antigen or other diagnostic determinants specific for HIV infection.

Sec. 3. 5 MRSA §19201, sub-§5, as repealed and replaced by PL 1987, c. 539, is amended to read:

5. HIV infection; HIV infection status. "HIV infection" means the state wherein HIV has invaded the body and is being actively harbored by the body. "HIV infection status" means the results of an HIV test.

Sec. 4. 5 MRSA §19203, sub-§2, as repealed and replaced by PL 1987, c. 811, §3, is amended to read:

2. Designated health care provider. To a health care provider designated by the subject of the test in writing. When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's ~~physician~~ health care provider may make these results available only to other health care providers working directly with the patient, and only for the purpose of providing direct medical or dental patient care. Any ~~physician~~ health care provider who discloses HIV test results in good faith pursuant to this subsection ~~shall be~~ is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

Sec. 5. 5 MRSA §19203-A, sub-§1, as amended by PL 1987, c. 811, §4, is further amended to read:

1. Individual tested. Except as provided in this section and section 19203, subsections 4 and 5, no person may perform an HIV test without first obtaining the written informed consent of the person to be tested. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection. Anonymous test sites under section 19203-B; are exempt from the requirement that the informed consent be in writing.

Sec. 6. 5 MRSA §19203-A, sub-§4, as enacted by PL 1987, c. 811, §5, is amended to read:

4. Occupational exposure. Consent need not be obtained when a ~~health care provider, an employee of a health care facility or a patient in a health care facility is exposed to the blood or body fluids of another and the bona fide occupational exposure~~ creates a significant risk of infection provided that a court order has been obtained under section 19203-C.

The fact that an HIV test was given as a result of an ~~accidental occupational exposure in a health care facility~~ and the results of that test ~~shall~~ may not appear in a ~~patient's medical record~~ any records of the person whose blood or body fluid is the source of the exposure. ~~Counseling on risk reduction~~ Pretest and post-test counseling must be offered, ~~but the patient~~. The subject of the test may choose not to be informed about the result of the test.

Sec. 7. 5 MRSA §19203-C, sub-§1, as amended by PL 1989, c. 219, §1, is further amended to read:

1. Petition. Any person ~~described in subsection 1-A who has been accidentally exposed to blood or body fluid of a patient in a health care facility~~ who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the ~~health care facility or other place where the patient was being treated at the time of the accidental exposure~~ to require the patient person whose blood or body fluid is the source of the exposure to submit to an HIV test provided that the following conditions have been met:

A. The exposure to blood or body fluids creates a significant risk of HIV infection, as defined by the Bureau of Health through the ~~promulgation~~ adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375;

B. The authorized representative of the ~~health care facility~~ employer of the person exposed has informed the ~~patient person~~ person whose blood or body fluid is the source of the accidental occupational exposure and has sought to obtain written informed consent from the ~~patient person~~ person whose blood or body fluid is the source of the exposure; and

C. Written informed consent was not given by the ~~patient person~~ person whose blood or body fluid is the source of the exposure and ~~the patient that person~~ has stated in writing the refusal refused to be tested.

Sec. 8. 5 MRSA §19203-C, sub-§1-A, as enacted by PL 1989, c. 219, §2, is repealed.

Sec. 9. 5 MRSA §19203-C, sub-§3, ¶¶C and D, as enacted by PL 1987, c. 811, §6, are amended to read:

C. The report of the hearing proceedings ~~shall~~ must be sealed. No report of the hearing proceedings may be released to the public, except by permission of the ~~patient or the patient's person~~ person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court.

D. The court may order a public hearing at the request of the ~~patient or the patient's person~~ whose blood or body fluid is the source of the exposure or that person's counsel.

Sec. 10. 5 MRSA §19203-C, sub-§§4 to 7, as enacted by PL 1987, c. 811, §6, are amended to read:

4. Determination. The court may require the ~~patient person~~ person whose blood or body fluid is the source of the exposure to obtain an HIV test only if the petitioner proves, by a preponderance of the evidence, that:

A. The exposure to blood or body fluids of the ~~patient person~~ person created a significant risk of HIV infection as defined by the Bureau of Health through the ~~promulgation~~ adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375;

B. An authorized representative of the ~~health care facility~~ employer of the person exposed has informed the patient of the ~~accidental occupational~~ exposure and has sought to obtain written informed consent from the ~~patient person~~ person whose blood or body fluid is the source of the exposure; and

C. Written informed consent was not given by the ~~patient person~~ person whose blood or body fluid is the source of the exposure and ~~the patient that person~~ has stated in writing the refusal refused to be tested.

In determining whether to order the test, the court shall consider the balance of benefit and harm to both individuals if the test is ordered.

5. Consent. The court may not order a ~~patient person~~ person whose blood or body fluid is the source of the exposure to obtain an HIV test unless the ~~health care worker accidentally employee~~ person exposed to the blood or body fluids of that ~~patient person~~ person has consented to and obtained an HIV test immediately following that documented exposure.

6. Costs. The ~~health care facility~~ employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of an HIV test pursuant to this section, including the payment of the petitioner's attorneys' fees.

7. Appeals. A ~~patient person~~ person required to undergo an HIV test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous.

Sec. 11. 5 MRSA §19203-C, sub-§8, as enacted by PL 1987, c. 811, §6, is repealed.

Sec. 12. 5 MRSA §19203-C, sub-§9, as enacted by PL 1987, c. 811, §6, is amended to read:

9. Subsequent testing. Subsequent testing arising out of the same incident of ~~accidental occupational~~ exposure ~~shall~~ must be conducted in accordance with this section.

Sec. 13. 5 MRSA §19203-C, sub-§10 is enacted to read:

10. Bureau of Health report. The Bureau of Health shall report on an annual basis to the Maine HIV Advisory Committee the following information:

A. The number of incidents in which the Bureau of Health is requested to determine under subsection 1, paragraph A whether a bona fide occupational exposure has occurred; and

B. With regard to the incidents reported in paragraph A, the occupations represented, the nature or a description of the incidents and the number of incidents determined to be and not to be bona fide occupational exposures.

Sec. 14. 5 MRSA §19203-D, as enacted by PL 1987, c. 811, §6, is amended to read:

§19203-D. Records

When a medical record entry is made concerning information of a ~~patient's~~ person's HIV infection status, including the results of an HIV test, the following ~~shall~~ apply to the release of that information as a part of the medical record.

1. Authorized release. The ~~patient~~ person who is the subject of an HIV test, at or near the time the entry is made in the medical record, shall elect, in writing, whether to authorize the release of that portion of the medical record containing the HIV infection status information when ~~the patient's~~ that person's medical record has been requested. A new election may be made when a change in the ~~patient's~~ person's HIV infection status occurs or whenever the ~~patient~~ person makes a new election. The release form ~~shall~~ must clearly state whether or not the ~~patient~~ person has authorized the release of that information. The ~~patient~~ person ~~shall~~ must be advised of the potential implications of authorizing the release of that information.

A. When release has been authorized, the custodian of the medical record may release, upon request, the ~~patient's~~ person's medical record, including any HIV infection status information contained in the medical record. Release of HIV infection status information pursuant to this

paragraph ~~shall~~ is not be a violation of any of the confidentiality provisions of this chapter.

B. When release has not been authorized, the custodian of the medical record may, upon request, release that portion of the medical record ~~which that~~ does not contain the HIV infection status information. Except as otherwise provided in this section, HIV infection status information may ~~only~~ be released only if the ~~patient~~ person has specifically authorized a separate release of that information. A general release form is insufficient.

2. Authorized disclosure. ~~No~~ A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other proceedings without the ~~patient's~~ consent of the person who is the subject of an HIV test, except in the following cases:

A. Proceedings held pursuant to the communicable disease laws, Title 22, chapter 251;

B. Proceedings held pursuant to the Adult Protective Services Act, Title 22, chapter 958-A;

C. Proceedings held pursuant to the child protection laws, Title 22, chapter 1071;

D. Proceedings held pursuant to the mental health laws, Title 34-B, chapter 3, subchapter IV, article III; and

E. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ~~assuring~~ ensuring confidentiality.

3. Utilization review; research. Nothing in this section may be interpreted to prohibit reviews of medical records for utilization review purposes by duly authorized utilization review committees or peer review organizations. Qualified personnel conducting scientific research, management audits, financial audits or program evaluation with the use of medical records may not identify, directly or indirectly, any individual patient in any report of such research, audit, evaluation or otherwise disclose ~~patient~~ the identities of persons tested in any manner.

4. Access by health care providers. Nothing in this section may prohibit access to medical records by the ~~patient's~~ designated health care provider of the person who is the subject of an HIV test in accordance with section 19203, subsection 2.

5. Confidentiality policy. Health care providers and others with ~~patient~~ access to medical records containing HIV infection status information shall have

a written policy providing for confidentiality of all patient information consistent with this chapter. That policy ~~shall~~ must require, at a minimum, ~~termination of employment action consistent with disciplinary procedures~~ for violations of the confidentiality policy.

Sec. 15. 5 MRSA §19204-A, as amended by PL 1991, c. 803, §4, is further amended to read:

§19204-A. Counseling

Except as otherwise provided by this chapter, persons who ~~obtain an~~ are the subjects of HIV test tests must be offered pretest and post-test counseling. Persons who are authorized by section 19203-C or 19203-E to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test. Persons offered counseling under this section may decline the offer by signing a waiver stating that counseling has been offered and is being declined.

1. Pretest counseling. "Pretest counseling" ~~means~~ must include:

A. ~~Personal~~ Face-to-face counseling that includes, at a minimum, a discussion of:

- (1) The nature and reliability of the test being proposed;
- (2) The person to whom the results of the test may be disclosed;
- (3) The purpose for which the test results may be used; ~~and~~
- (4) Any reasonably foreseeable risks and benefits resulting from the test; and
- (5) Information on good HIV preventive practices and HIV risk reduction plans; and

B. A written memorandum summarizing the contents of the discussion concerning at least the topics listed in paragraph A, subparagraphs (1) to (5) given to the person being counseled. A written informed consent form may be used to satisfy the requirement for a written memorandum in this paragraph if it contains all the required information. A written consent form does not satisfy the requirement for personal counseling in paragraph A.

The provider of an HIV test may offer group pretest counseling, but individual counseling must be provided if the subject of the test requests it.

2. Post-test counseling. "Post-test counseling" ~~means~~ must include:

A. Personal counseling that includes, at a minimum, a discussion of:

- (1) The test results and the reliability and significance of the test results;
- (2) ~~The social and emotional consequences of the information;~~
- (3) Information on good preventive practices and risk reduction plans; and
- (4) Referrals for medical care and ~~other in-~~ formation and referrals for support services, including social, emotional support and legal services, as needed; and

B. A written memorandum summarizing the contents of the discussion given to the person being counseled; ~~and~~

C. The offer of face-to-face counseling. If the subject of the test declines, the provider of the test may provide an alternative means of providing the information required by paragraph A.

Sec. 16. 5 MRSA §19204-B, as amended by PL 1989, c. 161, is further amended to read:

§19204-B. Restrictions on requiring tests or results of tests

1. Employee testing. ~~No health care facility may require that any~~ An employee or applicant for employment ~~may not be required to submit to~~ an HIV test or reveal whether the employee or applicant for employment has obtained an HIV test as a condition of employment or to maintain employment, except when based on a bona fide occupational qualification. ~~Enforcement of this subsection is assigned to the~~ The Maine Human Rights Commission shall enforce this subsection.

2. Employee rights. The employment status of any employee ~~of a health care facility shall~~ may not be affected or changed:

- A. If the employee declines to be tested pursuant to section 19203-A;
- B. If the employee testifies or assists in any proceeding under this chapter;
- C. If the employee asserts any other rights exercised in good faith pursuant to this chapter; or
- D. Because of the result of any test taken pursuant to this chapter.

Sec. 17. 5 MRSA §19204-C, as enacted by PL 1991, c. 3, §1, is amended to read:

§19204-C. Restrictions upon revealing HIV antibody test results

No ~~An~~ insurer, nonprofit hospital or medical services organization ~~or~~, nonprofit health care plan ~~or~~ health maintenance organization may ~~not~~ request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage.

Sec. 18. 5 MRSA §19205, sub-§1, as amended by PL 1989, c. 700, Pt. A, §28, is further amended to read:

1. Policy; services. It ~~shall be~~ is the policy of the State to provide to persons who test positive for HIV or have been diagnosed as having AIDS ~~or AIDS Related Complex~~ the services of departments and agencies, including, but not limited to, the Department of Education, the Department of Mental Health and Mental Retardation, the Department of Human Services and the Department of Corrections.

Sec. 19. 5 MRSA §19205, sub-§2, as amended by PL 1989, c. 502, Pt. A, §22, is further amended to read:

2. Coordination of services. A person designated by the Commissioner of Human Services shall ~~insure~~ ensure coordination of new and existing services so as to meet the needs of persons with ~~AIDS, AIDS Related Complex and viral positivity~~ HIV or AIDS and identify gaps in programs.

The committee established in section 12004-I, subsection 42, shall work with the person designated in this chapter to ~~insure~~ ensure the coordination of services to meet the needs of persons with ~~AIDS, AIDS Related Complex and viral positivity~~ HIV or AIDS.

See title page for effective date.

CHAPTER 405

H.P. 808 - L.D. 1125

An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved

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

Sec. 1. 17-A MRSA §1204, sub-§2-A, ¶D, as enacted by PL 1975, c. 740, §110-A, is amended to read:

D. To undergo, as an out-patient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition ~~shall be~~ is considered only as a violation of probation and ~~shall~~ may not, in itself, authorize involuntary treatment or hospitalization. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C;

Sec. 2. 19 MRSA §214, sub-§6, as amended by PL 1995, c. 172, §1, is further amended to read:

6. Order. The order of the court must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities to a 3rd person, a society or institution for the care and protection of children, or to the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C.

Every final order issued under this section must contain:

A. A provision for child support or a statement of the reasons for not ordering child support;

B. A statement that each parent must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; and

C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 3. 19 MRSA §581, sub-§6, as amended by PL 1995, c. 172, §3, is further amended to read:

6. Order. Upon petition under subsection 3, paragraph B, the order of the court must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities to a 3rd person, a society or institution for the care and protection of children, or to the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C.

Every final order issued under this section must contain:

- A. A provision for child support or a statement of the reasons for not ordering child support;
- B. A statement that each parent must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; and
- C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 4. 19 MRSA §752, sub-§1, as enacted by PL 1983, c. 813, §5, is repealed and the following enacted in its place:

1. Legislative findings and purpose. The Legislature makes the following findings concerning relationships among family members in determining what is in the best interest of children.

A. The Legislature finds and declares as public policy that encouraging mediated resolutions of disputes between parents is in the best interest of minor children.

B. The Legislature finds that domestic abuse is a serious crime against the individual and society, producing an unhealthy and dangerous family environment, resulting in a pattern of escalating abuse, including violence, that frequently culminates in intrafamily homicide and creating an atmosphere that is not conducive to healthy childhood development.

Sec. 5. 19 MRSA §752, sub-§2, ¶B-1 is enacted to read:

B-1. "Domestic abuse" means abuse as defined in section 762.

Sec. 6. 19 MRSA §752, sub-§5, as amended by PL 1993, c. 453, §§9 and 10, is further amended to read:

5. Best interest of the child. The court, in making an award of parental rights and responsibilities with respect to a minor child, shall apply the standard of the best interest of the child. In making decisions regarding primary residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

- A. The age of the child;
- B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare;
- C. The preference of the child, if old enough to express a meaningful preference;
- D. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity;
- E. The stability of any proposed living arrangements for the child;
- F. The motivation of the parties involved and their capacities to give the child love, affection and guidance;
- G. The child's adjustment to the child's present home, school and community;

H. The capacity of each parent to allow and encourage frequent and continuing contact between the child and the other parent, including physical access;

I. The capacity of each parent to cooperate or to learn to cooperate in child care;

J. Methods for assisting parental cooperation and resolving disputes and each parent's willingness to use those methods;

K. The effect on the child if one parent has sole authority over the child's upbringing;

K-1. The existence of ~~a history of~~ domestic abuse between the parents; in the past or currently, and how that abuse affects:

(1) The child emotionally; and

(2) The safety of the child;

K-2. The existence of any history of child abuse by a parent; and

L. All other factors having a reasonable bearing on the physical and psychological well-being of the child.

Sec. 7. 19 MRSA §752, sub-§5-A is enacted to read:

5-A. Conditions of parent-child contact in cases involving domestic abuse. The court shall establish conditions of parent-child contact in cases involving domestic abuse as follows.

A. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has committed domestic abuse only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child and the parent who is a victim of domestic abuse can be made.

B. In an order of parental rights and responsibilities, a court may:

(1) Order an exchange of a child to occur in a protected setting;

(2) Order contact to be supervised by another person or agency;

(3) Order the parent who has committed domestic abuse to attend and complete to the satisfaction of the court a domestic abuse intervention program or other designated counseling as a condition of the contact;

(4) Order either parent to abstain from possession or consumption of alcohol or controlled substances, or both, during the visitation and for 24 hours preceding the contact;

(5) Order the parent who has committed domestic abuse to pay a fee to defray the costs of supervised contact;

(6) Prohibit overnight parent-child contact; and

(7) Impose any other condition that is determined necessary to provide for the safety of the child, the victim of domestic abuse or any other family or household member.

C. The court may require security from the parent who has committed domestic abuse for the return and safety of the child.

D. The court may order the address of the child and the victim to be kept confidential.

E. The court may not order a victim of domestic abuse to attend counseling with the parent who has committed domestic abuse.

F. If a court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include but are not limited to:

(1) Minimizing circumstances when the family of the parent who has committed domestic abuse would be supervising visits;

(2) Ensuring that contact does not damage the relationship with the parent who has primary physical residence;

(3) Ensuring the safety and well-being of the child; and

(4) Requiring that supervision is provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect.

G. Fees incurred by the parent who has committed domestic abuse may not be considered as a mitigating factor reducing that parent's child support obligation.

Sec. 8. 19 MRSA §752, sub-§6, as amended by PL 1995, c. 172, §5, is further amended to read:

6. Order. The order of the court must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities with respect to the child to a 3rd person, some suitable society or institution for the care and protection of children or the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C.

Every final order issued under this section must contain:

- A. A provision for child support or a statement of the reasons for not ordering child support;
- B. A statement that each parent must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; and
- C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 9. 19 MRSA §752, sub-§12, as amended by PL 1989, c. 337, §9, is further amended to read:

12. Modification of orders; compulsory process. Upon the motion of one or both of the parents, or any agency or person who has been granted parental rights and responsibilities or contact with respect to a child under this section, the court may alter its order concerning parental rights and respon-

sibilities or contact with respect to a minor child as circumstances require. Child support orders may be modified retroactively, but only from the date that notice of a petition for modification has been served upon the opposing party pursuant to the Maine Rules of Civil Procedure. The parties ~~shall~~ must be referred to mediation as provided under subsection 4.

The relocation, or intended relocation, of a child resident in this State to another state by a parent, when the other parent is a resident in this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child, is a substantial change in circumstances. The finding that domestic or family violence has occurred since the last custody determination constitutes a finding of a change of circumstances.

In execution of the powers given it under this Title, the court may employ any compulsory process ~~which~~ it deems proper, by execution attachment or other effectual form, on which costs ~~shall~~ must be taxed as in other actions.

Sec. 10. 19 MRSA §752-A, sub-§1, as enacted by PL 1993, c. 629, §1, is amended to read:

1. Guardian ad litem; appointment. In contested proceedings under sections 214, 581, 693 and 752 in which a minor child is involved, the court may appoint a guardian ad litem for the child. The appointment ~~must~~ may be made at any time, but the court must make every effort to make the appointment as soon as possible after the commencement of the proceeding. The court may appoint a guardian ad litem when the court has reason for special concern as to the welfare of a minor child. In determining whether an appointment must be made, the court shall consider:

- A. The wishes of the parties;
- B. The age of the child;
- C. The nature of the proceeding, including the contentiousness of the hearing;
- D. The financial resources of the parties;
- E. The extent a guardian ad litem may assist in providing information concerning the best interest of the child; ~~and~~
- F. Other factors the court determines relevant;
- G. Whether the family has experienced a history of domestic abuse; and
- H. Any abuse of the child by one of the parties.

At the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

Sec. 11. 19 MRSA §752-A, sub-§1-A is enacted to read:

1-A. Qualifications. A guardian ad litem appointed on or after September 1, 1997 must meet the qualifications established by the Supreme Judicial Court.

Sec. 12. 19 MRSA §752-A, sub-§2, as enacted by PL 1993, c. 629, §1, is repealed and the following enacted in its place:

2. Duties. The guardian ad litem has both mandatory and optional duties. If, in order to perform the duties, the guardian needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem shall interview the child with or without another person present. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers. The guardian ad litem shall have face-to-face contact with the child within 7 days of appointment by the court and at least once every 3 months thereafter. The guardian ad litem shall make a written report of investigations, findings and recommendations every 6 months or as ordered by the court, with copies of the report to each party and the court.

The court shall specify the optional duties of the guardian ad litem. The duties of the guardian ad litem may include the following:

- A. Interviewing the parents, teachers and other people who have knowledge of the child or family;
- B. Reviewing mental health, medical and school records of the child;
- C. Reviewing mental health and medical records of the parents;
- D. Having qualified people perform medical and mental evaluations on the child;
- E. Having qualified people perform medical and mental evaluations on the parents;
- F. Procuring counseling for the child;
- G. Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;
- H. Subpoenaing witnesses and documents and examining and cross-examining witnesses;

I. Serving as a contact person between the parents and the child; and

J. Other duties that the court determines necessary, including, but not limited to, the authority to file pleadings.

Sec. 13. 19 MRSA §752-A, sub-§3, as enacted by PL 1993, c. 629, §1, is amended to read:

3. Best interest of the child. The guardian ad litem must be guided by the standard of the best interest of the child as set forth in section 752, subsection 5. A guardian ad litem shall make the wishes of the child known to the court if the child has expressed the child's wishes, regardless of the recommendation of the guardian ad litem. If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning the issues and during the proceedings as the court determines to be in the best interest of the child and shall appoint a legal advocate if the court determines that such an appointment is necessary.

Sec. 14. 19 MRSA §752-A, sub-§7 is enacted to read:

7. Notice. A guardian ad litem must be given notice of all hearings and proceedings, civil or criminal, including, but not limited to, grand juries, in which the child is a party or a witness and shall protect the best interests of the child in those hearings and proceedings, unless otherwise ordered by the court.

Sec. 15. 19 MRSA §766, sub-§1, ¶F, as amended by PL 1989, c. 862, §17, is further amended to read:

F. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C;

Sec. 16. 19 MRSA §770-B, sub-§3, as enacted by PL 1989, c. 862, §22, is amended to read:

3. Powers and duties. The commission shall advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic abuse. The commission may make recommendations on legislative and policy actions, including training of the various law enforcement officers, prosecutors and judicial officers responsible for enforcing and carrying out the provisions of this chapter, and may undertake research development and

program initiatives consistent with this section. The entire commission shall meet at least 2 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from any political subdivision of the State or from any individual, foundation or corporation and may expend these funds for purposes that are consistent with this section.

Sec. 17. 19 MRSA §770-C is enacted to read:

§770-C. Certification of batterers' intervention programs

1. Rules establishing standards and procedures for certification. The Department of Public Safety, referred to in this section as the "department," shall adopt rules pursuant to the Maine Administrative Procedure Act, in consultation with the Maine Commission on Domestic Abuse, that establish standards and procedures for certification of batterers' intervention programs. The department, in consultation with the commission, shall review and certify programs that meet the standards.

2. Temporary certification of batterers' intervention programs. The department may certify programs on a temporary basis until final standards are adopted. To receive temporary certification, a batterers' intervention program must submit to the department evidence of the following:

A. The program has established a relationship with an agency in the program's area that is a member of the statewide coalition for family crisis services funded by the Department of Human Services;

B. The program is a minimum of 26 weeks in length;

C. The program includes treatment modalities that are appropriate to each gender;

D. The primary purpose of the program is to provide safety to victims; and

E. The training received by facilitators and the curriculum used are based upon models developed by a nationally recognized program.

Sec. 18. 22 MRSA §4005, sub-§1, ¶A, as amended by PL 1983, c. 783, §1, is further amended to read:

A. The court, in every child protection proceeding except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders, shall appoint a guardian ad litem for the child. ~~His~~ The

guardian ad litem's reasonable costs and expenses ~~shall~~ must be paid by the District Court. The appointment ~~shall~~ must be made as soon as possible after the proceeding is initiated. Guardians ad litem appointed on or after September 1, 1997 must meet the qualifications established by the Supreme Judicial Court.

Sec. 19. 22 MRSA §4005, sub-§1, ¶B, as repealed and replaced by PL 1983, c. 183, is amended to read:

B. The guardian ad litem shall act in pursuit of the best interests of the child. ~~He shall~~ The guardian ad litem must be given access to all reports and records relevant to the case. ~~He shall~~ and investigate to ascertain the facts. ~~His~~ The investigation ~~shall~~ must include, ~~where~~ when possible and appropriate, the following:

- (1) Review of relevant mental health records and materials;
- (2) Review of relevant medical records;
- (3) Review of relevant school records and other pertinent materials;
- (4) Interviews with the child with or without other persons present; and
- (5) Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child.

The guardian ad litem shall have face-to-face contact with the child in the child's home or foster home within 7 days of appointment by the court and at least once every 3 months thereafter. The guardian ad litem shall report to the court and all parties in writing at 6-month intervals, or as is otherwise ordered by the court, regarding the guardian ad litem's activities on the behalf of the child and recommendations concerning the manner in which the court should proceed in the best interest of the child. The court may provide an opportunity for the child to address the court personally if the child requests to do so or if the guardian ad litem believes it is in the child's best interest.

Sec. 20. 22 MRSA §4005, sub-§1, ¶F, as enacted by PL 1985, c. 581, §2, is amended to read:

F. The guardian ad litem or the child may request the court to appoint legal counsel for ~~him~~ the child. The District Court shall pay reasonable costs and expenses of ~~his~~ the child's legal counsel.

Sec. 21. 22 MRSA §4036, sub-§1, ¶G-1, as enacted by PL 1985, c. 739, §9, is amended to read:

G-1. The department has no further responsibility under section 4041 and, when the child has been placed in the custody of the department, shall move forward in a timely fashion to make permanent plans for the child; ~~or~~

Sec. 22. 22 MRSA §4036, sub-§1, ¶H, as enacted by PL 1979, c. 733, §18, is amended to read:

H. Other specific conditions governing custody; ~~or~~

Sec. 23. 22 MRSA §4036, sub-§1, ¶I is enacted to read:

I. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under Title 19, section 770-C.

Sec. 24. Ad hoc working group established. An ad hoc working group of the Maine Commission on Domestic Abuse is established to create standards for visitation centers by January 1, 1996. The working group includes, but is not limited to, representatives from:

1. The Maine Commission on Domestic Abuse;
2. The Maine Coalition for Family Crisis Services;
3. The Department of Human Services, Bureau of Child and Family Services;
4. Law enforcement;
5. The judiciary;
6. Legislators;
7. Child advocates;
8. Two attorneys, one with specific experience in handling domestic abuse cases and one who represents the family law section of the bar association;
9. A mental health professional with experience in child and family issues; and
10. Parents or guardians who have had previous contact and experience with the system.

In establishing standards for supervised visitation centers, the standards must provide for the following:

1. The neutral exchange of children for visitation purposes and on-site visits, both supervised and unsupervised;

2. Specific procedures for screening and intake;
3. Guidelines regarding fees for service;
4. Specific staffing requirements, including, but not limited to, staff and volunteer qualification and training;
5. Security;
6. Confidentiality;
7. Specific site requirements;
8. Any other program or service that ensures that visitation is conducted in a manner consistent with the best interest of the child;
9. What types of programs should be regulated by the standards; and
10. Any other issues the working group determines appropriate.

The Maine Commission on Domestic Abuse may submit legislation recommended by the ad hoc working group to establish standards for visitation centers.

Sec. 25. Training, certification, assignment and supervision of guardians ad litem.

The Legislature recognizes the need for a program that comprehensively addresses training, certification, supervision and assignment of guardians ad litem. The Legislature also recognizes that not all parties in cases in which appointment of a guardian ad litem may be appropriate have sufficient financial resources to pay for the appointment. The Legislature requests that the Supreme Judicial Court develop a program to provide training, certification, supervision and assignment of guardians ad litem. The program must be implemented by September 1, 1997. The program must also address appointment of and funding for guardians ad litem when one or more parties are indigent.

1. Components of the training program must include at least 16 hours of training. Training must cover at least the following:

- A. Dynamics of domestic abuse and its effect on children;
- B. Dynamics of divorce and its effect on children;
- C. Child development;
- D. The effects of trauma on children;
- E. Substance abuse;
- F. Legal issues and processes; and

G. Interviewing techniques.

2. The Supreme Judicial Court is requested to determine whether professional education, licensing or certification is an appropriate requirement for guardians ad litem in addition to the training established under subsection 1.

3. The Supreme Judicial Court may seek the assistance and cooperation of any interested person or organizations, including the following organizations who cooperated in presenting legislation pursuant to Resolve 1993, chapter 61:

- A. Maine Coalition for Family Crisis Services;
- B. Family Law Section, Maine State Bar Association;
- C. Maine Children's Alliance;
- D. Maine Association of Mental Health Services;
- E. Pine Tree Legal Assistance;
- F. Maine Women's Lobby; and
- G. Maine Commission on Domestic Abuse.

The Maine Coalition for Family Crisis Services shall provide staffing assistance at the request of the Supreme Judicial Court.

4. The Supreme Judicial Court is requested to report its findings and recommendations, including any recommended legislation, to the First Regular Session of the 118th Legislature and the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 15, 1997.

See title page for effective date.

CHAPTER 406

H.P. 922 - L.D. 1298

An Act to Change the Atlantic Sea Run Salmon Commission

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

Sec. 1. 3 MRSA §927, sub-§7, ¶B, as amended by PL 1993, c. 585, §1, is further amended to read:

- B. Independent agencies:
 - (2) ~~Atlantic Sea Run Salmon Commission;~~
 - (3) Public Utilities Commission;

(4) Atlantic States Marine Fisheries Commission;

(5) Maine Development Foundation;

(6) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;

(7) Lobster Advisory Council;

(8) Board of Environmental Protection;

(9) Board of Underground Oil Storage Tank Installers;

(10) Telecommunications Relay Services Advisory Council; ~~and~~

(11) Public Advocate; and

(12) Atlantic Salmon Authority;

Sec. 2. 5 MRSA §12004-G, sub-§20-A is enacted to read:

<u>20-A.</u>	<u>Atlantic</u>	<u>\$25/Day</u>	<u>12</u>
<u>Inland Fish-</u>	<u>Salmon</u>	<u>Plus</u>	<u>MRSA</u>
<u>eries and</u>	<u>Authority</u>	<u>Expenses</u>	<u>\$9901</u>
<u>Wildlife</u>			

Sec. 3. 5 MRSA §12004-G, sub-§26-B, as renumbered by RR 1993, c. 1, §10, is repealed.

Sec. 4. 12 MRSA §6071, sub-§1, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Live importing prohibited. ~~It shall be~~ Except for Atlantic salmon imported by the Atlantic Salmon Authority under Part 12, it is unlawful to introduce or import for introduction into any coastal waters any live marine organism or to possess any of those introduced or imported organisms without a permit issued by the commissioner.

Sec. 5. 12 MRSA §6071, sub-§4, as amended by PL 1993, c. 562, §1, is further amended to read:

4. Salmon imports prohibited. ~~It~~ Except as provided in this subsection and section 9906, it is unlawful to import for introduction into any waters of the State any Atlantic salmon, live or as eggs, that originate in any Icelandic or European territorial waters or any other species of salmon, exclusive of rainbow trout, originating west of the North America continental divide. The commissioner may grant an exemption from the provisions of this subsection for a term not to exceed 2 years, renewable upon application, for legitimate ~~research~~ aquacultural projects. ~~Legitimate research does not include pilot, demon-~~

~~station or full scale aquaculture production of salmon in the coastal waters of the State.~~

Sec. 6. 12 MRSA c. 611, as amended, is repealed.

Sec. 7. 12 MRSA §6553, as amended by PL 1987, c. 690, §§9 to 11, is repealed.

Sec. 8. 12 MRSA §7552, first ¶, as amended by PL 1993, c. 155, §1, is further amended to read:

Except as provided in subsection 5-A and Part 12 and except as the commissioner may by rule provide, the following are the open seasons for fishing in the State. All opening and closing dates are inclusive.

Sec. 9. 12 MRSA §7552, sub-§5-A, ¶D, as enacted by PL 1993, c. 155, §3, is amended to read:

D. The commissioner by rule shall extend the open-water fishing season through the month of November in lakes and ponds that are managed primarily for warm water sport fish in the following counties: Androscoggin, Cumberland, Hancock, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, Washington and York. Rules adopted under this paragraph may include provisions that establish catch-and-release-only restrictions on landlocked salmon, trout, togue and bass.

Sec. 10. 12 MRSA §7603, as enacted by PL 1979, c. 420, §1, is amended to read:

§7603. Illegal fishing for Atlantic salmon

A person is guilty of illegal fishing for Atlantic salmon if ~~he~~ that person fishes for Atlantic sea run salmon in violation of the provisions of ~~chapter 611~~ Part 12.

Sec. 11. 12 MRSA §7675, as enacted by PL 1991, c. 679, is amended to read:

§7675. Aquaculture stock

1. Acceptance of stock. ~~The Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority may accept salmon stock that are offered at no charge from commercial aquaculture hatcheries for release into state rivers subject to rules developed by the ~~Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority.

2. Rules. ~~The Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority shall adopt rules to implement this section. They must, at a minimum:

A. Ensure that no negative impact on existing gene pools results from the release of aquaculturally raised salmon;

B. Prohibit introduction of exotic species from the release of aquaculturally raised salmon;

C. Establish stock disease testing and monitoring procedures; and

D. Establish maximum stocking levels in state rivers. Notwithstanding subsection 1, the ~~Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority is not required to accept salmon stock if maximum stocking levels are achieved, as long as those levels are maintained.

~~By March 1, 1993, the Atlantic Sea Run Salmon Commission shall report on this program to the joint standing committee of the Legislature having jurisdiction over marine resource matters.~~

Sec. 12. 12 MRSA Part 12 is enacted to read:

PART 12

ATLANTIC SALMON AUTHORITY

CHAPTER 811

GENERAL PROVISIONS

§9901. Atlantic Salmon Authority

1. Authority established; purposes. The Atlantic Salmon Authority, referred to in this Part as the "authority," is established to manage the Atlantic salmon fishery in the State and to conduct and coordinate all projects involving research, planning, management, restoration or propagation of the Atlantic salmon.

2. Members. The authority is governed by the Atlantic Salmon Board, referred to in this chapter as the "board". The board consists of 8 members appointed by the Governor. The Governor may appoint those members from among names recommended by affiliate clubs of the Maine Council of the Atlantic Salmon Federation, the Penobscot Nation or the Passamaquoddy Tribe. The board consists of the following members:

A. One member who resides within the land area comprising the Penobscot River drainage;

B. One member who resides within the land area comprising the Saco River drainage;

C. One member who resides in Aroostook County;

D. One member who resides within those land areas that comprise the drainage for the St. Croix, East Machias, Machias, Narraguagus, Pleasant, Ducktrap, Dennys or Sheepscot rivers;

E. One member of the Passamaquoddy Tribe;

F. One member of the Penobscot Nation;

G. The Commissioner of Marine Resources; and

H. The Commissioner of Inland Fisheries and Wildlife.

All appointments under this subsection are for a period of 5 years, except that the first initial appointments, under paragraphs A to D, of the Governor have terms of 1, 2, 3 and 4 years, respectively. All appointments under this subsection are subject to confirmation by the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. A person may not be appointed to the board or continue to serve as a member of the board if that person is a state employee.

3. Compensation. Board members are entitled to compensation as provided in Title 5, chapter 379.

4. Chair. The board shall elect annually a chair from among its members, except that neither appointed commissioner may serve as chair. The chair shall direct the administrative and financial matters of the authority.

5. Meetings. The chair shall call all meetings of the board. The board shall conduct its business in public meetings in accordance with Title 1, sections 401 to 406. A quorum of 3 members is required to conduct business and the affirmative vote of at least 3 members of the board is required for board actions. The board may delegate to any of its members or to the staff of the authority any routine business that the board determines necessary to carry out its purposes.

6. Staff. Subject to appropriation or allocation and in accordance with the Civil Service Law, staff may be hired to carry out the work of the authority. Hiring and management of the staff is the responsibility of the board.

§9902. Powers

Notwithstanding any other provision of Title 12, the authority has the sole authority and responsibility to manage the Atlantic salmon fishery in the State, including the sole authority to introduce Atlantic salmon into Maine waters, limit or prohibit the taking of Atlantic salmon, issue licenses for the taking of Atlantic salmon and adopt rules establishing the time, place and manner of Atlantic salmon fishing in all waters of the State. In addition to these powers and duties, the authority may:

1. Programs. Conduct research, publish and disseminate information and plan, report and implement programs necessary for the purposes of managing Atlantic salmon fisheries;

2. Contracts and agreements. Subject to the applicable provisions of Title 5, sections 1811 to 1824 and other requirements of state law, enter into any contracts, agreements or other arrangements with public agencies and with private parties that the authority finds necessary to carry out its purposes;

3. Funding. Subject to other applicable requirements of state law, receive and expend funds from any source, public or private, that the authority finds necessary to carry out its purposes. Any funds received must be placed in a nonlapsing, separate account established by the Treasurer of State, to be expended by the authority for the purposes stated in this section;

4. Rules. Adopt rules necessary to manage the Atlantic salmon fishery and to promote the conservation and propagation of the Atlantic salmon. Rules adopted by the authority must be enforced by the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and other public officials authorized by law to enforce marine resource laws or inland fisheries and wildlife laws;

5. Property. Subject to other applicable requirements of state law, acquire, install, construct, operate, manage, sell and convey interests in real and personal property, including, without limitation, lands, dams, buildings, facilities, structures, flowage rights, mill privileges, easements and rights-of-way, as the authority finds necessary to carry out its purposes, provided that prior rights of municipalities are not affected by the requirements; and

6. Areas where stocking is prohibited. The authority may not stock Atlantic salmon in the East Branch of the Penobscot River.

§9903. Head of tide; Union River

Notwithstanding any other provision of law, for the purposes of this Part, head of tide on the Union River, Hancock County, is designated as that point on the downstream side where the highway bridge on U.S. Route 1 crosses the river in the City of Ellsworth.

§9904. Atlantic salmon license

1. License required. Except as otherwise provided in this section, a person may not fish for, take, possess, ship or transport Atlantic salmon taken from any state waters without a current Atlantic salmon license issued by the authority.

2. License fees. The authority shall issue Atlantic salmon licenses to fish for Atlantic salmon in inland and coastal waters of the State in accordance with the following provisions.

A. The fee for an Atlantic salmon license is \$15 for a resident.

B. The fee for an Atlantic salmon license for any nonresident is as follows:

(1) For a season license for a nonresident 16 years of age or older, \$30;

(2) For a 3-day license for a nonresident 16 years of age or older, \$15. This license may not be exchanged for a season license; and

(3) For a nonresident under 16 years of age, \$5.

C. Members of Maine's Indian tribes and Maine residents under 16 years of age are exempt from any fee.

3. License limitations and validation. A person may not purchase more than one Atlantic salmon license in any single calendar year for that person's use. Immediately after issuance of an Atlantic salmon license, the purchaser must sign it in the space provided. An unsigned license is considered invalid.

4. Tags. Any Atlantic salmon taken from inland or coastal waters must be immediately tagged with a tag bearing the license number of the person who caught the fish or must be tagged as provided in section 9905, subsection 5. Five tags must be issued with each Atlantic salmon license except that only one tag may be issued with a license issued under this section. It is unlawful for any person to possess, sell, give away, accept as a gift, offer for transportation or transport an Atlantic salmon that has not been lawfully tagged.

5. Replacement Atlantic salmon; additional tags. Notwithstanding any other provision of law, the first person in a season who, in cooperation with the authority, the Department of Marine Resources or the Department of Inland Fisheries and Wildlife, presents an Atlantic salmon for shipment to the President of the United States is entitled to take one additional Atlantic salmon and be issued, at no cost, one additional tag bearing that person's license number.

6. Atlantic salmon; possession, buying or selling. A person may not possess, buy or sell Atlantic salmon unless each fish is clearly identified by one of the following methods:

A. Tagged with an Atlantic salmon tag provided by the authority if caught in Maine waters;

B. Tagged with a New Brunswick, Quebec, Nova Scotia or Newfoundland-Labrador Atlantic salmon tag if imported from those Canadian provinces;

C. Identified by a sales receipt less than 24 hours old;

D. For wholesale and retail seafood dealers, identified by a bill of sale indicating numbers of fish purchased, dates of purchase and point of origin of all fish purchased; or

E. Tagged as provided in this Part.

7. Exceptions. This section does not apply to a person licensed to engage in the aquaculture of Atlantic salmon, except that, that person shall report to the authority the number, weight and locations sold to, of all Atlantic salmon within the authority's jurisdiction. The authority shall maintain those records as confidential documents.

8. Agent's fee. Any clerk or agent appointed by the authority to issue an Atlantic salmon license shall retain \$1 for each license issued.

9. Use of license fees. All license fees must be used by the authority for purposes of conservation and management of the Atlantic salmon in this State.

10. Duplicates. The authority or its agents shall issue a duplicate license to any person whose license was accidentally lost or destroyed. The fee for a replacement license is \$1, all of which is retained by the issuing agent. Atlantic salmon tags bearing the license number of a lost or destroyed license are invalid.

11. Fishing in inland waters. When fishing in inland waters, the holder of a license authorized under this section is subject to all the provisions of chapters 701 to 721.

§9905. Registration of Atlantic salmon

Except as provided in subsection 4, a person may not possess, ship or transport an Atlantic salmon that has not been properly registered according to the provisions of this section by the person who killed the fish.

1. Time period. A person who kills Atlantic salmon shall present the Atlantic salmon for registration within 12 hours. The Atlantic salmon must be registered at the first open Atlantic salmon registration station on the route taken by the person who kills the fish.

2. Information requirements. The person who kills the fish must register the fish in the person's own name. Information concerning each Atlantic salmon registered must be reported accurately and truthfully.

3. Possession of unlabeled parts prohibited. A person may not possess any part of an Atlantic salmon taken from the inland or coastal waters of this State

unless each part is plainly labeled with the name and address of the person who registered the fish, except that a person may possess a fish properly identified under this Part.

4. Exemptions. The following are exempt from the registration requirements of this section:

A. Atlantic salmon imported from outside the State;

B. Atlantic salmon imported by taxidermists solely for taxidermy purposes; and

C. Atlantic salmon raised by means of aquaculture.

5. Recreational fishing provision. A person engaged in recreational fishing who takes an Atlantic salmon shall affix to each fish an identification tag designating the date, location and name of the person who caught the fish. The person shall notify the authority within 24 hours of that person's first landfall providing all information the authority may require.

§9906. Atlantic salmon imports; exemption from prohibition for fisheries enhancement

The authority may grant an exemption from the provisions of section 6071, subsection 4, for Atlantic salmon, live or eggs, imported for the purpose of enhancing the State's Atlantic salmon fisheries.

§9907. Atlantic salmon; limits; method of taking; closed season

Unless otherwise provided by rule adopted by the authority, a person may not:

1. Minimum length. Take or possess Atlantic salmon that are less than 14 inches in total length;

2. Method of taking. From May 1st to October 15th, take Atlantic salmon in Maine waters by means other than hook and line with an unweighted salmon fly. An Atlantic salmon taken by any other means must be immediately released;

3. Closed season. From October 16th to April 30th, take Atlantic salmon from Maine waters by any means;

4. Bag limit. Take more than one Atlantic salmon in one day from Maine waters. No more than 5 Atlantic salmon per person may be taken annually from all waters of the State; or

5. Disposition. Sell or offer for sale any Atlantic salmon taken from Maine waters, except Atlantic salmon lawfully raised by means of aquaculture.

Sec. 13. 38 MRSA §480-B, sub-§10, as amended by PL 1993, c. 296, §1, is further amended to read:

10. Significant wildlife habitat. "Significant wildlife habitat" means the following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the ~~Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

Sec. 14. 38 MRSA §480-U, sub-§2, ¶A, as corrected by RR 1991, c. 1, §57, is amended to read:

A. The application must contain written certification by a knowledgeable professional that the cranberry cultivation project will not be located in a wetland that has one or more of the following characteristics:

- (1) Is a coastal wetland or is located within 250 feet of a coastal wetland;
- (2) Is a great pond;
- (3) Contains endangered or threatened plant species listed under Title 5, section 3315;
- (4) Contains any type of palustrine natural community of which there are 20 or fewer occurrences in the State;
- (5) Contains any of the following resources:
 - (a) Habitat for species appearing on the official state or federal lists of endangered or threatened species when there is evidence that the species is present;
 - (b) As defined by rule by the Commissioner of Inland Fisheries and Wildlife, whether or not the resource has been mapped, high-value and moderate-value deer wintering areas; deer travel corridors; high-value and

moderate-value waterfowl or wading bird habitats, including nesting and feeding areas; shorebird nesting, feeding or staging areas; or seabird nesting islands; or

(c) Critical spawning and nesting areas for Atlantic sea run salmon as defined by rule by the ~~Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority whether or not mapped;

(6) Is located within 250 feet of the normal high water line and within the same watershed of any lake or pond classified as GPA under section 465-A;

(7) Is a bog dominated by ericaceous shrubs, sedges and sphagnum moss and usually having a saturated water regime, except that applications proposing reclamation of previously mined peat bogs may be considered;

(8) Is land adjacent to the main stem of a major river, as classified in section 467, that is inundated with floodwater during a 100-year flood event and that under normal circumstances supports a prevalence of wetland vegetation, typically adapted for life in saturated soils; or

(9) Contains at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for man-made ponds or impoundments, during most of the growing season in most years; except that cranberry cultivation is allowed more than 250 feet from the edge of the area of aquatic vegetation, emergent marsh vegetation or open water.

A project to cultivate indigenous cranberries may be located in wetlands described in subparagraphs (6) and (7) only if the project location is a natural cranberry bog and provisions of paragraph D are met. For purposes of this paragraph, "natural cranberry bog" means an area with indigenous large cranberries, *Vaccinium macrocarpon* Ait., comprising more than 50% of the cover in the herbaceous layer; and "cover in the herbaceous layer" means all herbaceous or woody vegetation less than 10 inches in height.

Sec. 15. 38 MRSA §636, sub-§7, ¶B, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §189, is further amended to read:

B. Whether the project will result in significant benefit or harm to fish and wildlife resources. In

making its determination, the department shall consider other existing uses of the watershed and fisheries management plans adopted by the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the ~~Atlantic Sea Run Salmon Commission~~ Atlantic Salmon Authority;

Sec. 16. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1995-96 1996-97

ATLANTIC SALMON AUTHORITY

Atlantic Salmon Authority

Positions - Legislative Count	(2.0)	(2.0)
Personal Services	\$71,463	\$94,972
All Other	10,767	14,758

Provides funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the subsequent establishment of the Atlantic Salmon Authority.

ATLANTIC SALMON AUTHORITY TOTAL

\$82,230	\$109,730
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ATLANTIC SEA RUN SALMON COMMISSION

Atlantic Sea Run Salmon Commission

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(\$71,463)	(\$94,972)
All Other	(10,767)	(14,758)

Deappropriates funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the subsequent establishment of the Atlantic Salmon Authority.

ATLANTIC SEA RUN SALMON COMMISSION TOTAL

(\$82,230)	(\$109,730)
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Sec. 17. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1995-96	1996-97
ATLANTIC SALMON AUTHORITY		
Atlantic Salmon Authority		
Positions - Other Count	(7.0)	(7.0)
Personal Services	\$247,981	\$330,916
All Other	70,636	95,699
Allocates funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the subsequent establishment of the Atlantic Salmon Authority.		
ATLANTIC SALMON AUTHORITY TOTAL	\$318,617	\$426,615
ATLANTIC SEA RUN SALMON COMMISSION		
Atlantic Sea Run Salmon Commission		
Positions - Other Count	(-7.0)	(-7.0)
Personal Services	(\$247,981)	(\$330,916)
All Other	(70,636)	(95,699)
Deallocates funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the subsequent establishment of the Atlantic Salmon Authority.		
ATLANTIC SEA RUN SALMON COMMISSION TOTAL	(\$318,617)	(\$426,615)

Sec. 18. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
ATLANTIC SALMON AUTHORITY		
Atlantic Salmon Authority		
Positions - Other Count	(1.0)	(1.0)
Personal Services	\$13,940	\$18,120
All Other	3,590	5,253
Allocates funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the		

subsequent establishment of the Atlantic Salmon Authority.

ATLANTIC SALMON AUTHORITY		
TOTAL	\$17,530	\$23,373
ATLANTIC SEA RUN SALMON COMMISSION		
Atlantic Sea Run Salmon Commission		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(\$13,940)	(\$18,120)
All Other	(3,590)	(5,253)
Deallocates funds to reflect the elimination of the Atlantic Sea Run Salmon Commission and the subsequent establishment of the Atlantic Salmon Authority.		
ATLANTIC SEA RUN SALMON COMMISSION TOTAL	(\$17,530)	(\$23,373)

Sec. 19. Transition provisions.

1. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Atlantic Sea Run Salmon Commission are transferred to the Atlantic Salmon Authority.

2. All rules adopted by the Atlantic Sea Run Salmon Commission are deemed to be rules adopted by the Atlantic Salmon Authority and remain in effect until rescinded, revised or amended by the Atlantic Salmon Authority. Those provisions of the open water fishing rules adopted by the Department of Inland Fisheries and Wildlife and those provisions of rules adopted by the Department of Marine Resources that regulate the importation or stocking of Atlantic salmon or the time, manner or location of fishing for Atlantic salmon in inland or coastal waters are deemed to be rules adopted by the Atlantic Salmon Authority and remain in effect until rescinded, revised or amended by the Atlantic Salmon Authority.

3. Members of the Atlantic Sea Run Salmon Commission on the effective date of this Act are entitled to remain as members of the Atlantic Salmon Board until their successors are appointed.

4. The Atlantic Salmon Authority is the successor in every way to the Atlantic Sea Run Salmon Commission.

5. The Governor, the President of the Senate and the Speaker of the House of Representatives shall make all appointments required by this Act not later than 30 days after the effective date of this Act.

6. On the effective date of this Act, all position counts, appropriations and allocations to the former Atlantic Sea Run Salmon Commission are transferred to the Atlantic Salmon Authority and become position counts, appropriations and allocations of the Atlantic Salmon Authority. On and after the effective date of this Act, the Department of Inland Fisheries and Wildlife shall continue to provide the Atlantic Salmon Authority with the same level of administrative support that the department provided to the former Atlantic Sea Run Salmon Commission.

7. Not later than January 1, 1996, the Chair of the Atlantic Salmon Board shall submit a report to the Joint Standing Committee on Inland Fisheries and Wildlife. The report must include the board's plan for managing the Atlantic salmon fishery in the State and any statutory recommendations pertaining to staffing or budget matters that the board determines necessary to implement that plan. The Joint Standing Committee on Inland Fisheries and Wildlife may report out legislation to the Second Regular Session of the 117th Legislature to implement the statutory recommendations of the board.

See title page for effective date.

CHAPTER 407

H.P. 432 - L.D. 595

An Act Regarding Insurance Coverage for Mental Illness

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

Sec. 1. 24 MRSA §2325-A, sub-§5-C, as amended by PL 1995, c. 19, §1, is repealed and the following enacted in its place:

5-C. Coverage for treatment for certain mental illnesses. Coverage for medical treatment for mental illnesses listed in paragraph A is subject to this subsection.

A. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental ill-

nesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

(1) The contracts must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the group contract.

This subsection does not apply to policies, contracts and certificates covering employees of employers with 20 or fewer employees, whether the group policy is issued to the employer, to an association, to a multiple-employer trust or to another entity.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 2. 24 MRSA §2325-A, sub-§5-D is enacted to read:

5-D. Mandated offer of coverage for certain mental illnesses. Except as otherwise provided,

coverage for medical treatment for mental illnesses listed in paragraph A by all individual and group nonprofit hospital and medical services organization health care plan contracts is subject to this subsection.

A. All individual and group contracts must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. Every nonprofit hospital and medical services organization and nonprofit health care plan must make available coverage in all individual and group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 that provides benefits meeting the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

- (1) The offer of coverage must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.
- (2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the individual or group contract.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism

or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 3. 24 MRSA §2325-A, sub-§8, as enacted by PL 1983, c. 515, §4, is amended to read:

8. Reports to the Superintendent of Insurance. Every nonprofit hospital or medical service organization subject to this section shall report its experience for each calendar year ~~beginning with 1984~~ to the superintendent not later than April 30th of the following year. The report ~~shall~~ **must** be in a form prescribed by the superintendent and ~~shall~~ include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for group health care contracts, both separated between those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all nonprofit hospital or medical service organizations in an annual report.

Sec. 4. 24 MRSA §2325-A, sub-§9, as amended by PL 1993, c. 586, §2, is repealed.

Sec. 5. 24-A MRSA §2749-C is enacted to read:

§2749-C. Mandated offer of coverage for certain mental illnesses

1. Coverage for treatment for certain mental illnesses. Coverage for medical treatment for mental illnesses listed in paragraph A by all individual policies is subject to this section.

A. All individual policies must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All individual policies and contracts executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must make available coverage providing benefits that meet the requirements of this paragraph. For

purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

(1) The offer of coverage must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a reimbursing insurer, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the individual policy.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

2. Contracts; providers. Subject to approval by the superintendent pursuant to section 2305, an insurer incorporated under this chapter shall offer contracts to providers authorizing the provision of mental health services within the scope of the provider's licensure.

3. Limits; coinsurance; deductibles. A policy or contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

4. Reports to the superintendent. Every insurer subject to this section shall report its experience for each calendar year to the superintendent no later than April 30th of the following year. The report must be in a form prescribed by the superintendent and include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for individual health care policies, both separated according to those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all insurers in an annual report.

5. Application. Except as otherwise provided, the requirements of this section apply to all policies and contracts executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996. For purposes of this section, all policies are

deemed renewed no later than the next yearly anniversary of the contract date. Nothing in this section applies to accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies.

Sec. 6. 24-A MRSA §2843, sub-§5-C, as amended by PL 1995, c. 19, §1, is repealed and the following enacted in its place:

5-C. Coverage for treatment for certain mental illnesses. Coverage for medical treatment for mental illnesses listed in paragraph A is subject to this subsection.

A. All group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

(1) The contracts must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a nonprofit hospital or medical service organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical

treatment for physical illness under the group contract.

This subsection does not apply to policies, contracts and certificates covering employees of employers with 20 or fewer employees, whether the group policy is issued to the employer, to an association, to a multiple-employer trust or to another entity.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism or other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 7. 24-A MRSA §2843, sub-§5-D is enacted to read:

5-D. Mandated offer of coverage for certain mental illnesses. Except as otherwise provided in subsection 5-C, coverage for medical treatment for mental illnesses listed in paragraph A by all group contracts is subject to this subsection.

A. All group contracts must make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must make available coverage providing benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

- (1) The offer of coverage must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a reimbursing insurer, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the group contract.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism and other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

Sec. 8. 24-A MRSA §2843, sub-§7, as enacted by PL 1983, c. 515, §6, is amended to read:

7. Reports to the Superintendent of Insurance. Every insurer subject to this section shall report its experience for each calendar year ~~beginning with 1984~~ to the superintendent not later than April 30th of the following year. The report ~~shall~~ must be in a form prescribed by the superintendent and ~~shall~~ include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for group health care contracts, both separated between those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all insurers in an annual report.

Sec. 9. 24-A MRSA §2843, sub-§8, as amended by PL 1993, c. 586, §4, is repealed and the following enacted in its place:

8. Application. This section does not apply to accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies.

Sec. 10. 24-A MRSA §4234-A is enacted to read:

§4234-A. Mental health services coverage

1. Findings. The Legislature finds that:

A. Mental illness affects nearly 170,000 people of this State each year, resulting in anguish, grief, desperation, fear, isolation and a sense of hopelessness of significant levels among victims and families;

B. Consequences of mental illness include the expenditure of millions of dollars of public funds for treatment and losses of millions of dollars by businesses in the State in accidents, absenteeism, nonproductivity and turnover. Excessive stress

and anxiety and other forms of mental illness clearly contribute to general health problems and costs;

C. Typical health coverage in this State discriminates against mental illness, the victims and affected families with nonexistent or limited benefits compared to provisions for other illnesses; and

D. Experience in this State and several other states demonstrates that the risk of mental illness can be insured at reasonable cost and with adequate controls on quality and utilization of treatment.

2. Policy and purpose. The Legislature declares that it is the policy of this State to:

A. Promote equitable and nondiscriminatory health coverage benefits for all forms of illness including mental and emotional disorders that are of significant consequence to the health of people of the State and that can be treated in a cost-effective manner;

B. Ensure that victims of mental and other illnesses have access to and choice of appropriate treatment at the earliest point of illness in the least restrictive settings;

C. Ensure that costs of treatment of mental illness are supported through an equitable combination of public and private responsibilities; and

D. Ensure that the Legislature reasonably exercises its legal responsibility for insurance policy in this State by prescribing types of illnesses and treatment for which benefits must be provided.

3. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes necessary to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours a day.

B. "Inpatient services" includes a range of physiological, psychological and other intervention concepts, techniques and processes used in a community mental health psychiatric inpatient unit, general hospital psychiatric unit or psychiatric hospital licensed by the Department of Human Services or in an accredited public hospital to restore psychosocial functioning sufficient to

allow maintenance and support of the client in a less restrictive setting.

C. "Outpatient services" includes screening, evaluation, consultations, diagnosis and treatment involving use of psychoeducational, physiological, psychological and psychosocial evaluative and interventive concepts, techniques and processes provided to individuals and groups.

D. "Person suffering from a mental or nervous condition" means a person whose psychobiological processes are impaired severely enough to manifest problems in the area of social, psychological or biological functioning. Such a person has a disorder of thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize or ability to cope with the ordinary demands of life. The person manifests an impaired capacity to maintain acceptable levels of functioning in the area of intellect, emotion or physical well-being.

E. "Provider" means an individual included in Title 24, section 2303, subsection 2, a licensed physician, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the Department of Mental Health and Mental Retardation. All agency or institutional providers named in this paragraph shall ensure that services are supervised by a psychiatrist or licensed psychologist.

4. Requirement. Every health maintenance organization that issues individual or group health care contracts providing coverage for hospital care to residents of this State shall provide benefits as required in this section to any subscriber or other person covered under those contracts for conditions arising from mental illness.

5. Services. Each individual or group contract must provide, at a minimum, the following benefits for a person suffering from a mental or nervous condition:

A. Inpatient services;

B. Day treatment services; and

C. Outpatient services.

6. Coverage for treatment of certain mental illnesses. Coverage for medical treatment for mental illnesses listed in paragraph A is subject to this subsection.

A. All group contracts must provide, at a minimum, benefits according to paragraph B, sub-

paragraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must provide benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

- (1) The contracts must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.
- (2) At the request of a reimbursing health maintenance organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the group contract.

This subsection does not apply to policies, contracts or certificates covering employees of employers with 20 or fewer employees, whether the group policy is issued to the employer, to an association, to a multiple-employer trust or to another entity.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism and other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

7. Mandated offer of coverage for certain mental illnesses. Except as provided in subsection 6, coverage for medical treatment for mental illnesses

listed in paragraph A by all individual and group contracts is subject to this subsection.

A. All individual and group contracts shall make available coverage providing, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following mental illnesses diagnosed by a licensed allopathic or osteopathic physician:

- (1) Schizophrenia;
- (2) Bipolar disorder;
- (3) Pervasive developmental disorder, or autism;
- (4) Paranoia;
- (5) Panic disorder;
- (6) Obsessive-compulsive disorder; or
- (7) Major depressive disorder.

B. All individual and group policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after July 1, 1996 must make available coverage providing benefits that meet the requirements of this paragraph. For purposes of this paragraph, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

- (1) The offer of coverage must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.
- (2) At the request of a reimbursing health maintenance organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary and appropriate. When making the determination of whether treatment is medically necessary and appropriate, the provider shall use the same criteria for medical treatment for mental illness as for medical treatment for physical illness under the individual or group contract.

This subsection may not be construed to allow coverage and benefits for the treatment of alcoholism and other drug dependencies through the diagnosis of a mental illness listed in paragraph A.

8. Contracts; providers. Subject to approval by the superintendent pursuant to section 4204, a health maintenance organization incorporated under

this chapter shall allow providers to contract, subject to the health maintenance organization's credentialing policy, for the provision of mental health services within the scope of the provider's licensure.

9. Limits; coinsurance; deductibles. A policy or contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

10. Reports to the superintendent. Every health maintenance organization subject to this section shall report its experience for each calendar year to the superintendent no later than April 30th of the following year. The report must be in a form prescribed by the superintendent and include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for individual and group health care contracts, both separated according to those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all health maintenance organizations in an annual report.

11. Application. Except as otherwise provided, the requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on and after July 1, 1996. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 408

H.P. 619 - L.D. 829

An Act to Strengthen Maine's Live Harness Racing Industry

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

Whereas, the harness racing industry is an important industry in the State; and

Whereas, a more equitable distribution of purse funds must be provided immediately in order to strengthen live racing in the State; and

Whereas, this legislation will provide for a more equitable distribution of purse funds; 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 §271, sub-§1, as amended by PL 1991, c. 579, §10, is further amended to read:

1. Licensing. If the commission is satisfied that all of this chapter and rules prescribed by the commission have been substantially complied with during the past year and will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, employees, creditors and associates are of good moral character; that the applicant is financially responsible; and that the award of racing dates to the applicant is appropriate under the criteria contained in subsection 2, it may issue a license for the holding of harness horse races or meets for public exhibition with pari-mutuel pools, which must expire on December 31st. The commission shall set licensing and license renewal fees sufficient to carry out the administration and enforcement of the licensing program. These fees may not exceed annually the greater of \$100 or \$10 for each calendar week or part of a week of harness racing regardless of whether pari-mutuel pools are sold. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every initial licensee and a fee not to exceed \$10 must be included in the license fee to cover the cost of this publication. The commission shall provide necessary revisions of this booklet to those persons renewing licenses at the time of renewal and shall include the cost of the revisions, not to exceed \$10, in the renewal fee. The license must set forth the name of the licensee, the place where the races or race meets are to be held and the specific race dates and time of day or night during which racing may be conducted by the licensee. The location stated in the license where the race or race meet is to be held may be transferred to any other licensee on the dates set forth in the license during which the racing may be conducted, but, with respect to that transfer, the transfer may only be made to another licensee and the licensee is liable for compliance with all laws and regulations governing the conduct of harness racing. Any such license issued is not transferable or assignable. The Administrative Court Judge, as designated in Title 4, chapter 25, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation

and the corporation may not hold a harness horse race or meet for public exhibition without a new license.

Sec. 2. 8 MRSA §271, sub-§2, as amended by PL 1993, c. 388, §4, is further amended to read:

2. Criteria for date awards. In assigning race dates to licensees, the commission shall consider the following factors:

A. The revenues to be generated, consistent with the profitability and financial health of the licensee, for the General Fund pursuant to section 275-H; the purse supplements pursuant to section 275-I; the Sire Stakes Fund pursuant to section 281; and the Stipend Fund pursuant to Title 7, section 62;

B. The quality of race programming and facilities offered and to be offered by the licensee and the suitability of the applicant's racing facilities for operation at the season for which the race dates are requested;

C. The necessity of having and maintaining proper physical facilities for racing meetings; and consequently, to insure the continuance of the facilities, the quality of the licensee's maintenance of its track and plant, the adequacy of its provisions for rehabilitation and capital improvements and the necessity of fair treatment of the economic interests and investments of those who, in good faith, have provided and maintained racing facilities;

D. The desirability of reasonable consistency in the pattern of race date assignments from year to year;

E. With respect to agricultural societies seeking licenses to conduct harness racing meets at the time of their annual fairs, the scheduling of agricultural fairs determined by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, sections 65 and 65-A;

F. The preservation of a diversity of harness racing tracks in the State;

G. The quality of the licensee's observance and enforcement of this chapter and the rules promulgated pursuant to this chapter during the past year;

H. The extent to which the licensee fully utilized ~~racing~~ race dates granted to it for the past year;

I. The personnel and resources available to the commission for the enforcement of this chapter and the rules promulgated pursuant to this chapter;

J. The likely availability of race-worthy horses throughout the year; and

K. Such other criteria consistent with the betterment of harness racing and the public health, safety and welfare as the commission may establish by rule.

Sec. 3. 8 MRSA §271, sub-§5, as enacted by PL 1991, c. 579, §10, is amended to read:

5. Minimum number of race dates. The commission may assign a commercial licensee a minimum number of ~~racing days~~ race dates for a period of up to 3 years. The specific calendar dates for ~~these racing days~~ the minimum number of race dates and any additional race dates are determined each year in accordance with subsection 1. For the purposes of this subsection, "commercial licensee" means a licensee with an annual total of more than 25 ~~racing days~~ race dates with pari-mutuel wagering in the previous calendar year.

Sec. 4. 8 MRSA §275-A, sub-§1-A is enacted to read:

1-A. Commercial meet. "Commercial meet" means harness horse racing conducted live at a commercial track.

Sec. 5. 8 MRSA §275-A, sub-§9-A is enacted to read:

9-A. Race date. "Race date" means a scheduled racing program of not less than 8 separate live races. In the event of cancellation of a portion of the scheduled racing program due to weather, power failure or a decision to cancel by the presiding judge on duty, a minimum of 5 live races actually raced constitutes a race date. If a licensee schedules separate programs for both an afternoon and an evening on the same calendar day and each program qualifies as a race date under this subsection, that licensee is granted one race date for each program.

Sec. 6. 8 MRSA §275-A, sub-§10-A is enacted to read:

10-A. Regular meeting. "Regular meeting" means the period of time from the first date a licensee is authorized to conduct live racing through the last date a licensee is authorized to conduct live racing, excluding periods of time longer than 14 days when the licensee is not authorized to conduct live racing. Notwithstanding this subsection, the regular meeting of a licensee that is licensed to conduct live racing in at least 6 separate calendar months includes the entire calendar year.

Sec. 7. 8 MRSA §275-D, sub-§8, ¶A, as enacted by PL 1993, c. 388, §8, is amended to read:

A. An off-track betting facility located within a 75-mile radius of a noncommercial racing licensee may not present a simulcast at the same time that racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 2% of the wagers made at the facility at the time live racing is being conducted. An off-track betting facility within a 50-mile radius of a noncommercial racing licensee may not present a simulcast during any day on which that racing licensee is conducting live racing, unless the racing licensee consents and the facility pays the racing licensee 1% of the wagers made on that day. Amounts payable under this section are taken from the facility's share of wagers authorized in section 275-K. If the racing licensee is conducting simulcasting pursuant to section 275-J, subsection 3, then the racing licensee is not entitled to payment by the facility under this section.

Sec. 8. 8 MRSA §275-F, sub-§3, ¶A, as enacted by PL 1993, c. 388, §8, is amended to read:

A. The first ~~\$295,000~~ \$400,000 of the total amount, regardless of when actually collected, must be credited to the Stipend Fund provided in Title 7, section 62.

Sec. 9. 8 MRSA §275-F, sub-§3, ¶B, as enacted by PL 1993, c. 388, §8, is repealed.

Sec. 10. 8 MRSA §275-F, sub-§3, ¶C, as enacted by PL 1993, c. 388, §8, is amended to read:

C. From the balance of the total amount in excess of ~~\$350,000~~ \$400,000, regardless of when actually collected, 80% must be paid and returned no later than 30 days after the end of the calendar year to those persons, associations and corporations that during that calendar year, conducted an extended meet pursuant to a license granted by the commission in section 271. This payment must be divided in the proportion that the contributions of regular and exotic wagers to pari-mutuel pools on live racing made or conducted at the extended meets of each racing licensee during that calendar year bear to the total contributions of regular and exotic wagers to pari-mutuel pools on live racing made or conducted at the extended meets of all racing licensees during that calendar year. Licensees sharing in this distribution shall use 1/2 of the funds so received for the purpose of supplementing purse money.

The remaining 20% must be credited to the Stipend Fund provided in Title 7, section 62.

Sec. 11. 8 MRSA §275-H, sub-§3, ¶A, as enacted by PL 1993, c. 388, §8, is amended to read:

A. The Treasurer of State must return to commercial meet licensees 72% of the revenue credited to the General Fund under this section attributable to amounts in excess of \$33,500,000. This payment must be divided in the proportion that the contributions of regular and exotic wagers of pari-mutuel pools on live racing made or conducted at the commercial meets of each licensee during the calendar year bear to the total contributions of regular and exotic wagers to pari-mutuel pools on live racing made or conducted at the commercial meets of all licensees during that calendar year. Licensees sharing in this distribution shall use 1/2 of the funds received for the purpose of supplementing purse money. The other 1/2 of this distribution must be paid to the commercial licensees as reimbursement for improvements made to their racing facilities in the calendar year during which the funds are generated. To receive reimbursement, commercial licensees must submit plans for the improvements to the commission and receive approval from the commission prior to making the improvements and the commission must verify that the approved improvements have been made.

Sec. 12. 8 MRSA §275-I, sub-§3, as corrected by RR 1993, c. 2, §7, is repealed and the following enacted in its place:

3. Distribution based on race dates. On May 30th, September 30th and January 30th, payments made under subsections 1 and 2 for distribution in accordance with this subsection must be divided among the licensees conducting live racing in the State. The amount of the payment made to a licensee is calculated by dividing the number of race dates that the licensee live raced in any calendar year by the total number of race dates live raced by all licensees in that year. The payment due in May 1995 must be distributed among the licensees conducting live racing in the State in proportion to the number of dates each licensee is licensed and actually open for wagering during 1995. The January 30, 1996 payment must be adjusted to reflect the dates actually live raced during the months of May to December of 1995. Beginning January 30, 1997, the January 30th payment must be adjusted to reflect the dates actually live raced during the previous year, not the dates granted.

Sec. 13. 8 MRSA §275-J, sub-§3, as amended by PL 1993, c. 646, §2, is further amended to read:

3. Distribution based on wagered amounts. On May ~~15th~~ 30th, September ~~15th~~ 30th and within ~~45~~ 30 days after the close of all off-track betting facilities for the year, amounts payable under subsections 1 and 2 for distribution in accordance with this subsection

must be distributed to commercial race tracks and the agricultural fair associations only for the dates assigned by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 65 in the State that provide simulcast transmission of live racing in the State in proportion to the amount of wagers placed at off-track betting facilities on simulcast races from that licensee up to the last day of the preceding month and the total amount wagered at off-track betting facilities on races simulcast from all commercial racetracks up to that date. The last payment of the calendar year must be adjusted to reflect each licensee's wagers in proportion to the total wagered at off-track betting facilities in that calendar year.

Sec. 14. 8 MRSA §275-N, as enacted by PL 1993, c. 707, Pt. U, §2, is repealed and the following enacted in its place:

§275-N. Limitations on off-track betting facilities

The commission may not allow interstate simulcasting or license any off-track betting facility for any calendar year unless during the preceding calendar year there was at least 150 race dates on which live racing was actually conducted at the commercial tracks. Interstate simulcasting must always be allowed at any commercial track that conducted at least 136 race dates during the immediately preceding calendar year or at an existing commercial track as defined in section 275-A, subsection 1, paragraph B at which at least 35 race dates were conducted during the immediately preceding year. For the purposes of this section, any race date that the commission determines was canceled due to a natural or other disaster must be counted as a race date.

Beginning with licenses issued for calendar year 1996, notwithstanding any other provision of this chapter, every commercial track that is licensed for a specific calendar year must be assigned all of the race dates that it requests for that year if it conducted live racing on those dates during the immediately preceding calendar year. For the purposes of this section, a race date is the same from year to year if it is the closest calendar date that falls on the same day of the week.

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		

Administration - Agriculture

All Other	\$98,000	\$100,000
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Allocates funds to reflect an increase in the amounts distributed to agricultural fairs.

State Harness Racing Commission

All Other	(\$98,000)	(\$100,000)
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Deallocates funds to reflect a decrease in the amounts distributed to extended meets.

**DEPARTMENT OF
AGRICULTURE, FOOD
AND RURAL RESOURCES**

TOTAL	\$-0-	\$-0-
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective July 3, 1995.

CHAPTER 409

S.P. 360 - L.D. 986

An Act to Regulate Hybrid Wolves

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. 7 MRSA §3907, sub-§17, as enacted by PL 1987, c. 383, §3, is amended to read:

17. Kennel. "Kennel" means one pack or collection of dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes.

Sec. 2. 7 MRSA §3907, sub-§30 is enacted to read:

30. Wolf hybrid. "Wolf hybrid" means any canine, regardless of generation, that has resulted from the interbreeding of a dog and a wolf.

Sec. 3. 7 MRSA §3921, first ¶, as enacted by PL 1987, c. 383, §3, is amended to read:

~~No~~ A dog or wolf hybrid may not be kept within the limits of the State, unless the dog or wolf hybrid has been licensed by its owner or keeper in accordance with the laws of this State.

Sec. 4. 7 MRSA §3922, as amended by PL 1993, c. 657, §§20 and 21, is further amended to read:

§3922. Issuance of license

1. License; January 1st. Each owner or keeper of a dog or wolf hybrid at the age of 6 months or more, on or before January 1st of each year, shall obtain a license:

A. From the clerk of the municipality where the dog or wolf hybrid is kept; or

B. From the dog recorder in the unorganized territory where the dog or wolf hybrid is kept or, in the absence of a duly authorized dog recorder, from a dog recorder in the nearest municipality or unorganized territory in the same county where the dog or wolf hybrid is kept.

2. License; after January 1st. The owner or keeper, within 10 days of the conditions of paragraph A or B being met, shall obtain a license, if between January 1st and October 15th of any year:

A. A dog or wolf hybrid reaches the age of 6 months or more; or

B. A person becomes the owner or keeper of a dog or wolf hybrid aged 6 months or more.

3. Proof of immunization. ~~No~~ A municipal clerk may not issue a license for any a dog until the applicant has filed with the clerk proof that the dog has been immunized against rabies in accordance with rules promulgated adopted by the Commissioner of Human Services, provided except that the requirement of immunization may be waived by the clerk under conditions set forth by the Commissioner of Human Services.

The commissioner shall ~~promulgate~~ adopt rules ~~which~~ that allow the clerk and the commissioner to accept valid proof of immunization against rabies provided by another state.

4. Trained guide dogs. If ~~any~~ a trained dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk shall not register the dog nor issue to

its owner or keeper a license and tag unless written evidence is provided that the dog is trained and educated and intended to perform guide service for the applicant.

5. Form of license. The license must state the breed, sex, color and markings of the dog or wolf hybrid, whether the animal is a dog or wolf hybrid and the name and address of the owner or keeper. The license must be issued in triplicate and the original must be given to the applicant and the remaining 2 copies must be retained by the municipal clerk or dog recorder.

Sec. 5. 7 MRSA §3923-A, as amended by PL 1993, c. 657, §§22 to 24, is further amended to read:

§3923-A. License and recording fees

Except as provided in subsection 3 and section 3923-C, a dog or wolf hybrid owner or keeper shall pay the license and recording fees established in this section.

1. Dogs or wolf hybrids capable of producing young. A dog or wolf hybrid owner or keeper shall pay a fee of \$7.50 to the municipal clerk for each dog or wolf hybrid 6 months of age or older and capable of producing young. A dog or wolf hybrid is considered capable of producing young unless certification under subsection 2 is provided.

The clerk shall retain \$1 as a recording fee and pay the remaining \$6.50 to the department for deposit in the Animal Welfare Fund.

2. Dogs or wolf hybrids incapable of producing young. A dog or wolf hybrid owner shall pay a fee of \$4 to the municipal clerk for each dog or wolf hybrid 6 months of age or older and incapable of producing young. A dog or wolf hybrid is considered incapable of producing young when the owner provides the following:

A. A written certificate issued by a veterinarian stating that the veterinarian has neutered the dog or wolf hybrid;

B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog or wolf hybrid and determined that the dog or wolf hybrid is incapable of producing young; or

C. A previous license stating that the dog or wolf hybrid is incapable of producing young.

The clerk shall retain \$1 as a recording fee, deposit \$1 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining \$2 to the department for deposit in the Animal Welfare Fund.

3. Exemption from fees. A municipal clerk shall issue a license upon application and without payment of a license fee required under this section for:

- A. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- B. A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- C. A trained service dog owned or kept by a physically impaired person or such a dog awaiting training; and
- D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training.

4. Late fees. An owner or keeper required to license a dog or wolf hybrid under section 3922, subsection 1 and section 3923-C, subsection 1 and applying for a license for that dog or wolf hybrid after January 31st shall pay to the municipal clerk or dog recorder a late fee of \$3 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

An owner or keeper whose name appears on a municipal warrant issued in accordance with section 3943 must pay the late fee required by that section and is not subject to this subsection.

Sec. 6. 7 MRSA §3923-B, as amended by PL 1993, c. 657, §§25 and 26, is further amended to read:

§3923-B. Tags

1. Tags. The municipal clerk shall provide with each new license issued under section 3923-A a ~~dog~~ tag, indicating the year the license is issued and bearing other information prescribed by the department, and a sticker, indicating the year the license is issued, which must be attached to the back of the ~~dog~~ tag. The ~~dog~~ tag remains with the dog or wolf hybrid for as long as the dog or wolf hybrid is kept in the licensing municipality. The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog or wolf hybrid for which the license was issued, except as provided in subsection 3.

If a sticker and tag is lost or the owner has moved to a different municipality, the owner or keeper of the dog or wolf hybrid shall obtain a new license, tag and sticker. The municipal clerk shall issue another license, tag and sticker upon presentation of the original license and payment of \$1. The clerk shall retain the \$1 for a recording fee.

2. Rabies tags. An owner shall make sure that a rabies tag obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog or wolf hybrid for which the rabies tag was issued, except as provided in subsection 3.

3. Exceptions. A dog or wolf hybrid is not required to wear a ~~dog~~ tag or a rabies tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog or wolf hybrid is hunting, in training or in exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

Sec. 7. 7 MRSA §§3923-C and 3923-D, as enacted by PL 1993, c. 657, §27, are amended to read:

§3923-C. Kennel license

1. License necessary. A person having a pack or collection of dogs or wolf hybrids for the purposes set forth in section 3907, subsection 17 shall obtain a kennel license from the clerk of the municipality where the dogs or wolf hybrids are kept and that person is subject to rules adopted by the department. The sex, registered number and description are not required of dogs or wolf hybrids covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs or wolf hybrids in or outside the State.

2. Determination of fees. License and recording fees are determined according to the number of dogs or wolf hybrids kept.

A. When the number of dogs or wolf hybrids kept over 6 months of age does not exceed 10, the fee for licensure of the kennel is \$20 and, in addition, \$1 for each license as a fee for the recording and making the monthly report required by the department.

B. When the number of dogs or wolf hybrids kept over 6 months of age exceeds 10, the fee for licensure of the kennel is \$40 and, in addition, \$1 for each license as a fee for the recording and making the monthly report required by the department.

3. Form of license. The license must be issued in triplicate, the original copy of which is given to the applicant and the remaining 2 copies retained by the municipal clerk. A license covers a maximum of 10 dogs or wolf hybrids.

4. Kennel tags. Dogs or wolf hybrids covered by a kennel license must be furnished suitable kennel tags and stickers as prescribed by the department and are not required to be individually licensed.

§3923-D. Temporary licenses

An animal shelter may issue a temporary dog or wolf hybrid license when transferring ownership vested in the shelter under section 3913, subsection 4 to a person buying or otherwise accepting ownership. The department shall provide animal shelters with temporary license forms. The shelter shall complete all information prescribed on the form, provide the owner with the original temporary license and submit the copy for the municipal clerk and the animal control officer to the appropriate municipal clerk. The shelter may retain a copy of the temporary license to comply with section 3914. A temporary license is valid for a period of 10 days beginning on the date of issuance. An animal shelter may not charge a fee for issuing a temporary license.

Sec. 8. 7 MRSA §3924, sub-§2, as enacted by PL 1987, c. 383, §3, is amended to read:

2. Unlawful use of collar or tag. ~~Any~~ A person who removes a ~~dog~~ tag or rabies tag or who places either a collar or rabies tag on ~~any~~ a dog or wolf hybrid not described on it or for which the license was not issued commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

See title page for effective date.

CHAPTER 410

S.P. 139 - L.D. 325

An Act to Revise the Maine Turnpike Authority's Powers with Respect to Commuter Tolls

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

Whereas, traffic on the Maine Turnpike has increased 14% since 1991; and

Whereas, congestion pricing may have potential as a demand management strategy; and

Whereas, the Sensible Transportation Policy Act requires that alternatives be evaluated prior to increasing highway capacity through road building; and

Whereas, it is in the public's interest to begin a congestion pricing study in the summer of 1995; 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. 23 MRSA §1973, sub-§4, ¶A, as enacted by PL 1981, c. 595, §3, is amended to read:

A. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates ~~which rates shall that may not exceed 50% of the normal passenger vehicle toll in effect on June 1, 1981, except that after July 1, 1985, commuter fares may be adjusted generally proportionately to any other fare adjustments.~~

Sec. 2. 23 MRSA §1973, sub-§4, ¶A-1 is enacted to read:

A-1. The authority is prohibited from imposing variable surcharges based on the time of day. Notwithstanding any other provisions of law, the evaluation of congestion pricing as a reasonable transportation alternative to widening or expansion of the Maine Turnpike to 3 lanes in each direction from Exit 1 to Exit 6A on a projected basis without actual implementation of congestion pricing on a demonstration basis meets the criteria of section 73 and chapter 24.

Sec. 3. Reports on congestion pricing studies. The Maine Turnpike Authority shall submit an interim report on the congestion pricing studies to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 1996. The interim report must describe the study design, including adjustments to fees, fares and tolls by class of vehicle, time of day, week or year, number of passengers or any other factor on which an adjustment is based. The interim report must describe the segments of the turnpike on which the study has been or will be implemented.

The Maine Turnpike Authority shall submit a final report to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 1997 on congestion

pricing studies conducted in 1995 and 1996. The final report must include conclusions from the study.

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

Effective July 3, 1995.

CHAPTER 411

H.P. 1107 - L.D. 1555

An Act to Amend the Emergency Planning and Community Right to Know Laws

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

Sec. 1. 37-B MRSA §797, first ¶, as amended by PL 1993, c. 355, §1, is further amended to read:

A person required to submit a facility emergency response plan, material safety data sheet or list of hazardous chemicals and extremely hazardous substances must submit a Maine chemical inventory reporting form to the commission, ~~the Department of Environmental Protection,~~ the local emergency planning committee and the local fire department with jurisdiction over the facility. The inventory reporting form and fee must be submitted by March 1st annually for the previous calendar year, except that the inventory reporting form and fee may be submitted with the registration fee in the year of reporting if the reporting facility can project its inventory levels for the current year. Information on the inventory of extremely hazardous substances and hazardous chemicals for the previous calendar year is required on the form. These forms must state, at a minimum:

See title page for effective date.

CHAPTER 412

S.P. 515 - L.D. 1400

An Act to Amend the Adoption Laws

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

Whereas, many adoptions have been unnecessarily delayed because of differing interpretations of the effect of Public Law 1993, chapter 686; and

Whereas, some adoptions will not be finalized until the meaning of the law is clarified through legislation; 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. 19 MRSA §1102, sub-§4, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

4. Birth parent; biological parent. "Birth parent" or "biological parent" means a person who is the biological parent of a child.

A. "Birth father" means the male birth parent of a child.

B. "Birth mother" means the female birth parent of a child.

Sec. 2. 19 MRSA §1102, sub-§8-A is enacted to read:

8-A. Parent. "Parent" means the legal parent or the legal guardian when no legal parent exists.

Sec. 3. 19 MRSA §1103, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. District Court. The District Court has jurisdiction to conduct hearings pursuant to section ~~1104, subsection 4~~ 1115.

Sec. 4. 19 MRSA §1104, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Independent adoption. If the adoptee is not placed by a licensed child placing agency or the department, the petition for adoption must be filed in the county where the adoptee resides, where the petitioners reside or where the consent has been filed.

Sec. 5. 19 MRSA §1104, sub-§4, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed.

Sec. 6. 19 MRSA §§1107 and 1108 are enacted to read:

§1107. Indian Child Welfare Act

The Indian Child Welfare Act, United States Code, Title 25, Section 1901 et seq. governs all

proceedings under this chapter that pertain to an Indian child as defined in that Act.

§1108. Application of prior laws

The laws in effect on July 31, 1994 apply to proceedings for which any of the following occurred before August 1, 1994:

- 1. Consent.** The filing of a consent;
- 2. Surrender and release.** The filing of a surrender and release;
- 3. Waiver of notice.** The filing of a waiver of notice by a father or putative father under former section 532-C;
- 4. Termination of parental rights.** The issuance of an order terminating parental rights; or
- 5. Adoption petition.** The filing of an adoption petition.

Sec. 7. 19 MRSA §1111, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Notification. If the judge finds from the affidavit of the birth mother that the putative father's whereabouts are known, the judge shall order that notice of the mother's intent to consent to adoption or to execute a surrender and release, or the mother's actual consent or surrender and release, for the purpose of adoption of the child, be served upon the putative father of the child. If the judge finds that the putative father's whereabouts are unknown, then the court shall order notice by publication in accordance with the Maine Rules of Civil Procedure. If the birth mother does not know or refuses to tell the court who the birth father is, the court may order publication in accordance with the Maine Rules of Civil Procedure in a newspaper of general circulation in the area where the petition is filed, where the birth mother became pregnant or where the putative father is most likely to be located. The notice must specify the names of the birth mother and the child.

Sec. 8. 19 MRSA §1111, sub-§2-A is enacted to read:

2-A. Waiver of notice by putative father or legal father who is not the biological father. A putative father or a legal father who is not the biological father may waive his right to notice in a document acknowledged before a notary public or a judge of probate. The document must indicate that the putative father or legal father understands the consequences of the waiver of notice. The legal father must attach to the waiver of notice document an affidavit stating that, although he is the legal father, he is not the biological father. The notary public may not

be an attorney who represents either the mother or any person who is likely to become the legal guardian, custodian or parent of the child.

Sec. 9. 19 MRSA §1111, sub-§6, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

6. Notice. Notice of the hearing must be given to the putative father, the birth mother, the attorney for the child and any other parties the judge determines appropriate. Notice need not be given to a putative father or a legal father who is not the biological father and who has waived his right to notice as provided in subsection 2-A.

Sec. 10. 19 MRSA §1112, sub-§1, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

1. Surrender and release or consent to adopt. With the approval of the judge of probate of any county within the State and after a determination by the judge that a surrender and release or a consent is in the best ~~interests~~ interest of all parties the child, the parents or surviving parent of a child may:

- A. Surrender and release all parental rights to the child and the custody and control of the child to a licensed child placing agency or the department to enable the licensed child placing agency or the department to have the child adopted by some suitable person; or
- B. Consent to have the child adopted by a specified petitioner.

The parents or surviving parent must execute the surrender and release or consent in the presence of the judge. The waiver of notice by the father or putative father is governed by section 1111, subsection 2-A.

Sec. 11. 19 MRSA §1112, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Conditions. The court may approve a consent or a surrender and release only if the following conditions are met:

A. A licensed child placing agency or the department certifies to the court that counseling was provided or was offered and refused; . This requirement does not apply if:

- (1) One of the petitioners is a blood relative; or
- (2) The adoptee is an adult;

B. The court has, ~~at least 3 days prior to receiving the parent's signature,~~ explained the individ-

ual's parental rights and responsibilities ~~and~~, the effects of the consent or the surrender and release, that the individual has the right to revoke the consent or surrender and release within 3 days and the existence of the adoption registry and the services available under Title 22, section 2706-A; and

C. The court determines that the consent or the surrender and release has been duly executed and was given freely after the parent was informed of the parent's rights; ~~and~~

D. At least 3 days have elapsed since the parents or parent executed the surrender and release or consent and the parents or parent did not withdraw or revoke the consent or surrender and release before the judge or, if the judge was not available, before the register.

Sec. 12. 19 MRSA §1112, sub-§3, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

3. Records. The consent or surrender and release must be executed in duplicate. One original consent or surrender and release must be filed in the Probate Court where the consent or the surrender and release is executed. The other original consent or the surrender and release must be filed in the Probate Court in which the petition is filed. The court in which the consent or surrender and release is executed shall provide an attested copy to each consenting or surrendering party and 2 attested copies to the transferee agency, attorney or adoptive parents. The copy given to the consenting or surrendering party must contain a statement explaining the importance of keeping the court informed of a current name and address.

Sec. 13. 19 MRSA §1112, sub-§4, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

4. Validity. ~~To be valid, a A consent or a surrender and release executed in this State must be in accordance with this chapter~~ is not valid until 3 days after it has been executed.

Sec. 14. 19 MRSA §1112, sub-§8 is enacted to read:

8. Reciprocity. The court shall accept a consent or surrender and release by a court of comparable jurisdiction in another state if that court has complied with the requirements of that state. The court shall accept a waiver of notice by a putative father or a legal father who is not the biological father that was executed in another state and in compliance with that state's requirements.

Sec. 15. 19 MRSA §1114, sub-§3, ¶A, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

A. The court ~~shall~~ may appoint a guardian ad litem for the child. The court shall pay reasonable costs and expenses for the guardian ad litem. The appointment must be made as soon as possible after the petition for termination of parental rights is initiated.

Sec. 16. 19 MRSA §1115, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Determinations. If the court determines that adoption is still a viable plan for the child, the court shall schedule another judicial review within 2 years. If the court determines that adoption is no longer a viable plan, the court shall attempt to notify the birth parents, who must be given an opportunity to present an acceptable plan for the child. If either or both parents are able and willing to assume physical custody of the child, then the court shall declare the consent or the surrender and release void.

If the birth parents are not notified or are unable or unwilling to assume physical custody of the child or if the court determines that placement of the child with the birth parents would constitute jeopardy as defined by Title 22, section 4002, subsection 6, then the case must be transferred to the District Court for a hearing pursuant to Title 22, section 4038-A.

Sec. 17. 19 MRSA §1122, sub-§2, ¶A, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

A. A putative father or a legal father who is not the biological father:

(1) Who received notice and who failed to respond to the notice within the prescribed time period;

(2) Who waived his right to notice under section 1111, subsection 2-A; or

(3) Who failed to meet the standards of section 1111, subsection 8;

Sec. 18. 19 MRSA §1123, sub-§1, ¶E, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed.

Sec. 19. 19 MRSA §1124, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed.

Sec. 20. 19 MRSA §1125, sub-§1, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

1. Adoption study; investigation. Upon the filing of a petition for adoption of a minor child, ~~unless one of the petitioners is a blood relative of the child or the petitioners have received the child from the department or from a licensed child placing agency,~~ the court shall notify the department ~~or a licensed child placing agency,~~ which shall, ~~either through its own workers or through a licensed adoption agency,~~ investigate the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or agency shall submit the report to the court. The court may order an adoption study, investigation and home study if one of the petitioners is a blood relative.

Sec. 21. 19 MRSA §1127, sub-§1, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

1. Allowable payments. ~~Only~~ Except when one of the petitioners is a blood relative or the adoptee is an adult, only the following expenses may be paid by or on behalf of a petitioner in any proceeding under this chapter:

- A. The actual cost of legal services related to the consent or the surrender and release and to the adoption process;
- B. Prenatal and postnatal counseling expenses for the birth mother;
- C. Prenatal, birthing and other related medical expenses for the birth mother;
- D. Necessary transportation expenses to obtain the services listed in paragraphs A, B and C;
- E. Foster care expenses for the child;
- F. Necessary living expenses for the birth mother and the child; ~~and~~
- G. For the birth father, legal and counseling expenses related to the consent, the surrender and release and the adoption process; ~~and~~
- H. Fees to a licensed child placing agency providing services in connection with the pending adoption.

Sec. 22. 19 MRSA §1127, sub-§2, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

2. Accounting. Prior to the dispositional hearing pursuant to section 1129, the petitioner shall file a full accounting of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The

accounting report must be signed under penalty of perjury and must be submitted to the court on or before the final decree is granted. The accounting report must be itemized and show the services related to the adoption or to the placement of the adoptee for adoption that were received by the adoptee's parents, by the adoptee, or on behalf of the petitioner. The accounting must include the dates of each payment and the names and addresses of each attorney, physician, hospital, licensed adoption agency or other person or organization who received any funds or anything of value from the petitioner in connection with the adoption or the placement of the adoptee with the petitioner, or participated in any way in the handling of the funds, either directly or indirectly. This subsection does not apply when one of the petitioners is a blood relative or the adoptee is an adult.

Sec. 23. 19 MRSA §1129, sub-§1, ¶C, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed.

Sec. 24. 19 MRSA §1129, sub-§2, ¶B, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

B. The capacity and disposition of the adopting person or persons, the birth parent or birth parents or the putative father to educate and give the adoptee love, affection and guidance and to educate and create a milieu that fosters the religion, racial identity and culture of the adoptee to meet the needs of the adoptee, taking into account the adoptee's cultural, ethnic or racial background. An adoption may not be delayed or denied solely because the adoptive parent and the child do not share the same race, color or national origin; and

Sec. 25. 19 MRSA §1129, sub-§3, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

3. Final decree. The court shall enter its findings in a written decree that includes the new name of the adoptee ~~and any other name by which the adoptee has been known.~~ The final decree must further order that from the date of the decree the adoptee is the child of the petitioner and must be accorded the status set forth in section 1105. If the court determines that it is in the best interest of the child, the court may require that the names of the child and of the petitioners be kept confidential.

Sec. 26. 19 MRSA §1129, sub-§4, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

4. Notice upon completion. Upon ~~finalization~~ completion of an adoption proceeding, the birth parents who consented to an adoption or who executed

a surrender and release must be notified of the ~~finalization completion by certified regular mail, restricted delivery and return receipt requested~~, at their last known address. When the birth parents' rights have been terminated pursuant to Title 22, section 4055, the notice must be given to the department and the department shall notify the birth parents of the ~~finalization completion by certified regular mail, restricted delivery and return receipt requested~~, at their last known address. Actual receipt of the notice is not a precondition of ~~finalization completion~~ and does not affect the rights or responsibilities of adoptees or adoptive parents.

Sec. 27. 19 MRSA §1130, sub-§3, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

3. Representation. An attorney or guardian ad litem appointed to represent a party in an adoption proceeding in Probate Court continues to represent the interests of that ~~client party~~ in any appeal unless otherwise ordered by the court.

Sec. 28. 19 MRSA §1131, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

§1131. Records confidential

~~All Notwithstanding any other provision of law, all Probate Court records relating to any adoption decreed on or after August 8, 1953 are declared to be confidential. The Probate Court shall keep records of those adoptions segregated from all other court records. The adoption records may be examined only upon authorization by the judge of the Probate Court. In any case where it is considered proper that an examination be authorized, the judge may in lieu of an examination, or in addition to an examination, grant authority to If a Probate Court Judge determines that examination of records pertaining to a particular adoption is proper, the judge may authorize that examination by specified persons, authorize the register of probate to disclose to specified persons any information contained in the records by letter, certificate or copy of the record or authorize a combination of both examination and disclosure.~~

Any medical or genetic information in the court records relating to an adoption must be made available to the adopted child upon reaching the age of 18, the adopted child's descendants, adoptive parents or legal guardian on petition of the court.

Sec. 29. 19 MRSA §1136, sub-§1, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

1. Grounds. A judge of probate may, on petition of 2 or more persons, after notice and hearing,

reverse and annul a decree of the Probate Court for the following reasons:

A. The court finds that the adoption was obtained as a result of fraud, duress or illegal procedures; or

B. Other good cause shown consistent with the best interest of the child.

Sec. 30. 19 MRSA §1136, sub-§3 is enacted to read:

3. Certificate of annulment. After the Probate Court annuls a decree of adoption, the Register of Probate shall transmit immediately a certified copy of the annulment to the State Registrar of Vital Statistics.

Sec. 31. Application. This Act applies to adoption petitions filed on or after the effective date of this Act. The Probate Court shall apply either Public Law 1993, chapter 686 or this Act to adoptions for which any of the documents listed in the Maine Revised Statutes, Title 19, section 1108, were executed on or after August 1, 1994, but before the effective date of this Act, whichever Act reduces delay in the adoption process for that particular adoption, consistent with the best interest of the child.

Sec. 32. Forms. The Advisory Committee on Probate Rules shall adopt by rule a form that Maine Probate Courts will mail to a court of comparable jurisdiction in another jurisdiction to provide to parents executing consents or surrender and releases when the adoption is anticipated to be completed in the State. The form must provide an explanation of Maine adoption law and must provide a place for the parents to sign certifying that they received the form. The court in the other jurisdiction shall send a copy of the executed form to the Maine Probate Court.

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

Effective July 3, 1995.

CHAPTER 413

H.P. 576 - L.D. 781

An Act Protecting a Citizen's Right of Petition under the Constitution

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

Sec. 1. 14 MRSA §556 is enacted to read:

§556. Special motion to dismiss

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. The court shall advance the special motion so that it may be heard and determined with as little delay as possible. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The Attorney General on the Attorney General's behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed may intervene to defend or otherwise support the moving party on the special motion.

All discovery proceedings are stayed upon the filing of the special motion under this section, except that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery remains in effect until notice of entry of the order ruling on the special motion.

The special motion to dismiss may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper.

If the court grants a special motion to dismiss, the court may award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. This section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, "a party's exercise of its right of petition" means any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement

falling within constitutional protection of the right to petition government.

Sec. 2. Application. The provisions of this Act apply to all claims, counterclaims and cross claims that are not fully adjudicated on, or subsequent to, the effective date of this Act. A party may file a special motion to dismiss a claim, counterclaim or cross claim in existence on the effective date of this Act within 60 days of the effective date of this Act.

See title page for effective date.

CHAPTER 414
S.P. 247 - L.D. 644

**An Act to Expand Eligibility for
Benefits under the Adoption
Assistance Program**

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

Whereas, the Adoption Assistance Program was expanded to apply to finalized adoptions in specific situations, effective August 1, 1994, but that portion of the law has been interpreted to apply to only those adoptions finalized on or after August 1, 1994; 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. 19 MRSA §1142, as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

§1142. Adoption assistance

1. Application. Applications for the Adoption Assistance Program may be submitted by the following persons:

A. Foster parents interested in adopting an eligible child in their care;

B. Other persons interested in adopting an eligible child; and

C. Adoptive parents who were not informed of the program or of facts relevant to the child's eligibility when they adopted a child who was at

the time of adoption eligible for participation in the program.

2. Standards. All applicants for the Adoption Assistance Program must meet department standards for adoption except for financial eligibility.

3. Assistance. Assistance may be provided for special needs only and may be varied based on the special needs of the child. Assistance may be provided for a period of time based on the special needs of the child.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children - Foster Care		
All Other	\$15,221	\$30,442
Provides funds for the increased state share of Adoption Assistance Program costs.		
Child Welfare Services		
All Other	10,368	20,736
Provides funds for the Adoption Assistance Program.		
Purchased Social Services		
All Other	(25,589)	(46,619)
Deappropriates funds as a result of a reduction in funding for family outreach counseling in fiscal year 1995-96 and the elimination of funding for family outreach counseling in fiscal year 1996-97 in order to provide funds for the Adoption Assistance Program.		
Social Services - Regional		
All Other		(4,559)
Deappropriates funds due to a reduction in general operating expenses in order to provide funds for		

the Adoption Assistance Program.

**DEPARTMENT OF
HUMAN SERVICES
TOTAL**

- \$0- - \$0-

Sec. 3. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children - Foster Care		
All Other	\$26,251	\$52,502
Allocates funds representing the federal share of the increased funding for the Adoption Assistance Program.		

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

Effective July 3, 1995.

CHAPTER 415

S.P. 167 - L.D. 428

An Act to Require That Additions to the Endangered Species List Be Approved by the Legislature

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

Sec. 1. 12 MRSA §7001, sub-§7, as enacted by PL 1979, c. 420, §1, is amended to read:

7. Endangered species. "Endangered species" means any species of fish or wildlife ~~which that~~ has been determined by the Secretary of the Interior of the United States pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended, ~~or the commissioner pursuant to this chapter~~ to be in danger of extinction throughout all or a significant portion of its range or listed under section 7753, subsection 3.

Sec. 2. 12 MRSA §7753, as enacted by PL 1979, c. 420, §1, is amended to read:

§7753. Designation of endangered species

1. Standards. The commissioner shall ~~designate~~ recommend a species to be listed as endangered or threatened whenever ~~he~~ the commissioner finds one of the following to exist:

- A. The present or threatened destruction, modification or curtailment of its habitat or range;
- B. Overutilization for commercial, sporting, scientific, educational or other purposes;
- C. Disease or predation;
- D. Inadequacy of existing regulatory mechanisms; or
- E. Other natural or manmade factors affecting its continued existence within the State.

2. Commissioner's duties. In ~~designating~~ recommending a species to be listed as endangered or threatened, the commissioner shall:

- A. Make use of the best scientific, commercial and other data available ~~to him~~;
- B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and
- C. Maintain a list of all species ~~which he~~ that the Legislature has designated to be endangered or threatened, naming each species ~~contained therein~~ by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened, ~~except that no species shall be added to or delete from the list unless notice of the change is published and a public hearing thereon has been held in accordance with the procedures established in section 7035, subsection 1.~~

3. Legislative authority. The Legislature, as sole authority, shall designate a species as endangered or threatened. The list is as follows:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
<u>Least Tern</u>	<u>Sterna albifrons</u>	<u>Endangered</u>
<u>Golden Eagle</u>	<u>Aquila chrysaetos</u>	<u>Endangered</u>
<u>Piping Plover</u>	<u>Charadrius melodus</u>	<u>Endangered</u>

<u>Sedge Wren</u>	<u>Cistothorus platenis</u>	<u>Endangered</u>
<u>Grasshopper Sparrow</u>	<u>Ammodramus savannarum</u>	<u>Endangered</u>
<u>Box Turtle</u>	<u>Terrapene carolina</u>	<u>Endangered</u>
<u>Black Racer</u>	<u>Coluber constrictor</u>	<u>Endangered</u>
<u>Roseate Tern</u>	<u>Sterna dougallii</u>	<u>Threatened</u>
<u>Northern Bog Lemming</u>	<u>Synaptomys borealis</u>	<u>Threatened</u>
<u>Loggerhead Turtle</u>	<u>Caretta caretta</u>	<u>Threatened</u>
<u>Blanding's Turtle</u>	<u>Emydoidea blandingii</u>	<u>Threatened</u>
<u>Spotted Turtle</u>	<u>Clemmys guttata</u>	<u>Threatened</u>

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter II.

5. Designation by Legislature. The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

See title page for effective date.

CHAPTER 416

H.P. 691 - L.D. 942

An Act to Improve Highway Signing Information

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

Sec. 1. 23 MRSA §1912-B is enacted to read:

§1912-B. Logo signs on the interstate highway system

Pursuant to rules adopted under this section, the commissioner may authorize the placement of logo signs within the right-of-way of the interstate system. A logo sign may not be larger than existing service

information signs permitted on the interstate highway. More than one sign per exit is prohibited. A logo sign may include logos for tourist attractions, such as museums or other locations of public interest. To the fullest extent possible, the commissioner shall ensure that each logo sign include at least one logo for gas, one logo for food and one logo for lodging. Rules adopted under this section must regulate the size, shape, manner and location of logo signs and must describe the procedure for applying to the department for permission to erect a logo sign and the criteria used by the department to select among applicants. The commissioner shall charge an initial fee for the production and placement of a logo sign and an annual fee to cover the maintenance costs. Fees charged must approximate direct costs.

The commissioner, with the advice of the Travel Information Advisory Council, shall adopt rules to implement this section. Those rules may not be adopted until March 15, 1996. The commissioner shall report to the Joint Standing Committee on Transportation in January 1996 on the development of those rules.

Sec. 2. 23 MRSA §1913-A, sub-§6, as corrected by RR 1991, c. 2, §89, is amended to read:

6. Interstate system. None of the signs referred to in this section, other than signs conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to section 1912-B, may be located within the right-of-way limits of the interstate system or within 660 feet of the nearest edge of the interstate system and erected in such a fashion that the message may be read from the interstate highway.

Sec. 3. Improvement of highway signing. The Department of Transportation shall review highway signing and develop a plan to make the State's highway signing easier to use. That plan must be implemented by the department as signs are replaced and as funding becomes available. In developing that plan, the department shall consider:

1. Including the distance in miles to towns on signs that indicate the direction to a town;
2. Including on directional signs the name and distance in miles to known tourist destinations and towns along that route;
3. Placing signs indicating lane use over the road and respective lane; and
4. Improving signing to major points of interest to tourists.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96 1996-97

**TRANSPORTATION,
DEPARTMENT OF**

Logo Signing Program

All Other	\$5,000	\$5,000
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Authorizes expenditures
for general operating
expenses of the Logo
Signing Program.

See title page for effective date.

CHAPTER 417

H.P. 866 - L.D. 1216

**An Act to Amend the Maine Civil
Rights Act**

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

Sec. 1. 5 MRSA §4681, as amended by PL 1993, c. 442, §1, is further amended to read:

**§4681. Violations of constitutional rights; civil
action by Attorney General**

Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured. Each violation of this section is a civil violation for which a civil penalty of not more than \$5,000 for each defendant may be adjudged. These penalties must be applied by the Attorney General in carrying out this chapter. The civil action must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this

section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

Sec. 2. 5 MRSA §4682, as amended by PL 1993, c. 442, §2, is further amended to read:

§4682. Violations of constitutional rights; civil actions by aggrieved persons

Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

Sec. 3. 5 MRSA §4684-B is enacted to read:

§4684-B. Additional protections

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

A. "Building" means any structure having a roof

or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed.

B. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body.

C. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous.

2. Violation. It is a violation of this section for any person, whether or not acting under color of law, to intentionally interfere or attempt to intentionally interfere with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State by any of the following conduct:

A. Engaging in the physical obstruction of a building;

B. Making or causing repeated telephone calls to a person or a building, whether or not conversation ensues, with the intent to impede access to a person's or building's telephone lines or otherwise disrupt a person's or building's activities;

C. Activating a device or exposing a substance that releases noxious and offensive odors within a building; or

D. After having been ordered by a law enforcement officer to cease such noise, intentionally making noise that can be heard within a building and with the further intent either:

(1) To jeopardize the health of persons receiving health services within the building; or

(2) To interfere with the safe and effective delivery of those services within the building.

See title page for effective date.

CHAPTER 418

S.P. 548 - L.D. 1496

An Act to Improve the AFDC Program

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

PART A

Sec. A-1. 22 MRSA §1, 3rd ¶, as repealed and replaced by PL 1989, c. 878, Pt. A, §51, is amended to read:

The commissioner may employ any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department ~~shall be~~ are under the immediate supervision, direction and control of the commissioner. These personnel ~~shall be~~ are employed subject to the Civil Service Law, except the Deputy Commissioner; Director, Bureau of Child and Family Services; Director, Bureau of Elder and Adult Services; Director, Bureau of Health; ~~Director, Bureau of Rehabilitation;~~ Director, Bureau of ~~Income Maintenance~~ Family Independence; Director, State Health Planning and Development Agency; Director, Bureau of Medical Services; and Assistant Deputy Commissioners.

Sec. A-2. 22 MRSA §9-A, sub-§1, ¶B, as enacted by PL 1989, c. 566, is repealed.

Sec. A-3. 22 MRSA §9-A, sub-§2, as enacted by PL 1989, c. 566, is repealed.

Sec. A-4. 22 MRSA §3104, sub-§12 is enacted to read:

12. Penalty. The unauthorized issuance, redemption, use, transfer, acquisition, alteration or possession of coupons or other program access device may subject an individual, partnership, corporation or other legal entity to prosecution by the State in accordance with Sections 15 (b) and 15 (c) of the federal Food Stamp Act of 1977. Penalties are in accordance with those outlined in federal law or regulations.

Sec. A-5. 22 MRSA §3741, as amended by PL 1983, c. 849, §1, is repealed and the following enacted in its place:

§3741. Aid to dependent children; promotion of economic self-support

The department shall promote economic self-support among families in accordance with the provisions of this chapter.

1. Administering program. The department may administer and operate a program of aid to dependent children within the United States Social Security Act and any amendments and additions to the Act. The department shall also implement and operate a program of aid to the dependent children of intact families with unemployed parents in accordance with 42 United States Code, Section 607, as amended.

2. Promoting support by both parents. The department shall enforce laws and establish policies to ensure that both parents contribute to the economic support of their child or children and to promote every child's right to economic support from both parents.

3. Move to sustainable employment. The department shall assist parents who receive benefits under the Aid to Families with Dependent Children program to move as quickly as possible into employment that will sustain the family.

4. Training; partnerships. The department shall increase the employability of parents who receive benefits under the Aid to Families with Dependent Children program through on-the-job training and strengthening the public and private workforce partnership by developing training sites and jobs for those parents.

5. Teenage pregnancies; minimization. The department shall provide education and services to minimize teenage pregnancies with special attention paid to the role of the male.

6. Safety net of services. The department shall ensure that the State's safety net of services offers a hand-up rather than a handout.

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

A. "AFDC" means the program of Aid to Families with Dependent Children, under the United States Social Security Act, 42 United States Code, Section 601, and any benefits payable under that program.

B. "Family Support Act" means the federal Family Support Act of 1988, Public Law 100-485.

Sec. A-6. 22 MRSA §3741-A, as amended by PL 1993, c. 385, §3, is repealed.

Sec. A-7. 22 MRSA §3741-C, as amended by PL 1993, c. 385, §5, is repealed and the following enacted in its place:

§3741-C. Program requirements

Beginning October 1, 1995, all recipients of AFDC must sign a family contract as outlined in section 3741-J and meet the following program requirements.

1. Participation. A recipient of AFDC must participate in an education, training or employment program as described in the Family Support Act unless exempt under paragraphs A and B.

A. The recipient is exempt if that recipient is the parent or another relative of a child under 2 years of age and is personally providing care for that child; is unable to work due to a physically or mentally handicapping condition as determined by the department; is needed in the home to care for an impaired household member; or is 60 years of age or older.

B. The recipient is exempt if that recipient has a child who has needs that are professionally documented related to physical disabilities, mental illness, mental retardation, developmental delays or disabilities, or emotional or behavioral problems.

2. Custodial parents not yet 20 years of age.

A custodial parent under 20 years of age who is a recipient of AFDC and has not completed high school or its equivalent must participate in the ASPIRE-JOBS Program regardless of the age of the youngest child and attend courses to complete high school, with an emphasis on education in a traditional high school setting.

3. Voucher payments only. A custodial parent who is under 18 years of age and who is a recipient of AFDC must receive those benefits in the form of vouchers.

4. Home visit. The department shall implement a home visit program in Regions II, IV and V, as defined in section 6-A, under which the department shall visit the homes of all persons upon determination of eligibility for Aid to Families with Dependent Children for the following purposes:

A. To complete the family contract required by section 3741-J;

B. To reinforce the reporting responsibilities of the family, including child support enforcement;

C. To verify information provided at the time of application, including checking social security numbers; and

D. To request and receive any additional information.

Sec. A-8. 22 MRSA §3741-D, as enacted by PL 1989, c. 839, §1, is repealed.

Sec. A-9. 22 MRSA §3741-E, sub-§5, as amended by PL 1993, c. 709, §2, is further amended to read:

5. Exception. Notwithstanding subsection 4, the department may use up to ~~20%~~ 30% of ASPIRE-JOBS Program funds to serve persons regardless of their date of participation in the ASPIRE-JOBS Program ~~orientation work evaluation~~. The department

may also use ASPIRE-JOBS Program funds to serve persons regardless of their date of participation in the ASPIRE-JOBS Program ~~orientation work evaluation~~ when other organizations or agencies provide benefits to those participants that are ~~equal to or greater than the value of services that the persons are eligible to receive under the rules of the ASPIRE JOBS Program of substantial worth.~~

Sec. A-10. 22 MRSA §3741-G, as amended by PL 1993, c. 385, §9, is repealed and the following enacted in its place:

§3741-G. Transitional medical assistance

The department shall administer a program to provide transitional eligibility for medical assistance in accordance with the Family Support Act and this section.

1. Earnings; hours worked; loss of disregards.

In order to receive transitional Medicaid as the result of increased earnings, number of hours worked or the loss of disregards, a family must have received AFDC for at least 3 of the last 6 months.

2. Work search. The department shall apply for a waiver from the federal Department of Health and Human Services to provide transitional Medicaid benefits for families whose eligibility for AFDC has terminated due to employment obtained through work search activities pursuant to this chapter, in which case the family must have received AFDC for at least one of the last 3 months.

3. Periodic reporting. The department shall require reporting of income or circumstances in the 5th and 11th months of receipt of extended medical assistance.

4. Premiums; copayments; deductibles. To continue to receive extended medical assistance following the first 6 months of coverage, a family must pay premiums for the 7th to 9th months at \$10 per month and for the 10th to 12th months at \$20 per month.

5. Scope of services. The scope of services provided under this section must be the same as the scope of services provided when a family received AFDC.

Sec. A-11. 22 MRSA §3741-I, sub-§1, as amended by PL 1993, c. 385, §11, is repealed and the following enacted in its place:

1. Transitional child care assistance. The department shall administer a program to provide transitional child care assistance in accordance with the Family Support Act and this subsection.

A. In order to receive transitional child care assistance as the result of increased earnings, number of hours worked or the loss of disregards, the family must have received AFDC for at least 3 of the last 6 months.

B. The department shall apply for a waiver from the federal Department of Health and Human Services to provide transitional child care assistance for families whose eligibility for AFDC has terminated due to work search activities pursuant to this chapter, in which case the family must have received AFDC for at least one of the last 3 months.

C. The department shall require periodic reporting of income or circumstances in the 5th and 11th months of receipt of transitional child care.

D. To continue to receive transitional child care, a family must pay premiums for the first 3 months at \$10 per month, for the second 3 months at \$20 per month, for the third 3 months at \$30 per month and for the fourth 3 months at \$40 per month.

E. Transitional child care assistance must provide the actual cost of child care, less participant contribution, up to the maximum allowable rate established in section 3741-H.

Sec. A-12. 22 MRSA §3741-J, as enacted by PL 1993, c. 385, §13, is repealed and the following enacted in its place:

§3741-J. Family contract

During the ASPIRE-JOBS Program referral process, a representative of the department and each AFDC caretaker relative shall sign a form referred to as a family contract. The family contract must state the responsibilities of the parties to the agreement, including but not limited to cooperation in child support enforcement and determination of paternity, the requirements of ASPIRE-JOBS Program participation and referral to parenting activities and health care services. Refusal to sign the family contract or to abide by the provisions of the contract, except for referral to parenting activities and health care services, will result in sanctions against the caretaker relative. Failure to comply with referrals to parenting activities or health care services without good cause will result in review and evaluation of the reason for noncompliance and may result in sanctions.

Sec. A-13. 22 MRSA §3741-K, as enacted by PL 1993, c. 709, §3, is repealed and the following enacted in its place:

§3741-K. ASPIRE-Plus

The department shall apply to the federal Department of Health and Human Services and the federal Department of Agriculture for waivers to establish a work supplementation program called ASPIRE-Plus to encourage employers to develop jobs for ASPIRE-JOBS Program participants and to fund the program through diversion of funds that would otherwise have been used to provide AFDC and Food Stamp benefits for the family or household.

1. Reimbursement. ASPIRE-Plus provides reimbursement of up to 1/2 of the minimum wage for employers in department Regions II, IV and V that hire ASPIRE-JOBS Program participants.

2. Funding. ASPIRE-Plus is funded with the funds that would have been used to provide AFDC and Food Stamp benefits for which the household was eligible, without considering the income from the ASPIRE-Plus wage.

3. Program design. The duration of ASPIRE-Plus is 5 years. Participation must be determined on an individual basis and is dependent on the availability of funds. The number of participants is limited to 1,500 over the length of the project.

4. Employer participation. The department shall adopt rules concerning public and private sector employer participation in ASPIRE-Plus in accordance with this subsection.

A. An employer may employ at any one time up to one project participant or 10% of the total number of the employer's employees, whichever is greater, unless this limit is waived by the Director of the Bureau of Family Independence.

B. Employers may be excluded from participation in ASPIRE-Plus for failure to abide by project requirements, demonstrated unwillingness to comply with the stated intent of the department, a pattern of terminating participants prior to the completion of training, a pattern of not continuing employment when the subsidy ends or other good cause determined by the department.

C. Employers shall meet the following requirements to qualify for participation. The job may not require work in excess of 40 hours per week. The hiring of the participant may not displace regular employees or fill vacant positions previously established. The job must pay at least minimum wage and not pay substantially less than the wage paid for similar jobs in the local economy, with appropriate adjustment for experience and training. The job must provide the participant with sick leave, holiday and vacation absences in conformance with the employer's

rules for new employees and must provide the participant with group health insurance benefits. The employer shall provide a mentor for the participant.

5. Wage supplement. An ASPIRE-Plus participant whose participation in ASPIRE-Plus results in the loss of net income must receive a wage supplement to provide the same level of net income as the participant had prior to participation in ASPIRE-Plus. Participants are entitled to retain all child support obligation payments collected by the department on current obligations for children within the family or household.

6. Eligibility for medical assistance; child care. An ASPIRE-Plus participant who is eligible for Medicaid when the participant enters the project remains eligible while participating in ASPIRE-Plus. Work-related child care services must be provided for all participants in accordance with the Family Support Act.

7. Employer agreements. An employer must sign an agreement for each participant hired by the employer under ASPIRE-Plus. The agreement must specify the job for which the participant is hired and the employer's responsibility to repay reimbursements if the employer violates project rules. The employer must agree to abide by all requirements of the project, including the requirement that the participant's job not supplant an existing job.

Sec. A-14. 22 MRSA §3741-L, as enacted by PL 1993, c. 709, §3, is amended to read:

§3741-L. Family planning services

To the extent funds permit, the department, in cooperation with the grant manager of the State's family planning system, shall develop and the grant manager of the statewide association of family planning service providers shall implement an intensive outreach program ~~Peer Education Project to provide~~ increase the use of family planning services to recipients of Aid to Families with Dependent Children. The target population must include, but is not limited to, recipients at risk of repeat pregnancy, recipients who are minors and individuals at risk of becoming Aid to Families with Dependent Children recipients. The department shall work with the grant manager to identify funds that may be matched with federal funds to support the outreach program.

The Peer Education Project shall provide direct, in-person family planning information, education and counseling to members of target populations and recruits, trains and, if funding is available, provides permanent employment for AFDC recipients as peer education workers.

Sec. A-15. 22 MRSA §3758, sub-§1, as amended by PL 1993, c. 349, §51, is repealed.

Sec. A-16. 22 MRSA §3758, sub-§§2, 3 and 4, as enacted by PL 1975, c. 441, §1, are repealed.

Sec. A-17. 22 MRSA §3758-A is enacted to read:

§3758-A. Transfer of funds

Notwithstanding any provision of law, except Title 5, section 1585, the department is authorized to transfer to the ASPIRE account as often as twice per fiscal year funds representing cost savings within the AFDC program resulting from ASPIRE-JOBS Program participants' obtaining employment during that fiscal year. The department shall determine the amount of savings in the aggregate by utilizing the number of ASPIRE-JOBS Program participants entering employment in each quarter of the fiscal year. Funds appropriated to either account do not lapse at the end of the fiscal year.

The department shall provide to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over human resource matters a report twice per year on the amount of funds transferred and the number of ASPIRE-JOBS Program participants entering employment.

Sec. A-18. 22 MRSA §3759, as reallocated by PL 1983, c. 816, Pt. A, §17, is repealed.

Sec. A-19. 22 MRSA §3760-H, as enacted by PL 1993, c. 385, §14, is amended to read:

§3760-H. Definitions

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

1. ASPIRE Program. "ASPIRE Program" means the Additional Support for People in Retraining and ~~Education~~ Employment Program established pursuant to chapter 1054-A.

2. ASPIRE-JOBS Program. "ASPIRE-JOBS Program" means the Additional Support for People in Retraining and ~~Education~~ Employment - Job Opportunities and Basic Skills Training Program established pursuant to chapter 1054-A and the ~~federal~~ Family Support Act of 1988, Public Law 100-485, as amended.

Sec. A-20. 22 MRSA §3760-I is enacted to read:

§3760-I. Alternative aid

1. Alternative aid. To assist applicants who seek short-term assistance to obtain or retain employment, the department shall pay one-time voucher payments of up to 3 times the monthly AFDC grant for which the family is eligible. If the family reapplies for AFDC within 3 months of receiving alternative aid, the family must repay any alternative aid received in excess of the amount that the family would have received on AFDC. The method of repayment must be the same as that used for the repayment of unintentional overpayments in the AFDC Program.

Sec. A-21. 22 MRSA §3772, as amended by PL 1993, c. 360, Pt. C, §3, is repealed.

Sec. A-22. 22 MRSA §3775, as amended by PL 1989, c. 878, Pt. A, §61, is repealed.

Sec. A-23. 22 MRSA §3776, as amended by PL 1989, c. 700, Pt. A, §§86 to 88, is repealed.

Sec. A-24. 22 MRSA §3778, as amended by PL 1983, c. 730, §8, is repealed.

Sec. A-25. 22 MRSA §3781-A, as enacted by PL 1993, c. 385, §16, is amended to read:

§3781-A. Additional Support for People in Retraining and Employment - Job Opportunities and Basic Skills Training Program established

1. ASPIRE-JOBS Program defined. "ASPIRE-JOBS Program" means the Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program established pursuant to this chapter and the federal Family Support Act of 1988, ~~Public Law 100-485~~, as amended.

2. Administration. The ASPIRE-JOBS Program is established. The department shall administer the program.

3. Purpose. The purpose of this program is to provide services and support to recipients of Aid to Families with Dependent Children and to reduce dependence on public assistance to the extent that adequate funding is available for that purpose. The principal goal is to assist the recipient in securing ~~stable employment that pays wages sufficient to maintain adequate family income without public assistance and to increase the basic life skills and self-confidence of the recipient~~ focus on helping people obtain and retain employment that sustains their families.

4. Limitation or reduction of services when resources inadequate. The department shall adopt rules in accordance with the Maine Administrative

Procedure Act that include methods for limiting or reducing services when adequate resources are not available.

Sec. A-26. 22 MRSA §3782-A, sub-§4, as repealed and replaced by PL 1993, c. 385, §17, is amended to read:

4. Rural access. The department shall adopt rules in accordance with the Maine Administrative Procedure Act to provide access to Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program services for recipients of Aid to Families with Dependent Children living in rural areas. Services must be provided on an equitable basis throughout the State. Access to these services may be reasonably limited by the department due to factors such as availability of staff and funding. The rules adopted by the department must include, in addition to other methods necessary to achieve this goal, adequate provisions for itinerant service stationing.

Sec. A-27. 22 MRSA §3785, sub-§8, as amended by PL 1993, c. 385, §18, is further amended to read:

8. Crisis or special circumstance. A crisis or special circumstance that causes an individual to be absent from or discontinue a department activity about which the department has been advised and has determined to constitute good cause; or

Sec. A-28. 22 MRSA §3785, sub-§§10 and 11, as amended by PL 1993, c. 385, §18, are repealed.

Sec. A-29. 22 MRSA §3788, sub-§§2 to 4, as amended by PL 1993, c. 385, §21, are further amended to read:

2. Application; decision. Notwithstanding any provision contained in an employability development plan, all participants must be given the opportunity to apply for any education, training and support services at the office of the program ~~provider~~ serving the area in which that individual lives. The program ~~provider~~ shall issue a written decision promptly, in accordance with rules adopted by the department, on all applications ~~and shall include the type and amount of assistance that has been authorized or denied.~~ The participant must be given in writing the reasons and specific rules supporting that denial and an explanation of the individual's right to request a conciliation meeting, a fair hearing, or both. For the purposes of this subsection, "participant" means a recipient of Aid to Families with Dependent Children who has completed the ASPIRE-JOBS Program ~~orientation work evaluation~~ and has been informed by the department that funds are available to provide ASPIRE-JOBS Program services to the recipient.

3. Assessment. Each participant's case manager shall conduct an ~~individualized~~ assessment to determine that individual's education, training and employment needs in accordance with the ~~federal Family Support Act of 1988, Public Law 100-485, as amended.~~

4. Employability plan. An employability plan must be adopted in accordance with the Family Support Act of 1988, ~~Public Law 100-485, as amended,~~ for each individual ~~who has completed an ASPIRE-JOBS Program orientation during the work evaluation.~~ The employability plan must consider available program resources, the participant's skills and aptitudes, the applicant's need for supportive services, local employment opportunities and, to the maximum extent possible, the preferences of the participant.

Sec. A-30. 22 MRSA §3788, sub-§4-A, as enacted by PL 1993, c. 385, §21, is amended to read:

4-A. Individual opportunity service contract. To the extent that sufficient funds, training sites and employment opportunities are reasonably available, the department and a participant in the program shall enter into an individual opportunity service contract that reflects, to the maximum extent possible, the preference of the participant and the services offered by the program. The individual opportunity service contract must include ~~the individual's education, training and employment plan both the department's and the participant's activities~~ and the support services necessary for the individual to participate ~~in that plan~~ in accordance with the ~~federal Family Support Act of 1988, Public Law 100-485, as amended.~~ The participant's first individual opportunity service contract must be established promptly in accordance with rules adopted by the department. The rules must provide for an expedited procedure for the development of the individual opportunity service contract when necessary to meet the participation or enrollment requirements of an educational institution or training program.

Sec. A-31. 22 MRSA §3788, sub-§6, as amended by PL 1993, c. 385, §21, is further amended to read:

6. Education, training and employment services. The ASPIRE-JOBS Program must make available a broad range of education, training and employment services in accordance with section 3781-A, subsection 3 and the ~~federal Family Support Act of 1988, Public Law 100-485, as amended.~~ These services and activities must include all of those services and activities offered by the Additional Support for People in Retraining and Education Employment Program on October 1, 1989. This section does not prohibit the department from

purchasing equivalent services from providers other than those from whom those services were purchased on October 1, 1989. When a particular approved education or training service is available at comparable quality and cost, including the cost of support services, and the implementation of the employability plan would not be unreasonably delayed, the program participant may choose to enroll for that service with the provider of that person's preference. If this decision is not mutually agreed to by the participant and the case manager, the decision must be reviewed by the case manager's supervisor. These services do not include reimbursement for the cost of tuition or mandatory fees for postsecondary education unless:

A. The participant is unable to secure other educational funding needed to complete the participant's individual opportunity service contract due to:

(1) Poor credit as determined by the educational funding source; or

(2) The consideration by the educational funding source of resources from past years that are not actually available to the participant;

B. In the determination of the department, failure to pay the tuition or fee would result in higher ASPIRE-JOBS Program costs to achieve the participant's approved goal; or

C. The participant meets an exception specified in rules adopted by the department.

When a substantially similar postsecondary education or training program of comparable quality is available at both a public and private institution, within a reasonable commuting distance for the participant, the department may choose to approve the program offered at the public institution if the participant's program can be completed at less cost at the institution.

~~A person may not be discouraged from participating in a 4-year postsecondary program if such a program is appropriate for the participant and consistent with the goals of the ASPIRE-JOBS Program.~~

Sec. A-32. 22 MRSA §3788, sub-§§7 and 8, as amended by PL 1993, c. 385, §21, are repealed.

Sec. A-33. 22 MRSA §3788, sub-§§10 to 13 are enacted to read:

10. Program design. The department shall operate the ASPIRE-JOBS program under which individual participation is required for a minimum of 20 hours per week in time-limited components that

include job search, work evaluation, education, training and treatment and workforce-MaineServe.

A. Individuals who are ready for jobs may participate in job search at any time. Up-front job search must focus on new recipients who are ready for jobs who are eligible for AFDC based on unemployment of the primary wage earner and new single-parent recipients who are ready for jobs and whose children are 5 years of age or older.

B. Work evaluation consists of all activities related to assessment, employability plan development and initial individual opportunity service contract formulation. Work evaluation is limited to a maximum of 90 days, unless extended by the commissioner or the designee of the commissioner. If an ASPIRE-JOBS participant is determined by the department to be job ready, the participant may access the workforce-MaineServe component directly from work evaluation.

C. Education, training and treatment is limited to a maximum of 24 months, starting with the first day of participation in any allowable and approved job skills or occupational skills training activity. The 24-month period may be extended by the commissioner or the designee of the commissioner for good cause shown.

The department may approve a job skills or occupational training activity longer than 24 months provided the participant agrees to perform a minimum of 20 hours a week of work site experience by no later than the end of the 24-month period. Qualifying work site experience may include, but is not limited to, paid employment, workforce-MaineServe, ASPIRE-Plus, work study, training-related practicums or any other such work site approved by the department. The 24-month period does not include periods of nonactivity in which good cause has been determined.

For individuals who are satisfactorily participating in an education or training program prior to the work evaluation, the department must determine the acceptability of the activity for purposes of meeting the participation requirements of this chapter using the same criteria as is used for any individual in the ASPIRE-JOBS Program.

D. Workforce-MaineServe consists of paid employment, subsidized employment, apprenticeships or other mandatory work activities, which may continue until the participant is ineligible for AFDC benefits.

11. Individual participation requirements.

Participation in the program components is governed by subsection 10 and this subsection.

A. For recipients whose eligibility for AFDC is based on unemployment of the primary wage earner, participation in the workforce-MaineServe component is required and any participation in the education, training and treatment component is contingent on satisfactory participation in workforce-MaineServe.

B. ASPIRE-JOBS participants who are attending school or are involved in an equivalent educational program recognized by the Department of Education or a local school board are considered to be in the education, training or treatment component and their participation is not limited to 24 months. The department shall encourage recipients younger than 20 years of age who have not completed high school to attend traditional high school.

C. Subject to the requirements of the Americans with Disabilities Act, if a recipient of AFDC is hindered from obtaining employment or successfully completing any portion of the ASPIRE-JOBS Program by reason of drug or alcohol abuse, the recipient must enter into a drug or alcohol abuse treatment program. This treatment activity may occur at any time during the ASPIRE-JOBS Program.

12. Developing resources. To assist the department in its efforts to encourage job placement opportunities and provide the services necessary to ensure self-support to recipients of AFDC, the department may contract with public and private agencies to establish job placement opportunities. In addition all agencies are subject to the following requirements.

A. All agencies that receive funds from any state department or division must provide at least one workforce-MaineServe opportunity for an ASPIRE-JOBS participant.

B. All state agencies that provide funding for child care or transportation services must require that recipients of AFDC be given priority for those services.

C. All agencies that receive funds from any state agency for the treatment of drug or alcohol abuse must require that recipients of AFDC be given priority for those services.

13. Determination of types of opportunities.

The department shall request that the federal Department of Health and Human Services delegate to the department the responsibility for determining the

types of opportunities necessary to provide recipients of AFDC with the skills to enable those recipients to become self-supporting and that these activities be included in determining the level of participation necessary to obtain maximum federal funding for the ASPIRE-JOBS Program.

Sec. A-34. 22 MRSA §3788-A is enacted to read:

§3788-A. MaineServe

The department shall establish a MaineServe program designed to provide parents who are eligible for AFDC opportunities to serve their communities and the State.

1. Purposes. The purposes of the MaineServe program are as follows:

A. To meet the human, educational, environmental and public safety needs of this State without displacing existing workers;

B. To renew the ethic of civic responsibility and the spirit of community throughout the State;

C. To encourage parents who are eligible for AFDC to engage in voluntary service to the State;

D. To expand and strengthen existing nonprofit and public sector initiatives that are addressing the needs of their communities and of the State; and

E. To provide parents who are eligible for AFDC the opportunities to serve their communities and the State in a manner that assists them in developing and renewing their skills in ways that may lead to employment that is sufficient to sustain their families.

2. Eligibility. Any ASPIRE-JOBS participant over 16 years of age is eligible to volunteer for MaineServe, except that any person under 20 years of age who has not completed high school or its equivalent must also participate in an educational activity designed to complete high school education.

3. Duration of service. MaineServe volunteers may serve for up to 9 months. At the end of the service period, the MaineServe volunteer and the ASPIRE-JOBS case manager shall evaluate the MaineServe placement. If it is determined to be appropriate, the MaineServe volunteer may renew the placement within MaineServe.

4. Conditions of service. The MaineServe program is an alternative work experience program subject to the standards set out in the Social Security Act, 42 United States Code, Section 682(f).

Sec. A-35. 22 MRSA §3789, as amended by PL 1993, c. 385, §22, is repealed.

Sec. A-36. 22 MRSA §§3789-B and 3789-C are enacted to read:

§3789-B. Interdepartmental Welfare Reform Committee

The Interdepartmental Welfare Reform Committee, referred to in this section as the "committee," is established. The committee consists of the Commissioner of Education, the Commissioner of Labor, the President of the Maine Technical College System, the Commissioner of Mental Health and Mental Retardation, the Director of the Office of Substance Abuse, the Commissioner of Corrections or a designee from the Maine Youth Center and the Commissioner of Human Services, who serves as chair. The committee shall monitor the efforts of the state departments involved in welfare reform and ensure cooperation among those departments.

§3789-C. Committee of staff and recipients

The department shall establish a committee composed of program staff, program managers and recipients of AFDC to streamline application and case maintenance functions, develop a universal application and review other forms to be used for all programs and bring as much uniformity as possible to the programs administered by the Bureau of Family Independence. The committee shall advise the commissioner of any changes in policies that require federal waivers, legislation or congressional action.

Sec. A-37. Waiver of asset limit. The Department of Human Services shall apply to the federal Department of Health and Human Services for a waiver on a statewide basis of the federal vehicle asset limit in the Aid to Families with Dependent Children Program to exclude for the purposes of determining eligibility the family's primary vehicle used for transportation.

Sec. A-38. Day Care Task Force. The Department of Human Services shall establish a Day Care Task Force to examine options for increasing day care access for families leaving the Aid to Families with Dependent Children program. The review of options must include, but is not limited to, the use of day care cooperatives, increased family day care and the use of community facilities such as schools and churches. The Day Care Task Force shall submit its report to the Commissioner of Human Services no later than November 1, 1995.

Sec. A-39. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words Bureau of Income Maintenance appear or reference is made to those

words, they are amended to read and mean Bureau of Family Independence, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. A-40. Transition to Bureau of Family Independence. The Bureau of Family Independence is the successor in every way to the powers, duties and functions of the former Bureau of Income Maintenance.

1. All existing rules, regulations and procedures in effect, in operation or adopted by the Bureau of Income Maintenance or any of its administrative units or officers continue in effect until rescinded, revised or amended by the proper authority.

2. All existing contracts, agreements and compacts currently in effect in the Bureau of Income Maintenance continue in effect.

3. Any positions authorized and allocated subject to the personnel laws to the former Bureau of Income Maintenance are transferred to the Bureau of Family Independence and continue to be authorized.

4. All records, property and equipment currently belonging to or allocated for the use of the former Bureau of Income Maintenance are transferred to the Bureau of Family Independence.

5. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Bureau of Income Maintenance may be utilized by the Bureau of Family Independence until existing supplies of those items are exhausted.

Sec. A-41. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the word ASPIRE appear or reference is made to those words, they are amended to read and mean Additional Support for People in Retraining and Employment, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. A-42. Amendment of requested waiver of Project Opportunity. The Department of Human Services shall amend its request to the Federal Government for a waiver under the United States Social Security Act, Section 1115 to replace the demonstration project, known as Project Opportunity, with the ASPIRE-Plus Project.

Sec. A-43. Development of opportunities. The Department of Labor, the Department of Education and the Department of Mental Health and Mental Retardation shall work cooperatively with the Department of Human Services to develop opportunities to service recipients of Aid to Families with Dependent Children benefits. The Department of

Human Services and the Department of Education shall work cooperatively to encourage individuals 19 years of age and younger who have not completed high school to remain in a traditional high school environment.

Sec. A-44. Curriculum. The Department of Human Services shall work cooperatively with the Department of Education to develop a curriculum and materials to be used in schools throughout the State to discourage teenagers from becoming parents at a young age and to provide education on parenting skills and techniques for those teenagers who do become parents, including information about parental responsibilities and child support obligations.

PART B

Sec. B-1. Commission to Study Poverty Among Working Parents

1. Commission established. There is established the Commission to Study Poverty Among Working Parents, referred to in this Part as the "commission." The purpose of the commission is to investigate the extent to which poverty exists among working families, investigate how poverty among working or underemployed parents with children contributes to the need for greater public assistance expenditure, investigate economic development efforts and other public and private sector initiatives that could reduce poverty and make comprehensive recommendations that address the commission's findings to the 118th Legislature.

2. Commission members. The commission consists of 21 members, all of whom must have knowledge of and experience with the economic challenges facing low-income working people. An equal number of members must be appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives. They are appointed as follows:

A. The following members must be appointed by the Governor:

- (1) A Maine employer;
- (2) A representative of the Department of Human Services;
- (3) A representative from an organization whose purpose it is to advance the position of women;
- (4) A representative from an organization that advocates for low-income people; and

(5) A representative from an agency providing community economic development services;

B. The following members must be appointed by the President of the Senate:

- (1) A member of the religious community;
- (2) A representative from a community action agency;
- (3) A professional child care provider;
- (4) A representative of the Aid to Families with Dependent Children Advisory Committee; and
- (5) A representative from a community agency providing education or training services to low-income people;

C. The following members must be appointed by the Speaker of the House of Representatives:

- (1) A representative of organized labor;
- (2) A recipient of Aid to Families with Dependent Children benefits who is a current or former participant in an education or training program;
- (3) A working single parent who has minor children and who earns less than 150% of the federal poverty level;
- (4) A representative of a postsecondary institution providing education and training services to low-income people; and
- (5) A representative of a community agency providing nontraditional education or training services to low-income people;

D. The President of the Senate shall appoint 2 Senators, one from each major political party, and the Speaker of the House of Representatives shall appoint 2 Representatives, one from each major political party; and

E. The cochairs of the Maine Economic Growth Council or their designees shall serve as members.

3. Responsibilities of the commission. The commission shall:

A. Determine the extent to which current labor market participation enables individuals and families to earn the amount of income necessary to meet the basic needs of their families;

B. Examine current labor laws and practices, to determine their impact, both positive and negative, on the ability of families to meet their needs;

C. Consider and determine the respective responsibilities of the public and private sectors in ensuring that working families have income adequate to meet their basic needs;

D. Evaluate the effectiveness of the Unemployment Insurance Program in meeting the needs of low wage part-time and seasonal workers when they become unemployed;

E. Examine the efficacy of a state earned income tax credit that would enable working families to meet the requirements of the basic needs budget;

F. Examine the wages, benefits and protection available to part-time and temporary workers, leased employees, independent contractors and other contingent workers as compared to regular full-time workers;

G. Solicit, receive and accept grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the commission; and

H. Request any necessary data from either public or private entities that relate to the needs of the commission.

4. Appointments; meetings; chair. Appointing authorities shall make all appointments to the commission by October 1, 1995 and report those appointments to the Chair of the Legislative Council, who shall call the first meeting. The commission shall elect a chair from among its members. The commission may not hold meetings during the Second Regular Session of the 117th Legislature.

5. Staff Assistance. The commission may request staffing assistance from the Legislative Council, except staff may not be assigned when the Legislature is in regular session.

6. Funding. The commission may seek outside sources of funding.

7. Reimbursement; mileage and other costs associated with participation on the commission. The members of the commission are not entitled to compensation or reimbursement for expenses or legislative per diem except that, to the extent that funds are available, legislative members may request

reimbursement for mileage from the Executive Director of the Legislative Council.

8. Report. The commission shall prepare and submit a report, including any legislation necessary to implement its recommendations, to the First Regular Session of the 118th Legislature by November 15th, 1996.

PART C

Sec. C-1. 24 MRSA §2349-A is enacted to read:

§2349-A. Medical child support

A corporation organized pursuant to this chapter must comply with 42 United States Code, Section 1396g-1.

Sec. C-2. 24-A MRSA §2742, sub-§5 is enacted to read:

5. Compliance. An insurer issuing policies under this chapter must comply with 42 United States Code, Section 1396g-1.

Sec. C-3. 24-A MRSA §2809, sub-§1-A, as enacted by PL 1985, c. 652, §51, is amended to read:

1-A. Any such policy of group health insurance ~~which~~ that provides coverage for family members or dependents of individuals in the insured group may not define the terms "family" or "dependent" to exclude from coverage those minor children of any covered individual who do not reside with that individual. Insurers must comply with 42 United States Code, Section 1396g-1.

Sec. C-4. 24-A MRSA §4237 is enacted to read:

§4237. Medical child support

A health maintenance organization must comply with 42 United States Code, Section 1396g-1.

Sec. C-5. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96

LEGISLATURE

Commission to Study Poverty Among Working Parents

All Other \$500

Provides expenditure
authorization if public or

private funds are received to
support activities of the
Commission to Study Poverty
Among Working Parents.

PART D

Sec. D-1. Commission established. The Commission on the Economic Impact of Time-limited Aid to Families with Dependent Children Benefits, referred to in this Part as the "commission," is established.

Sec. D-2. Commission membership. The commission consists of 9 members as follows:

1. Five members appointed by the Governor. The Governor shall appoint one member from this group to serve as chair of the commission;
2. Two members appointed by the President of the Senate; and
3. Two members appointed by the Speaker of the House of Representatives.

Appointments must be made within 30 days of the effective date of this Part.

Sec. D-3. Duties. The chair of the commission shall convene the first meeting no later than December 1, 1995. The commission shall study all issues related to Aid to Families with Dependent Children time limits in the State, including, but not limited to:

1. Evaluation of other states' waivers and program design on time-limited benefits and the impacts on the Aid to Families with Dependent Children population, other public and private systems, the labor market and the states' economies;
2. Analysis of the Aid to Families with Dependent Children caseload in the State, by time, deprivation reasons and the issues that increase reliance on Aid to Families with Dependent Children benefits such as, but not limited to, vocational dysfunction, labor market declines, health care systems, economic support networks such as unemployment compensation, child support enforcement, housing subsidy and workers' compensation; and

3. Research the impact on the State's economy if Aid to Families with Dependent Children benefits were time-limited.

Sec. D-4. Freedom of access; confidential information. Meetings of the commission are public meetings and records and papers of the commission are public records for the purposes of the freedom of access laws, pursuant to the Maine

Revised Statutes, Title 1, chapter 13, subchapter I; except that information obtained about individual Aid to Families with Dependent Children cases will remain confidential in accordance with rules of the Department of Human Services.

Sec. D-5. Staffing. The Department of Human Services shall provide staffing and may, within existing resources, obtain technical assistance by organizations with expertise in economics, business, job creation and welfare-to-work programs.

Sec. D-6. Compensation; reimbursement. The members of the commission are not entitled to compensation or reimbursement for expenses related to attendance at meetings of the commission.

Sec. D-7. Report. The commission shall submit its report and recommendations regarding time-limited Aid to Families with Dependent Children benefits to the joint standing committee of the Legislature having jurisdiction over human resources matters no later than February 1, 1996. The committee may submit legislation relating to the report to the Second Regular Session of the 117th Legislature.

See title page for effective date.

CHAPTER 419

S.P. 556 - L.D. 1516

An Act to Amend the Laws Governing Child Support

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

Whereas, enactment of this legislation provides the Department of Human Services with more tools to collect child support payments from responsible parents;

Whereas, collecting more child support reduces the Aid to Families with Dependent Children costs to the State; and

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

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

Sec. 1. 4 MRSA §807, sub-§3, ¶G, as amended by PL 1991, c. 885, Pt. E, §4 and affected by §47, is further amended to read:

G. A person who is not an attorney, but is representing a party in any hearing, action or proceeding before the Workers' Compensation Board as provided in Title 39-A, section 317; ~~or~~

Sec. 2. 4 MRSA §807, sub-§3, ¶H, as repealed and replaced by PL 1989, c. 858, §1, is amended to read:

H. A person who is not an attorney, but has been designated to represent either the Department of Human Services, under Title 22, section 3473, subsection 3, or the Department of Mental Health and Mental Retardation, under Title 34-B, section 1204, subsection 7, in Probate Court proceedings; ~~or~~

Sec. 3. 4 MRSA §807, sub-§3, ¶I is enacted to read:

I. A person who is not an attorney, but is representing the Department of Human Services in a child support enforcement matter as provided by Title 14, section 3128-A, subsection 7 and Title 19, section 504-C, subsection 10. This paragraph is repealed October 1, 1998.

Sec. 4. 9-B MRSA §161, sub-§2, ¶D, as amended by PL 1981, c. 501, §28, is further amended to read:

D. The making of reports or returns required under the United States Internal Revenue Code, chapter 61, ~~and including the submission of information concerning interest earned on accounts,~~ investigatory activity authorized by the United States Internal Revenue Code and any use to which the reports or returns would be subjected once submitted;

Sec. 5. 9-B MRSA §161, sub-§2, ¶I, as amended by PL 1995, c. 86, §1, is further amended to read:

I. Any disclosure of records made pursuant to Title 22, section 16, 17 or 4314;

Sec. 6. 14 MRSA §3121, sub-§3, as enacted by PL 1971, c. 408, §1, is amended to read:

3. Judgment creditor. "Judgment creditor" means any person, corporation, partnership or other entity who or which is the owner of any judgment unsatisfied in whole or in part, and the Department of Human Services when it is collecting child support.

Sec. 7. 14 MRSA §3121-A, sub-§1, as amended by PL 1989, c. 655, is further amended to read:

1. Commencement of proceedings. Notwithstanding Title 4, section 155, and any provisions set forth elsewhere, and except as provided in subsection 2 and Title 19, section 504-C, subsection 2, any proceeding under this chapter ~~shall~~ must be commenced in a division of the District Court as follows.

A. Except as provided in paragraph D, if the judgment debtor is an individual who resides within this State, the proceeding ~~shall~~ must be commenced in the division in which the judgment debtor resides.

B. Except as provided in paragraph D, if the judgment debtor is a nonresident individual, the proceeding ~~shall~~ must be commenced in the division in which the debtor is commorant.

C. Except as provided in paragraph D, if the judgment debtor is not an individual, the proceeding ~~shall~~ must be commenced in a division in which the debtor maintains a place of business. If the judgment debtor does not maintain a place of business in this State, the proceeding ~~shall~~ must be commenced in a division in which a civil summons could be served upon the debtor or in any division in which the action resulting in the judgment could have been brought.

D. Any proceeding under this chapter may be commenced in the division where the judgment creditor, if an individual, resides or, if not an individual, has a place of business, except that a consumer debt proceeding must be commenced, at the option of the creditor, in the division where the consumer transaction occurred or where the judgment debtor resides. Consumer debts are limited to debts arising from purchases that are primarily for personal, family or household purposes.

Sec. 8. 14 MRSA §3128-A is enacted to read:

§3128-A. Order to seek employment

1. Order; exceptions. If a child support obligor claims inability to pay in a disclosure proceeding under section 3125 or Title 19, section 504-C, the court may order the obligor to seek employment and make progress reports on that activity to the court or the Department of Human Services unless:

A. The obligor proves by a preponderance of the evidence that the obligor is engaged in diligent, bona fide efforts to seek work; or

B. The obligor proves by a preponderance of the evidence that the obligor does not have the ability to seek work.

2. Contents. The order must contain, but is not limited to, the following directives:

A. That the obligor seek employment within a specified amount of time;

B. That the obligor file weekly with the court or the Department of Human Services, as applicable, a report on any new employment of the obligor or at least 5 new attempts by the obligor to find employment;

C. That the obligor include in the report filed pursuant to paragraph B the name, address and telephone number of the new employer or the names, addresses and telephone numbers of the employers with whom the obligor attempted to seek employment and the names of the individuals the obligor contacted to inquire about or apply for employment; and

D. That failure to comply with the order is evidence, absent good cause, of willful nonpayment of child support for which the obligor may be held in contempt.

3. Duration. The order continues in effect for 6 months or until the obligor finds work, whichever occurs first.

4. Subsequent orders. The court may issue any order or combination of orders under this chapter to enforce an order under this section.

5. Report. If an obligor is ordered to report to the Department of Human Services pursuant to subsection 2, the Department of Human Services shall monitor compliance with the order and may petition the court to enforce the order.

6. Failure to report. Failure to report or otherwise comply with an order under this section, absent good cause, is evidence of willful nonpayment of child support for which the obligor may be held in contempt under section 3136.

7. Representation of the Department of Human Services; training. The Commissioner of Human Services may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. The Commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

8. Rulemaking. The Department of Human Services shall adopt rules to implement its responsibilities under this section.

9. Repeal. This section is repealed October 1, 1998.

Sec. 9. 14 MRSA §3134, sub-§1, as amended by PL 1987, c. 708, §9, is further amended to read:

1. Issuance of civil order of arrest. If the judgment debtor fails to appear after being duly served with a subpoena under section 3123 or with an order to appear and disclose under Title 19, section 504-C, and the judgment creditor appears at the time and place named in that subpoena, the creditor may request the court to issue a civil order of arrest. The court shall issue a civil order of arrest upon the written request of the creditor stating that ~~he~~ the creditor knows of no infirmity, disability or good cause preventing the appearance of the debtor. The request must contain the address and telephone number where the creditor or ~~his~~ the creditor's representative can be reached and the address of the debtor.

Sec. 10. 14 MRSA §3135, last ¶, as amended by PL 1991, c. 498, §1, is further amended to read:

Unless the judgment debtor shows good cause for failure to appear after being duly served with a disclosure subpoena under section 3123 ~~or~~, a contempt subpoena under section 3136 ~~or an order to appear and disclose under Title 19, section 504-C,~~ the debtor must be ordered to pay the costs of issuing and serving the civil order for arrest. The costs of issuing and serving the civil order for arrest are \$25 plus mileage at a rate of 22¢ per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is governed by Title 30-A, section 421, subsection 6.

Sec. 11. 19 MRSA §448-A, sub-§3, as amended by PL 1993, c. 410, Pt. V, §5, is repealed.

Sec. 12. 19 MRSA §448-A, sub-§4-A, as enacted by PL 1993, c. 410, Pt. V, §7, is repealed.

Sec. 13. 19 MRSA §448-A, sub-§4-B is enacted to read:

4-B. Fees and costs. The Department of Human Services shall charge a \$2 per week fee to all obligors whose child support payments are made to the department to reduce the department's costs in providing support enforcement services. The department may collect fees owed by the obligor by using any remedies available for collection of child support. The department shall retain all fees and apply them toward the Aid to Families with Dependent Children or the child support enforcement

programs. The department shall apply amounts collected toward fees only after the amount owed to the family for the current period is paid. The department shall collect the fee from obligors whose child support is paid to the department under an income withholding order by notifying the payor of income to the obligor to increase withholding by \$2 per week. The department or any other person may not be required to issue a new or amended withholding order to collect the fee, but shall notify the obligor in advance of the increase in withholding.

Sec. 14. 19 MRSA §495, sub-§1, ¶A, as amended by PL 1993, c. 607, §4, is further amended to read:

A. When a court order of support has not been established, a payment of public assistance for the benefit of the dependent child creates a debt due the department from the responsible parent for past necessary support. The amount of debt due the department is established by application of the most current child support scale to the responsible parent's income for the time period in which the department was entitled to support payments. In the absence of sufficient reliable information to calculate a responsible parent's past income, it is presumed that the responsible parent had an earning capacity equal to the average weekly wage of a worker within this State as determined by the Department of Labor statistics for the applicable years. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income. A present disability to pay child support, legal or otherwise, does not operate to bar a determination of past debt due the department for any relevant period in which the disability did not exist. When the department establishes a periodic support payment has been established under section 497-A or former section 498 by administrative decision, the debt is limited to the amount stated in the decision.

Sec. 15. 19 MRSA §498-B, sub-§1, as amended by PL 1993, c. 607, §8, is further amended to read:

1. Responsible parent's failure to comply. If a responsible parent fails to ~~acquire the obtain~~ health insurance coverage as required ~~under section 497-A or 497-B by an administrative decision,~~ that parent is liable for any expenses incurred for any dependent children that would have been paid by the insurance coverage, regardless of incurred expenses. Incurred liability may be enforced as a child support debt under this subchapter or by judicial action.

Sec. 16. 19 MRSA §500, sub-§3, as enacted by PL 1975, c. 532, §3, is amended to read:

3. If the commissioner finds that the collection of any support debt accrued or accruing under section 495 is in jeopardy, the commissioner may make demand under subsection 1 for immediate payment of the support debt, and upon failure or refusal immediately to pay, the commissioner may file and serve liens pursuant to section ~~503~~ 503-A. No action under sections 504, 506 and 507 may be taken until the notice requirements of subsection 1 are met.

Sec. 17. 19 MRSA §503, as amended by PL 1993, c. 607, §9, is repealed.

Sec. 18. 19 MRSA §503-A is enacted to read:

§503-A. Liens

1. Judgment. Twenty-one days after receipt by a responsible parent of a notice of debt under section 500 or 30 days after the date of mailing to the responsible parent of a decision of the department that requires the responsible parent to pay child support, the amount stated in the notice of debt or in the decision is a judgment in favor of the department, the obligee, or both. The judgment is a lien against all property of the responsible parent. The lien is separate from and in addition to a lien filed under this section.

2. Filing. For real property, a lien is perfected when a notice of support lien is filed in the registry of deeds of the county or counties in which the real property is located. For personal property, including motor vehicles or other items for which a certificate of ownership is issued by the Secretary of State, the lien is perfected when a notice of support lien is delivered to the Secretary of State. The Secretary of State shall mark, hold and index the notice of support lien as if it were a financing statement within the meaning of Title 11, section 9-402. The notice of support lien must state the name and address of the responsible parent, the amount of the child support debt accrued, the date of the decision or notice of debt by which the debt was assessed and the name and address of the authorized agent of the department who issued the notice.

3. Effect. A person who knows of a support lien may not pay over, release, sell, transfer, encumber or convey property that may be subject to the lien, unless:

A. The commissioner waives or releases the lien in writing; or

B. A court of competent jurisdiction orders a release.

4. Order to seize and sell. A lien under this section may be enforced or collected through an order to seize and sell under section 774-B.

This subsection is repealed October 1, 1998.

Sec. 19. 19 MRSA §504, sub-§1, ¶A, as enacted by PL 1975, c. 532, §3, is amended to read:

A. A lien has been filed pursuant to former section 503 or section 503-A; or

Sec. 20. 19 MRSA §504, sub-§1, ¶B, as amended by PL 1993, c. 607, §10, is further amended to read:

B. Twenty-one days have elapsed from the date of receipt of ~~the~~ a notice of debt under section 500 or 30 days after the date of mailing to a responsible parent of a decision ~~has been received under section 497-A or 497-B~~ of the department that requires the responsible parent to pay child support.

Sec. 21. 19 MRSA §504, sub-§3, as enacted by PL 1975, c. 532, §3, is amended to read:

3. Order; contents. The order to withhold and deliver ~~shall~~ must state the amount of the support debt accrued and accruing and the terms of ~~sections former section 503 or sections 503-A and 509 and shall~~ demand a listing of property, including wages, ~~which that~~ is due or belongs to the responsible parent.

Sec. 22. 19 MRSA §504-C is enacted to read:

§504-C. Order to appear and disclose

1. Order. The commissioner may commence an action under Title 14, chapter 502 by directing a responsible parent to appear before the department to disclose under oath information that relates to the responsible parent's ability to pay child support. The commissioner may require a responsible parent who is directed to appear to provide documents, papers and other evidence about the responsible parent's income and assets for the purpose of enforcing a court or administrative order for child support. An order to appear and disclose must be served on the responsible parent as provided by the Maine Rules of Civil Procedure, Rule 4.

2. Venue. The Department of Human Services may commence the action by ordering the obligor to appear at an office of the department, provided the distance to be travelled by the obligor is no more than 100 miles from the obligor's place of residence. If the department files the action in court, the department shall file the action in the division of the District Court where the obligor resides or in the division that has ordered the obligor to pay child support, if any.

3. Notice to responsible parent. The department shall include a notice to the responsible parent with each order to appear and disclose. The notice must include the following information:

A. The date, time and place of the disclosure proceeding;

B. The amount of child support the responsible parent owes;

C. That the department may file a record of the proceeding in court to collect the debt;

D. That, if the department files a record of the proceeding in court, the court will notify the responsible parent by regular mail of the date, time and place of the court hearing;

E. That, if a record of the proceeding is filed in court, the court may issue any lawful order, including a sale or turnover order, an order to seek employment or a civil order of arrest;

F. That, if a record of the proceeding is filed in court and the responsible parent is not making regular child support payments, the burden of proof is on the responsible parent to show why regular payments can not be made; and

G. The penalties as provided by this section that could be incurred by the responsible parent for failure to appear, failure to provide documents, papers and other evidence as required or intentionally providing false information.

The notice must be accompanied by a copy of the support order under which the responsible parent owes child support.

4. Notice to obligee. The department shall provide notice to the obligee of the time and place of the disclosure proceeding and the nature of the proceeding.

5. Limitation of action. The department may issue an order to appear and disclose only if the responsible parent owes \$500 or more in overdue child support, the amount has been owed for at least 60 days and the responsible parent is not making reasonable, regular payments to reduce the debt.

6. Continuance. The department may grant a continuance of the proceeding for good cause.

7. Transcribable record. The department shall prepare an official, transcribable record of all proceedings held under this section.

8. Failure to appear. If the responsible parent fails to appear after being served with an order to appear and disclose, the department may request a

civil order of arrest pursuant to Title 14, sections 3134 and 3135 for violating the order to appear and disclose by filing a copy of the order to appear and disclose, proof of service of the order and an affidavit attesting that the responsible parent failed to appear for the administrative disclosure proceeding.

9. Court action. The commissioner may file the record of a proceeding in the District Court to ask the court for any appropriate relief under Title 14, chapter 502, including an order requiring the responsible parent to seek employment and report that activity to the department. The record must be accompanied by a motion. The department shall notify the responsible parent by regular mail upon filing the record in court. The notice to the responsible parent must include a copy of the department's motion. The filing of the record, along with proof of service of the order to appear and disclose, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required.

10. Representation of the Department of Human Services. The commissioner may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. A designated employee may prepare and sign the motion as required under subsection 9. The Commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

11. Employee protection. An employer who discharges, refuses to employ or takes disciplinary action against a responsible parent, or who otherwise discriminates against the parent because the parent must appear before the department pursuant to this section is liable in an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

12. Penalties. Failure to appear before the department, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Failure to provide documents, papers and other evidence as required, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Intentionally providing false information is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged for each violation.

13. Repeal. This section is repealed October 1, 1998.

Sec. 23. 19 MRSA §506, sub-§1, as enacted by PL 1975, c. 532, §3, is amended to read:

1. Seizure and surrender. Whenever a lien has been filed pursuant to former section 503 or section

503-A, the commissioner may collect the debt stated in the lien by seizing, if this can be done without breach of the peace, or demanding surrender of, any property subject to the lien and disposing of it.

Sec. 24. 19 MRSA §507, sub-§§1 and 2, as amended by PL 1985, c. 652, §35, are further amended to read:

1. Liens on real property. Actions to foreclose liens on real property filed under former section 503 or section 503-A may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 403, subchapter II.

2. Liens on personal property. Actions to foreclose liens on personal property filed under former section 503 or section 503-A may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 509, subchapter III.

Sec. 25. 19 MRSA §774-B is enacted to read:

§774-B. Order to seize and sell

1. Execution of support liens. The Department of Human Services may issue an order to seize and sell to execute a support lien established under former section 503 or section 503-A or to enforce and collect any money judgment assessed under this chapter, chapter 5 or chapter 7. An order to seize and sell has the same effect as a writ of execution issued by the District Court or the Superior Court.

2. Issuance of order. An order to seize and sell is an order, under official seal of the Department of Human Services, directed to a county sheriff or a levying officer authorized by law to enforce a District Court or Superior Court judgment. The order must command the recipient of the order to seize and sell specific nonexempt real and personal property of an obligor to satisfy the support lien upon which the order is based. The department must know or have reason to believe the obligor has a substantial ownership interest in the property identified in the order. Before issuing the order, the department must search the records of the applicable registry of deeds for real property and the records of the Secretary of State for personal property to determine if there are other persons who have an ownership interest in the property.

3. Content of order. An order to seize and sell must be signed by the Commissioner of Human Services or the commissioner's designee. The order must be for the amount of the support lien or the amount of any other money obligation determined under this chapter, plus fees and costs, if any. The order must identify the specific property that is the subject of the order. The order must include notice that tells the obligor and other persons who are known

to have an ownership interest in the property how to contest the seizure and sale of the property, including notice of the right to an administrative hearing within 5 business days. The order must list the type and value of property that is exempt as provided in subsection 15.

4. Order limited. The county sheriff or levying officer may not seize property not specifically identified in the order.

5. Sheriff or levying officer. An order to seize and sell may be sent by the Department of Human Services to a county sheriff or levying officer. When the order is issued, the department shall serve a copy of the order on all persons other than the obligor who the department knows have an ownership interest in the property identified in the order. If personal service is unsuccessful, the department shall mail the order to the person's last known address by regular mail. Upon receipt of the order, the sheriff or levying officer shall proceed to execute the order in the same manner as prescribed for execution of a judgment. A sheriff or levying officer shall return the order, along with any funds collected, to the department within 90 days of the receipt of the order. Funds resulting from execution of the order must first be applied to the sheriff's or levying officer's costs, then to any superior liens and then to the support lien or other money obligation and any inferior liens of which the department has notice. Any amounts in excess of this distribution must be paid to the obligor. If the order is returned not fully satisfied, the department has the same remedies to collect the deficiency as are available for any civil judgment.

6. Right to hearing. Before the sale, the obligor and any other persons who claim an ownership interest in the property seized under an order to seize and sell have a right to an administrative hearing to contest the seizure and sale of the property and to establish the value of their relative interest in the property. A request for a hearing must be in writing and must be received by the Department of Human Services within 10 calendar days of the seizure. Upon receiving a request for a hearing, the department shall notify all persons who the department has reason to believe have an ownership interest in the property of the time, place and nature of the hearing.

A. Anyone requesting a hearing has the right to a preliminary hearing within 5 business days of the hearing request. At the preliminary hearing, if the hearing officer determines there is reasonable ground to believe that the seizure was lawful and that the obligor owes a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall require the seizure to remain in force and shall schedule a final hearing, allowing

all parties reasonable time to collect evidence and prepare for the final hearing. If the hearing officer determines that the seizure was not lawful or that the obligor does not owe a support debt that could be satisfied in whole or in part by nonexempt property that has been seized, the hearing officer shall declare the order to seize and sell void.

B. The Department of Human Services shall notify any person who the department has reason to believe has an ownership interest in the seized property of the time and place of the final hearing. At the final hearing, the hearing officer shall determine:

- (1) Whether the obligor owes a support debt;
- (2) Whether the support debt could be satisfied in whole or in part by the property seized; and
- (3) The value of the interests of all persons with an ownership interest in the property.

7. Commercially reasonable sale. The sheriff or levying officer may sell the property seized as a unit or in parcels and at any time and place and on any terms not otherwise prohibited by this section, but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable. The property may not be sold for less than the debtor's interest in the property that is exempt. The property may not be sold for less than the full value of the interest in the property owned by the nonobligor parties with an interest superior to that of the Department of Human Services. The property may not be sold for less than the debtor's interest in the property that is exempt. The Department of Human Services reserves the right to reject any and all bids.

8. Notice of sale. Within 30 days of receiving notice of a sale from the county sheriff or levying officer, the Department of Human Services shall send by regular mail an accounting and proposed distribution of the net proceeds of the sale to the obligor, all joint owners of the property sold and any known lienholders with an interest in the property. The accounting and proposed distribution must include notice of the right to challenge the proposed distribution at an administrative hearing within 30 days. The department may not distribute the proceeds of the sale until the appeal period has run and all appeals have been decided.

9. Release. Upon receiving payment in full of the order amount plus fees and costs, if any, the Department of Human Services shall release the order to seize and sell. Upon receiving partial payment of

the order amount or if the department determines that a release or partial release of the order will facilitate the collection of the unpaid amount, fees and costs, the department may release or may partially release the order to seize and sell. The department shall release the order if it determines the order is unenforceable.

10. Right to redeem. An obligor or other person or entity having an interest in real or personal property seized under an order to seize and sell at any time prior to sale of the property may pay the amount of the support lien or other money obligation and any costs incurred by the county sheriff or levying officer serving the order. Upon payment in full, the property must be restored to the obligor or other person or entity having an interest in that property and all proceedings on the order must cease.

11. Right to redeem after sale. An obligor or other person or entity having an interest in real property seized and sold by a county sheriff or levying officer pursuant to an order to seize and sell may, within 240 days after sale of the property, redeem the property by making payment to the purchaser in the amount paid by the purchaser plus interest at the statutory interest rate payable on judgments recovered in the District Court and the Superior Court.

12. Release not a bar to other action. At any time after seizure and sale of property under an order to seize and sell, the Department of Human Services may release all or part of the seized property without liability if payment of the support lien or other money obligation is ensured or if the release will facilitate collection of the support lien or money obligation. The release or return of the property does not prevent future action to collect the order amount from that property or other property.

13. Statute of limitations. The Department of Human Services may issue an order to seize and sell to collect a support lien or other money obligation under this chapter, chapter 5 or chapter 7 at any time within the statutory limitation period for enforcing and collecting child support amounts.

14. Additional remedies. The use of an order to seize and sell is not exclusive and the Department of Human Services may use any other remedy provided by law for the collection of child support.

15. Exempt property. The following property is exempt from seizure and sale, except to the extent that it has been fraudulently conveyed by the obligor:

A. The obligor's aggregate interest, not to exceed \$12,500 in value, in real or personal property that the obligor uses as a residence;

B. The obligor's interest, not to exceed \$2,500 in value, in one motor vehicle;

C. The obligor's interest, not to exceed \$200 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for the personal, family or household use of the obligor or a dependent of the obligor;

D. The obligor's aggregate interest, not to exceed \$5,000 in value, in any implements, professional books or tools of the trade of the obligor or the trade of a dependent of the obligor, including, but not limited to, power tools, materials and stock designed and procured by the obligor and necessary for carrying on the obligor's trade or business and intended to be used or wrought in that trade or business;

E. The obligor's interest in the following items held primarily for the personal, family or household use of the obligor or a dependent of the obligor:

(1) One cooking stove;

(2) All furnaces or stoves used for heating; and

(3) All cooking and heating fuel not to exceed 10 cords of wood, 5 tons of coal or 1,000 gallons of petroleum products or the equivalent amount of another type of fuel;

F. The obligor's interest in the following items held primarily for the personal, family or household use of the obligor or a dependent of the obligor:

(1) All food provisions, whether raised or purchased, reasonably necessary for 6 months;

(2) All seeds, fertilizers, feed and other material reasonably necessary to raise and harvest food through one growing season; and

(3) All tools and equipment reasonably necessary for raising and harvesting food;

G. The obligor's interest in one of every type of farm implement reasonably necessary for the obligor to raise and harvest agricultural products commercially, including any personal property incidental to the maintenance and operation of the farm implements;

H. The obligor's interest in one boat, not exceeding 5 tons burden, used by the debtor primarily for commercial fishing; and

I. Professionally prescribed health aids for the obligor or a dependent of the obligor.

16. Repeal. This section is repealed October 1, 1998.

Sec. 26. 19 MRSA §777-E is enacted to read:

§777-E. Annual statement

The Department of Human Services shall send an annual statement of arrearages to all obligors who owe past-due child support that the department is authorized to collect. The statement must include notice to the obligor that the department may collect the amount owed by issuing an order to seize and sell property. The statement may include such other notices that the department considers appropriate. The department shall send the statement to the obligor by regular mail to the obligor's last known address. If the obligor disagrees with the department's statement of arrearages, the obligor must immediately notify the department.

Sec. 27. 19 MRSA §780-A, sub-§6 is enacted to read:

6. Fees. A notice to the obligor and payor of income that the payor of income must withhold and send to the Department of Human Services a fee of \$2 per week in addition to the amount withheld for child support.

Sec. 28. 22 MRSA §17 is enacted to read:

§17. Access to financial records of deposit accounts of individuals who owe overdue child support

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Depositor" has the same meaning as used in Title 9-B, and includes "share account holders" of credit unions.

B. "Financial institution" means a trust company, savings bank, industrial bank, commercial bank, savings and loan association or credit union organized under the laws of this State or otherwise authorized to do business in this State.

C. "Match" means an automated comparison by name and social security number of a list of obligors provided to a financial institution by the department and a list of depositors of any financial institution.

D. "Obligor" means a person who owes overdue support.

E. "Overdue support" means a debt of \$500 or more for maintenance and support of a child or children that has been owed for a least 60 days, if the obligor had prior notice of the debt and a prior opportunity to contest the amount owed. "Overdue support" includes spousal support or alimony being collected in conjunction with child support.

2. Computer match. Upon written request from the commissioner to a financial institution in this State with the technological capacity to perform a match, the financial institution shall perform a match using the list of obligors' social security numbers provided by the department. The department is responsible for making its computer data compatible with the data of the financial institution with which a match is sought. The department's data, at a minimum, must include the full name and social security number of and the amount of overdue support owed by each obligor. The department may not request a financial institution to perform a match under this section more often than once every calendar year.

3. Compilation of match list. After completing a match requested by the department under subsection 2, a financial institution shall compile for the department a list of those depositors whose social security numbers match the list of social security numbers of obligors provided by the department. The list must contain the following information, if available to the financial institution through its matching procedure, for each account identified:

- A. The obligor's full name;
- B. The obligor's social security number;
- C. The financial institution account number; and
- D. The amount of deposits contained in the account, if available.

4. Notice to department. A financial institution that has compiled a match list under subsection 3 shall send the list to the department at the address designated by the department.

5. Notice to customer. The financial institution may not provide notice in any form to a depositor contained in a match list submitted to the department under subsection 4. Failure to provide notice to a depositor does not constitute a violation of the financial institution's duty of good faith to its customers.

6. Reasonable fee. To cover the costs of carrying out the requirements of this section, a financial institution may assess a reasonable fee to the department not to exceed the actual costs incurred by the financial institution.

7. Confidentiality. The list of obligors, with their social security numbers and the amount of the overdue support provided by the department to a financial institution is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Knowing or intentional use of the information, without authorization from the department, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

8. Immunity from liability; hold harmless. A financial institution is immune from any liability for its good faith actions to comply with this section. The department shall defend and hold harmless, including compensation for attorney's fees, a financial institution that acts in good faith to carry out the requirements of this section.

9. Rulemaking. The department shall adopt rules to carry out this section.

10. Repeal. This section is repealed October 1, 1998.

Sec. 29. 22 MRSA §2761-B is enacted to read:

§2761-B. Hospital-based paternity acknowledgment

1. Birthing center. As used in this section, "birthing center" means a hospital or other facility that provides childbirth services.

2. Procedure. A birthing center shall provide an opportunity for all unmarried parents to complete a voluntary acknowledgement of paternity. A birthing center shall provide to each unmarried mother and alleged father, if present, written information about paternity establishment provided by the department, forms needed to voluntarily acknowledge paternity and the opportunity to speak with a person who is trained to clarify information and answer questions about paternity establishment. The birthing center shall forward all completed acknowledgement forms to the department.

3. Written information. The department shall develop an acknowledgement form and written information for use by birthing centers in carrying out the requirements of this section. The information must include a description of the benefits and responsibilities of paternity establishment. The information must include instructions on completing the acknowledgement form.

4. Technical assistance. The department shall provide birthing centers with training and technical assistance as needed to carry out the requirements of this section.

5. Reimbursement. The department may establish by rule a fee to reimburse birthing centers for each voluntary acknowledgement of paternity form completed.

6. Rulemaking. The department shall adopt rules to implement this section that comply with all applicable federal regulations.

Sec. 30. 36 MRSA §191, sub-§2, ¶P, as amended by PL 1995, c. 178, §2, is amended to read:

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under section 151 or the Maine Administrative Procedure Act; ~~and~~

Sec. 31. 36 MRSA §191, sub-§2, ¶Q, as enacted by PL 1995, c. 178, §3, is amended to read:

Q. The listing of special fuel suppliers possessing certificates under section 3204-; and

Sec. 32. 36 MRSA §191, sub-§2, ¶R is enacted to read:

R. The disclosure to an authorized representative of the Department of Human Services of information in the possession of the bureau identifying the location of an interest-bearing account in the name and social security number of a delinquent payor of child support as requested by the Department of Human Services.

Sec. 33. 36 MRSA §191, sub-§3, as enacted by PL 1977, c. 668, §2, is amended to read:

3. Additional restrictions for information provided by Internal Revenue Service. Federal returns and federal return information provided to the State by the Internal Revenue Service ~~shall~~ may not be disclosed to other states, districts and territories of the United States or provinces of Canada, to legislative committees or the agents of the committees, to any person retained on an independent contract basis or the employee of that person, or to the Attorney General for the purpose of criminal investigations and prosecutions unrelated to this Title. These restrictions are in addition to those imposed by subsection 1. Upon request by the Department of Human Services under Title 22, section 3755-A, information provided by the Internal Revenue Service concerning the location of interest-bearing accounts in the names and

social security numbers of delinquent payors of child support may be disclosed to an authorized representative of the Department of Human Services in the form of a list or automated computer match list.

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

Effective July 3, 1995.

CHAPTER 420

H.P. 1116 - L.D. 1561

An Act to Exempt Food Banks from Sales Tax

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

Sec. 1. 36 MRSA §1760, sub-§47, as enacted by PL 1983, c. 855, §7, is amended to read:

47. Emergency shelters, feeding organizations and emergency food supply programs. Sales of household and sanitary supplies and food items otherwise subject to tax to incorporated nonprofit organizations ~~which~~ that provide free temporary emergency shelter or food for underprivileged individuals in this State-;

See title page for effective date.

CHAPTER 421

H.P. 1058 - L.D. 1487

An Act Relating to Criminal Forfeitures

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

Whereas, the constitutional legitimacy of civil asset forfeitures has been challenged and the absence of an alternative criminal forfeiture procedure would significantly undermine the drug enforcement effort in the State; and

Whereas, the existing practice in many cases of instituting 2 actions, one criminal against individuals who violate the Maine Revised Statutes, Title 17-A, chapter 45 and one civil against property as a consequence of such violations or intended violations, often results in an unnecessary duplication of effort and a drain on scarce judicial, prosecutorial and law enforcement resources when both actions are actually

part of a single, coordinated law enforcement effort; and

Whereas, this legislation authorizes prosecutors to institute both the criminal action against the individual and the forfeiture action against the subject property in one proceeding, minimizing both duplication and the impact upon judicial, prosecutorial and law enforcement resources; and

Whereas, this legislation does not expand the kind or nature of property that is subject to forfeiture either civilly or criminally; 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. 15 MRSA §§5826 and 5827 are enacted to read:

§5826. Criminal forfeiture

1. Property subject to criminal forfeiture.

Notwithstanding any other provision of law, a person convicted of a violation of Title 17-A, chapter 45 forfeits to the State all rights, privileges, interests and claims to property that is subject to forfeiture pursuant to section 5821. All rights, privileges, interest and title in property subject to forfeiture under this section vests in the State upon the commission of the act giving rise to forfeiture pursuant to section 5821.

2. Commencement of criminal forfeiture action. Property subject to forfeiture that is not yet the subject of a final order pursuant to section 5822, subsection 4 may be proceeded against by indictment or superseding indictment of the grand jury in any related criminal proceeding in which one or more persons with an interest in the property have been simultaneously indicted for one or more violations of Title 17-A, chapter 45. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that property is subject to criminal forfeiture. Upon commencement of a criminal forfeiture by indictment or information of any property that may be the subject of any pending civil action commenced pursuant to section 5822, the civil action must be immediately stayed and subrogated to the criminal forfeiture action. Discovery in the criminal action must be as provided for by the Maine Rules of Criminal Procedure.

3. Seizure upon indictment. Property subject to forfeiture that has been indicted by the grand jury pursuant to this section may be seized pursuant to section 5822, subsection 6, except that real property subject to forfeiture pursuant to section 5821, subsection 7 may not be seized without prior notice to and opportunity to be heard by all owners of record or upon a finding by probable cause that prior notice to one or more of the owners is likely to result in the destruction, diminution of value or alienation of interest of the property.

4. Bifurcated trial proceedings. Trial against property charged by indictment or information may be by jury and must be held in a single proceeding together with the trial of the related criminal violation. Forfeiture of the property must be proved by the State by a preponderance of the evidence. The court, in its discretion, may allow any defendant with an interest in property indicted pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. At trial by jury, the court, upon motion of a defendant or the State, may separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. After a verdict upon the guilt or innocence of all defendants, the court shall instruct and submit to the jury the issue of the forfeiture of the property to be determined by proof by a preponderance of the evidence and the court shall restrict argument to those issues. A special verdict must be returned as to the extent of the interest or property subject to forfeiture, if any.

5. Ancillary hearing of 3rd-party interests. A person not charged in the indictment may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property, within 30 days of the date of receipt of the notice, may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the

petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable but in no event later than 6 months or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

6. Final order of disposition of property.

Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 5822, subsection 4 and section 5824.

§5827. Construction

The provisions of this chapter must be liberally construed to effectuate its remedial purposes.

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

Effective July 3, 1995.

CHAPTER 422

H.P. 152 - L.D. 200

An Act to Allow the Imposition of Any Term of Years or Life for Certain Attempted Murders

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

Sec. 1. 17-A MRSA §152, sub-§4, as amended by PL 1977, c. 510, §§33 and 34, is further amended to read:

4. Criminal attempt is an offense classified as one grade less serious than the classification of the offense attempted, except that an attempt to commit a Class E crime is a Class E crime, and an attempt to commit murder is a Class A crime. The sentence for attempted murder is as authorized for a Class A crime if the court finds that the person engaged in the conduct constituting the substantial step while under the influence of extreme anger or extreme fear brought about by adequate provocation. Adequate provocation has the same meaning as in section 201, subsection 4. Absent that finding by the court, the sentence for attempted murder is as authorized for a Class A crime except that, notwithstanding section 1252, subsection 2, paragraph A, the court is authorized to set a definite period of imprisonment of any term of years or, with proper findings, life. The special penalty provision of life imprisonment may be imposed only if the court finds one or more of the following aggravating circumstances is in fact present:

A. The person's intent to kill was accompanied by premeditation-in-fact;

B. The person, at the time of the crime, intended to cause multiple deaths;

C. The person was previously convicted of criminal homicide or any other crime involving the use of deadly force against a person;

D. The attempted murder was accompanied by torture, sexual assault or other extreme cruelty inflicted upon the victim;

E. The attempted murder was committed in a penal institution by an inmate of that institution against another inmate or against prison personnel;

F. The attempted murder was committed against a law enforcement officer while the officer was acting in the performance of that officer's duties; or

G. The attempted murder was committed against a hostage.

See title page for effective date.

CHAPTER 423

H.P. 67 - L.D. 103

An Act to Grant Certain Federal Officers Limited Authority to Enforce Maine Law

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

Sec. 1. 25 MRSA §1502-A is enacted to read:

§1502-A. Cooperation of federal officers

1. Definition. For purposes of this section, "federal officers" means the following persons who are authorized to carry firearms in the performance of their duties as federal law enforcement employees or officers:

A. Special Agents of the Immigration and Naturalization Service of the Department of Justice;

B. Immigration Inspectors, including Deportation Officers and Immigration Examiners when acting in the capacity of Immigration Inspectors of the Immigration and Naturalization Service of the Department of Justice;

C. Border Patrol Agents of the Immigration and Naturalization Service of the Department of Justice;

D. Officers of the United States Customs Service of the Department of the Treasury; and

E. Any of the officers listed in this subsection who are assigned to or are acting in concert with a task force, but only if that task force meets the following requirements:

(1) The task force is a task force of the Maine Drug Enforcement Agency authorized under this Title; or

(2) The task force is a joint federal-state task force operating primarily within the territorial boundaries of this State and:

(a) An arrest is part of or related to an investigation of that federal-state task force; or

(b) An arrest occurs in a prosecutorial district and either:

(i) The district attorney of that district or the district attorney's written designee actively participates in and oversees the activities of the task force; or

(ii) The arrest occurs anywhere within the State and the Attorney General or the Attorney General's written designee actively participates in and oversees the activities of the task force.

Federal officers are law enforcement officers for the purposes of Title 17-A, section 2, subsection 17.

2. Powers. Subject to suspension or revocation, without hearing, by the Attorney General or the Board of Trustees of the Maine Criminal Justice Academy, a federal officer has the power to enforce state law when one or more of the following situations exist.

A. The federal officer has an articulable and reasonable suspicion to believe that the person to be stopped has committed, is committing or is about to commit a state crime or has probable cause to believe that the person to be arrested has committed or is committing a state crime.

B. The federal officer is providing assistance to a state, county or municipal law enforcement officer in an emergency or at the request of the state, county or municipal law enforcement officer.

C. The federal officer has received information from an authoritative source that a state, county or municipal law enforcement officer holds a warrant for the person's arrest.

This section is not intended to limit the authority to enforce state law of any other federally employed, federal law enforcement officer or law enforcement officer of another state who, with the written consent of the Attorney General, has been sworn or otherwise cross-designated or cross-deputized as a state law enforcement officer.

3. Discretion to act. Federal officers may, but are not required to, enforce state law. This section is not intended to limit the existing authority of federal officers under federal law or to interfere with the performance of federal duties by federal officers.

4. Liability. A federal officer who is acting pursuant to this section has the same immunity from and limitation on tort liability as the State Police.

5. Training and policies. Before a federal officer may exercise the powers conferred by this section:

A. The federal officer must receive training in Maine criminal law and Maine law on the use of force; and

B. The Immigration and Naturalization Service of the Department of Justice and the United States Customs Service of the Department of the Treasury shall develop policies governing their employees, including training policies.

The policies and training must be approved by, and the policies filed with, the Board of Trustees of the Criminal Justice Academy.

See title page for effective date.

CHAPTER 424

H.P. 920 - L.D. 1296

An Act to Increase Venture Capital Access to State Businesses

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

Sec. 1. 10 MRSA §1026-N is enacted to read:

§1026-N. Maine Economic Development Venture Capital Revolving Investment Program

1. Established. The Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as the "program," is established to provide venture capital to businesses that need assistance in order to create or retain jobs. The Maine Economic Development Venture Capital Revolving Investment Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest and investment earnings on the fund and any amounts repaid to the program by participating venture capital funds.

2. Eligible venture capital funds. Money in the fund may be invested in one or more private, professionally managed venture capital funds located in the State capable of providing venture capital to businesses in order to create and protect jobs and with an established track record of management success and risk diversification. To be eligible for investments from the fund, a private venture capital fund must:

A. Apply to the authority. The application must describe the private venture capital fund and its funding sources, the region it serves, its methods and criteria for qualifying investments, including any targeted investing and economic development strategy, its expertise in venture capital assistance and investing in small and emerging

businesses, the method by which it will leverage funds from other sources than those received from the fund and other information the authority determines necessary;

B. Have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service investments and to assist the businesses in which it invests;

C. Be determined by the authority to be able to prudently and effectively administer venture capital investments; and

D. Propose performance standards and goals and a process for monitoring compliance with proposed measurement and goals.

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be invested in the private venture capital fund, taking into account:

A. The size of the region served by the private venture capital fund and the expected demand for venture capital investments in that region; and

B. The demand for venture capital investments from other eligible private venture capital funds in relation to the total amount available in the fund and whether an eligible private venture capital fund will serve a geographic area or segment of potential businesses not served by other applicants.

Funds must be disbursed directly to and retained by the eligible private venture capital fund in accordance with a contract of investment between the private venture capital fund and the authority. All money invested in the private venture capital fund by the authority must be held in the name of the authority. Investment earnings on amounts invested by the authority must be credited to the authority and periodically paid to the authority.

4. Investment contract. A private venture capital fund that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a private venture capital fund shall, at a minimum, conform to the following terms and conditions:

A. The private venture capital fund shall certify that it will use funds only for eligible purposes;

B. An officer or employee of the private venture capital fund may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest;

C. If the private venture capital fund breaches its contract with the authority or ceases to operate an investment program in substantial conformance with its proposal to the authority, the authority may require immediate repayment to the authority of any investment made to it from the fund; and

D. Other terms and conditions that the authority determines appropriate.

5. Administrative costs. A private venture capital fund may not use any money disbursed from the fund by the authority for administrative expenses or load charges. The authority shall review and approve a private venture capital fund's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.

6. Eligible investments. In order for a private venture capital fund to be eligible for venture capital investment under the program, it must invest at least 80% of its funds in businesses that meet all eligibility for a tax credit certificate pursuant to section 1100-T, subsection 2, paragraphs B and E.

7. Reports. A private venture capital fund shall report at least semiannually to the authority on the businesses in which the private venture capital fund invests and the administration of the program. The report must include a description of each business, the amount, type and terms of assistance the business received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the investment portfolio and any investments that are in default, as well as an accounting of the private venture capital fund's administrative and technical assistance expenses incurred and charged.

8. Audit. The authority shall review annually each private venture capital fund's participation in the program and, in its discretion, may require an independent audit at the expense of the private venture capital fund. If the authority determines that a private venture capital fund has used funds for ineligible purposes, the private venture capital fund shall repay those funds to the authority for deposit into the fund.

9. Rules. The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

Sec. 2. 10 MRSA §1100-T, sub-§2, ¶D, as amended by PL 1991, c. 854, Pt. A, §8, is further amended to read:

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$100,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

Sec. 3. 10 MRSA §1100-T, sub-§2-A is enacted to read:

2-A. Eligibility of private venture capital funds for tax credit certificate. The authority shall adopt rules in accordance with the Maine Administrative Procedure Act to implement application of the program to investment in a private venture capital fund. Without limitation, the requirements for eligibility for a tax credit certificate for investment in a private venture capital fund include the following.

A. A tax credit certificate may be issued in an amount not more than 30% of the amount of cash actually invested in a private venture capital fund in any calendar year.

B. Each state business in which the private venture capital fund invests must be a manufacturer; must provide a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or must bring capital into the State, as determined by the authority.

C. Aggregate investment eligible for tax credits may not be more than \$600,000 for any one private venture capital fund as of the date of issuance of a tax credit certificate.

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of \$100,000 in any one private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate.

E. Each business receiving an investment from a private venture capital fund must have annual gross sales of \$2,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and principal owner's spouse, parents, brothers, sisters and children are not eligible for a credit for investment in that business or the private venture capital fund.

F. Each investment received by a business from a private venture capital fund must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority.

G. The authority shall establish limits on repayment of the investment by an individual in and the investments made by a private venture capital fund. The investments must be at risk in the private venture capital fund and the business, respectively.

H. The investors qualifying for the credit must collectively own less than 1/2 of the private venture capital fund and less than 1/2 of any business in which an investment is made by the private venture capital fund.

Sec. 4. 10 MRSA §1100-T, sub-§4, as amended by PL 1991, c. 854, Pt. A, §11, is further amended to read:

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible pursuant to subsection 2 in an aggregate amount not to exceed \$2,000,000 up to and including calendar year 1996, \$3,000,000 up to and including calendar year 1997, \$4,000,000 up to and including calendar year 1998, \$5,000,000 up to and including calendar year 1999, \$6,000,000 up to and including calendar year 2000, and not to exceed \$7,000,000 thereafter. In addition, the authority may issue tax credit certificates to investors eligible pursuant to subsection 2-A in an aggregate amount not to exceed \$1,000,000.

See title page for effective date.

CHAPTER 425

H.P. 602 - L.D. 812

An Act to Amend the Laws Specifying the Place of Imprisonment

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

Sec. 1. 17-A MRSA §1203, sub-§1, ¶C, as enacted by PL 1989, c. 925, §10, is repealed.

Sec. 2. 17-A MRSA §1252, sub-§1, ¶C, as enacted by PL 1989, c. 925, §11, is repealed.

See title page for effective date.

CHAPTER 426

H.P. 465 - L.D. 631

An Act to Increase Access to the Legislature and Government Services for Persons Who Are Deaf or Hard of Hearing and to Make Progress towards Compliance with the Americans with Disabilities Act

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

Sec. 1. 5 MRSA §48, as amended by PL 1993, c. 708, Pt. J, §1, is further amended to read:

§48. Interpreter service for the deaf and hard of hearing

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

A. "Compensation" means the fee for an interpreter's time of service as provided by an appointed qualified interpreter.

A-1. "Client" means a person who is deaf, hard of hearing ~~impaired~~ or hearing who is rendered interpreting services by a privileged interpreter.

A-2. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made.

B. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ~~ordinary~~ communication and who must depend primarily upon visual communication.

C. "Directory" means a listing of all qualified interpreters in the State.

D. "~~Hearing-impaired~~ Hard-of-hearing person" means a person ~~whose sense of hearing is defective, but still functional, with or without amplification who has a hearing loss resulting in a functional loss, but not to the extent that the person must depend primarily upon visual communication.~~

E. "Interpreting agency" means an agency whose function is to provide qualified interpreter services for a fee, including travel expenses.

E-1. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate communication between the clients and

who otherwise has no substantial personal or business interest in the communication.

F. "Proof of deafness or being hard of hearing impairment" means reasonable proof ~~which that~~ a state agency or county may require a person requesting the appointment of a qualified interpreter or a qualified person to furnish when it has reason to believe that the person is not deaf or hard of hearing impaired.

G. "Qualified interpreter" means a person ~~with who has~~ the knowledge and demonstrated understanding of the code of ethics ~~of as written by~~ the National Registry of Interpreters for the Deaf, Inc., who is able to ~~recognize the comprehension level of a deaf or hearing impaired person and is able to communicate effectively in a mode of communication used by the deaf or hearing impaired person and to interpret accurately the statements of the deaf or hearing impaired person accurately interpret, both receptively and expressively, in American Sign Language and English and who is able to communicate effectively with the parties involved.~~

H. "Agency" means any authority, board, bureau, commission, department or officer of State Government, or of any county, municipality, school district or any other political or administrative subdivision.

I. "Travel expenses" means actual expense for transportation reimbursable at the usual state mileage rate, tolls, parking fees or other fees specified in an agreement between an interpreter or an interpreter agency and an agency or court retaining the services of the interpreter at a specific date, time and place.

2. Interpreter services required. A qualified interpreter ~~shall be~~ is appointed as follows.

A. Whenever any personal or property interest of a deaf or ~~hearing-impaired~~ hard-of-hearing person is the subject of a proceeding before any agency or court, the presiding officer of the proceeding shall, in consultation with the deaf or ~~hearing-impaired~~ hard-of-hearing person, appoint a qualified interpreter.

B. In appointing a qualified interpreter, the presiding officer shall give first consideration to persons who are certified by the ~~National~~ Registry of Interpreters for the Deaf, Inc.

C. The presiding officer may require proof of deafness or being hard of hearing impairment prior to appointing a qualified interpreter.

D. The interpreter ~~shall~~ must be appointed after consultation with the deaf or ~~hearing-impaired~~ hard-of-hearing person. If the appointed qualified interpreter does not meet the needs of the deaf or ~~hearing-impaired~~ hard-of-hearing person, the presiding officer shall, with the consent of the deaf or ~~hearing-impaired~~ hard-of-hearing person, appoint another qualified interpreter.

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

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

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

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

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

4. Privileged communication. Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that interpreter unless all clients of the privileged interpreter privy to that communication consent to the disclosure.

Sec. 2. Report from Legislative Council and state accessibility office. The Executive Director of the Legislative Council, on behalf of the Legislature, and the state accessibility office within the Department of Education, Office of Rehabilitation Services, on behalf of the Executive Department, shall submit reports to the Joint Standing Committee on Judiciary and the Joint Standing Committee on State and Local Government by March 1, 1996. The reports must address the use of closed captioning and large-area listening systems in all facilities used for public meetings and public legislative functions, the provision of portable assistive listening systems and full audio wiring of all legislative hearing rooms and the provision of interpreting services for legislative business. The reports must include plans to achieve compliance with all requirements of state and federal law regarding the deaf and hard of hearing. The reports must include a schedule for achieving compliance and a listing of all tasks, services and costs involved and any necessary legislation.

See title page for effective date.

CHAPTER 427

H.P. 658 - L.D. 881

An Act to Amend the Education Funding Formula

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

Sec. 1. 20-A MRSA §6303 is enacted to read:

§6303. Medicaid for health and human services

A school administrative unit may receive funds from the Medicaid program pursuant to the United States Social Security Act, 42 United States Code, for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students in accordance with section 15613, subsection 16.

Sec. 2. 20-A MRSA §15613, sub-§16 is enacted to read:

16. Medicaid. The state share of the foundation allocation may not be adjusted for a school administrative unit that receives Medicaid funds for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students pursuant to the United States Social Security Act, 42 United States Code and section 6303.

See title page for effective date.

CHAPTER 428

H.P. 139 - L.D. 187

An Act to Create a Separate License Plate for Sheriffs

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

Sec. 1. 29-A MRSA §517, sub-§7 is enacted to read:

7. County sheriff vehicles. A vehicle owned by a county and used by a full-time law enforcement department may be issued special registration plates at the request of the chief law enforcement official of the county. The Secretary of State, in consultation with the Maine Sheriffs' Association, shall design county law enforcement registration plates. A county sheriff requesting special plates shall reimburse the Highway Fund the cost associated with the production and issuance of the plates.

Sec. 2. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1995-96

SECRETARY OF STATE, DEPARTMENT OF THE

Administration - Motor Vehicles

All Other	\$2,790
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Provides funds for the manufacturing of a special sheriff registration plate.

See title page for effective date.

CHAPTER 429

H.P. 900 - L.D. 1276

An Act to Identify for Sentencing Purposes Certain Factors That Aid in Predicting High-risk Sex Offenders

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

Sec. 1. 17-A MRSA §253, sub-§6, as enacted by PL 1993, c. 432, §1, is amended to read:

6. In using a sentencing alternative involving a term of imprisonment for any natural person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the 2nd step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor.

A. When the sentencing class for a prior conviction under this section is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.

B. When the sentencing class for a prior conviction under this section is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.

C. When the sentencing class for a prior conviction under this section is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment.

In arriving at the final sentence as the 3rd step in the sentencing process, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction ~~unless the court is of the opinion that exceptional circumstances justify that suspension in which event the court shall set forth in detail its reasons on the record.~~

Sec. 2. 17-A MRSA §257 is enacted to read:

§257. Factors aiding in predicting high-risk sex offenders for sentencing purposes

1. In assessing for sentencing purposes the risk of repeat offenses by a person convicted of a crime under chapter 11, a court shall treat each of the following factors, if present, as increasing that risk:

A. The victim of the crime is prepubescent;

B. The victim of the crime is the same gender as the offender;

C. The victim of the crime is a total stranger to the offender; and

D. The offender has been previously convicted of a crime under chapter 11 or previously convicted under the laws of the United States or any other state for conduct substantially similar to that contained in chapter 11.

A court may also utilize any other factor found by that court to increase the risk of repeat offenses by a person convicted of a crime under chapter 11.

See title page for effective date.

CHAPTER 430

H.P. 716 - L.D. 973

An Act to Improve Maine Students' Preparedness for the Global Economy by Enhancing Opportunities for Global and Geographic Education

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

Whereas, the Maine Committee for Global Education is scheduled to sunset on June 30, 1995; and

Whereas, authorization of the committee must continue without interruption; and

Whereas, the activities required by this legislation must begin before 90 days after adjournment of the legislative session; 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. 5 MRSA §12004-G, sub-§9-A is enacted to read:

<u>9-A.</u>	<u>Maine</u>	<u>Expenses</u>	<u>20-A</u>
<u>Education</u>	<u>Committee</u>	<u>Only</u>	<u>MRSA</u>
	<u>for Global</u>		<u>§9801</u>
	<u>and Geo-</u>		
	<u>graphic</u>		
	<u>Education</u>		

Sec. 2. 20-A MRSA c. 329 is enacted to read:

CHAPTER 329

GLOBAL AND GEOGRAPHIC EDUCATION

§9801. Maine Committee for Global and Geographic Education

1. Committee. The Maine Committee for Global and Geographic Education, referred to in this chapter as the "committee," is established pursuant to Title 5, section 12004-G, subsection 9-A to promote and support school-based model programs in all regions of the State.

2. Membership. The committee consists of 19 members appointed as follows:

A. The Commissioner of Economic and Community Development or the commissioner's designee;

B. The Commissioner of Education or the commissioner's designee;

C. Three postsecondary education employees: one from the University of Maine System chosen by the Governor from a list of nominees supplied by the Chancellor of the University of Maine System; one from the Maine Technical College System chosen by the President of the Senate from a list of nominees supplied by the President of the Maine Technical College System; and one from the Maine Maritime Academy chosen by the Speaker of the House of Representatives from a list of nominees supplied by the President of the Maine Maritime Academy;

D. One member of the Maine School Management Association appointed by the President of the Senate from a list of nominees supplied by the Maine School Management Association;

E. Two members of the Maine Education Association, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives from a list of nominees supplied by the Maine Education Association;

F. One member of the Maine Principals' Association, or its successor organization, appointed by the Governor from a list of nominees supplied by that organization;

G. One member of the Maine Development Foundation appointed by the President of the Senate from a list of nominees supplied by the Maine Development Foundation;

H. One member of the Maine World Trade Association appointed by the Speaker of the House of Representatives from a list of nominees supplied by the Maine World Trade Association;

I. One member of the World Affairs Council of Maine, or its successor organization, appointed by the Speaker of the House of Representatives from a list of nominees supplied by that organization;

J. One representative of the general public appointed by the Governor;

K. One employee of an independent college in the State appointed by the Governor from a list of nominees supplied by the President of the

Maine Independent College Association, or its successor organization;

L. Two Senators appointed by the President of the Senate, one of whom must serve on the joint standing committee of the Legislature having jurisdiction over education matters;

M. Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom must serve on the joint standing committee of the Legislature having jurisdiction over economic development matters; and

N. A representative of the Maine Geographic Alliance, or its successor organization, appointed by the Governor from a list of nominees supplied by that organization.

3. Terms of office. Members of the committee under subsection 2, paragraphs A and B are ex officio. Members of the committee appointed under subsection 2, paragraphs L and M serve at the pleasure of the appointing authority. All other members serve for terms of 3 years. Members may be reappointed and vacancies must be filled by the appointing authority for the remainder of the vacant term.

4. Chair; cochair. The committee shall choose a chair and a cochair from among its members.

5. Quorum. A majority of the committee constitutes a quorum.

6. Convening of first meeting. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the committee no later than August 1, 1995.

§9802. Duties of committee

The committee has the following duties.

1. Work with departments. With assistance from the Department of Economic and Community Development and the Department of Education, the committee shall:

A. Identify existing innovative educational programs and businesses in the State wishing to work with educators; and

B. Provide clearinghouse information to teachers, school systems, businesses, researchers and others requesting information on exemplary education programs.

2. Regional committees. The committee shall encourage regional partnerships and other organizations promoting excellence in education and lifelong

learning to include global and geographic education on the committee agenda.

3. Exhibits. The committee may sponsor exhibits of exemplary education programs and help teachers develop resources for development.

4. Exchange programs. The committee shall encourage the use and expansion of international exchange programs.

5. Partnerships. The committee shall create partnerships of public and private organizations to use individual, corporate, education and cultural resources to enhance global education in the schools. The committee shall seek involvement from the following organizations or their successors, the World Affairs Council of Maine, the Maine Economic Growth Council, the Maine World Trade Association, the Maine Council for Economic Education, the Maine Development Foundation, the Maine Geographic Alliance and sister state and city exchange programs.

6. Grants. The committee may make grants to elementary and secondary schools to improve the skills and knowledge of students for living and working in the increasingly global economy and to achieve outcomes consistent with Goals 2000, state learning results and economic development goals of the State. Grants must also be made available for professional development for teachers in global and geographic education.

7. Funds. The Maine Geographic Alliance, or its successor organization, is the fiscal agent for the Maine Committee for Global and Geographic Education and shall provide administrative, staff and other services to enable the committee to carry out its duties. The services must be specified by contract with the committee and funded by the Maine Geographic Alliance with funds appropriated to the alliance for this purpose.

§9803. Report

The committee shall report annually to the Governor and to the Legislature on the results of its activities during the year including any recommendations to further the purpose of this chapter.

Sec. 3. Transition. This Act provides for the continuation of the Maine Committee for Global Education originally established in Resolve 1991, chapter 34. Members of the Maine Committee for Global Education appointed pursuant to Resolve 1991, chapter 34, Private and Special Law 1991, chapter 84 and Resolve 1993, chapter 23 continue to serve until their successors are appointed.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1995-96

MAINE COMMITTEE FOR GLOBAL AND GEOGRAPHIC EDUCATION

Maine Committee for Global and Geographic Education

All Other \$5,000

Provides funds for grants to elementary and secondary schools to develop education for living and working in the global economy.

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

Effective July 3, 1995.

CHAPTER 431

H.P. 1072 - L.D. 1507

An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill

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

Sec. 1. 15 MRSA §2211-A, as amended by PL 1987, c. 402, Pt. A, §112, is repealed and the following enacted in its place:

§2211-A. Persons confined; hospitalization for mental illness

1. Prohibition. A person with serious mental illness may not be detained or confined solely because of that mental illness in any jail, prison or other detention or correctional facility unless that person is being detained or serving a sentence for commission of a crime.

2. Application for hospitalization required. A sheriff or other person responsible for any county or local detention or correctional facility who believes that a person confined in that facility is mentally ill and requires hospitalization shall apply, in writing, for the admission of that person to a hospital for the mentally ill, giving the reasons for requesting the

admission. The application and certification must be in accordance with the requirements of Title 34-B, section 3863.

3. Terms of admission. A person with respect to whom application and certification are made may be admitted to a hospital for the mentally ill. Except as otherwise specifically provided in this section, Title 34-B, chapter 3, subchapter IV, articles I and III, except section 3868, are applicable to a person admitted under this section as if the admission were applied for under Title 34-B, section 3863.

4. No effect on sentence; jurisdiction retained. Admission of a person to a hospital under this section has no effect on a sentence then being served, on an existing commitment on civil process or on detention pending any stage of a criminal proceeding in which that person is the defendant, and the court having jurisdiction retains its jurisdiction. The sentence continues to run and any commitment or detention remains in force unless terminated in accordance with law.

5. Disposition of application and certification. A copy of the document by which a person is held in confinement, attested by the sheriff or other person responsible for any county or local detention or correctional facility, must accompany the application for admission. Following that person's admission to a hospital for the mentally ill under this section, a copy of the application and certification similarly attested must be filed with the court having jurisdiction over any civil or criminal case in which that person is the defendant. If a criminal proceeding is pending against the person admitted, the clerk of the court shall forward a copy of the application and certification to the attorney for the defendant and the attorney for the State.

6. Discharge from hospital. If the sentence being served at the time of admission has not expired or commitment on civil process or detention has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, that person must be returned by the sheriff or deputy sheriff of the county from which the person was admitted to the facility from which the person was admitted.

7. Transportation expenses. The county where the incarceration originated shall pay all expenses incident to transportation of a person between the hospital and the detention or correctional facility pursuant to this section.

8. Competency hearing. Admission to a hospital under this section may not be used to examine or observe a person for the purpose of a criminal proceeding pending in court. Before the trial of a defendant admitted for hospitalization under this

section, the court may, at any time upon motion of the defendant's attorney or the attorney for the State or upon the court's own motion, hold a hearing with respect to the competence of that person to stand trial as provided in section 101-B and appropriate disposition may be made. The court's order following a hearing may terminate an admission effected under this section.

9. Alternative; voluntary commitment. If hospitalization is recommended by a licensed physician or licensed psychologist, a person confined in a county or local detention or correctional facility may apply for informal admission to a hospital for the mentally ill under Title 34-B, sections 3831 and 3832, in which case all other provisions of this section as to notice of status as an inmate of a county or local detention or correctional facility, notice to the court and counsel, transportation and expenses and the continuation and termination of sentence, commitment or detention apply. Except as otherwise provided in this section, the provisions of law applicable to persons admitted to a hospital for the mentally ill under Title 34-B, sections 3831 and 3832 apply to a person confined and admitted to a hospital for the mentally ill under those sections.

Sec. 2. 34-B MRSA §1219 is enacted to read:

§1219. State strategy for preventing imprisonment of persons with serious mental illness

1. Development of state strategy. The department shall develop a comprehensive state strategy for preventing the inappropriate incarceration of seriously mentally ill individuals and for diverting those individuals away from the criminal justice system. This strategy must be developed with the active participation of other agencies and providers responsible for serving persons with serious mental illness, including: the Department of Human Services; the Department of Corrections; the Department of Human Services, Bureau of Medical Services; and representatives of community mental health centers, area shelters, other community providers, consumers of services and their families, providers of inpatient mental health services, advocates for consumers of mental health services, sheriffs' departments, the Office of Substance Abuse and the Department of Public Safety.

2. Components of strategy. The state strategy developed under subsection 1 must include, but is not limited to:

A. Identification of existing programs or creation of jail diversion and community mental health programs to serve persons with serious mental illness who have been charged with minor crimes that are a manifestation of their illness, including identification of financing

mechanisms for the programs and the services provided;

B. Systems for the evaluation of serious mental illness, within 24 hours of contact with the criminal justice system, of persons charged with minor crimes and timely referral of those persons identified as seriously mentally ill to appropriate community mental health programs;

C. Specific mechanisms for enabling police and correctional officers to communicate and consult on a timely basis with appropriate mental health personnel about specific cases;

D. Plans for conducting training, in conjunction with the Maine Criminal Justice Academy, of law enforcement and correctional personnel about serious mental illness and effective methods for evaluating, treating and managing persons with serious mental illness;

E. Plans for training mental health professionals who participate in state-funded, educational training programs to work with persons with serious mental illness in correctional facilities, including, but not limited to, on-site field experience in correctional facilities or jail diversion programs; and

F. Plans for providing comprehensive treatment, services and support to persons with serious mental illness following their release from correctional facilities.

Sec. 3. 34-B MRSA §3604, sub-§4 is enacted to read:

4. Cooperative planning required; grant recipients and correctional authorities. As a condition for receipt of state mental health funding, providers of community mental health services to persons with serious mental illness shall develop with state and local correctional authorities cooperative plans for the provision of services to those persons. These plans must include at least the following:

A. Procedures for timely referral of persons with serious mental illness to community-based mental health services;

B. Provision for the treatment and support of persons with serious mental illness in correctional facilities and commitment of funds within available resources; and

C. Procedures for referrals of individuals with serious mental illness to local providers of comprehensive mental health services following release from correctional facilities, including mechanisms for developing comprehensive

treatment plans before the release from correctional facilities of persons with serious mental illness.

Providers of community mental health services and other public providers of comprehensive services to persons with serious mental illness that fail to participate in the development of plans to serve this population are not eligible for state funding for the provision of mental health services.

See title page for effective date.

CHAPTER 432

S.P. 77 - L.D. 165

An Act to Require All Persons to Use Safety Belts in Motor Vehicles

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

Sec. 1. 29-A MRSA §2081, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 2. 29-A MRSA §2081, sub-§3-A is enacted to read:

3-A. Other passengers; operators. When a person 4 years of age or older is a passenger in a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, the operator must have the person properly secured in a seat belt. The operator of a vehicle that is required by the United States Department of Transportation to be equipped with seat belts must be secured in the operator's seat belt.

Sec. 3. 29-A MRSA §2081, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Enforcement. The following provisions apply to subsections 2 and 3 ~~3-A~~.

A. The requirements do not apply to a passenger over one year of age when the number of passengers exceeds the vehicle seating capacity and all of the seat belts are in use.

A-1. The requirements of subsection 3-A do not apply to a driver or passenger who has a medical condition that, in the opinion of a physician, warrants an exemption from the requirements of subsection 3-A and that medical condition and opinion are documented by a certificate from that physician. That certificate is valid for 5 years.

B. A person against whom enforcement action has been taken is not guilty of a subsequent violation of subsection 2 until 24 hours have elapsed from the date and time of the first violation indicated on the Violation Summons and Complaint.

C. A violation of ~~this section~~ subsection 2 is a traffic infraction. The court shall waive the fine for a first violation of subsection 2 by a parent or legal guardian if the parent or legal guardian provides the court with satisfactory evidence that the parent or legal guardian has acquired a child safety seat for continuous use by the child within 30 days of the violation.

D. A violation of subsection 3-A is a traffic infraction. The fine for a violation of subsection 3-A may not be less than \$25 nor more than \$50.

E. Subsection 3-A may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for a suspected violation of another law. An operator is not subject to the penalty established in paragraph D unless the operator is required to pay a fine for the primary violation.

Sec. 4. Referendum for ratification; submission at statewide election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine at a statewide election held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor requiring all persons to use safety belts in motor vehicles?"

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

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

Effective pending referendum.

CHAPTER 433

S.P. 201 - L.D. 544

An Act to Reduce the Amount of Good Time and Meritorious Good Time Available to Persons Sentenced to Terms of Imprisonment

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

Sec. 1. 17-A MRSA §1252-B, as enacted by PL 1987, c. 808, §2, is repealed and the following enacted in its place:

§1252-B. Imposition of sentence; consideration of good time and meritorious good time at the time of sentencing

1. If a court imposes a sentencing alternative pursuant to section 1152 that includes a term of imprisonment, in setting the appropriate length of that term, as well as an unsuspended portion of that term, if any, the court shall consider the potential impact of deductions under section 1253, subsections 3, 3-B, 4 and 5.

2. For persons who commit crimes on or after October 1, 1995, section 1253, subsection 8 substantially reduces the statutory deductions available under subsections 3 and 3-B for good time and under subsections 4 and 5 for meritorious good time. The change is intended to ensure that the term of imprisonment imposed closely approximates what will in fact be served and to abandon administrative awards that have seriously imperiled the State's statutory scheme relative to authorized terms of imprisonment for murder under section 1251 and for crimes other than murder under section 1252, subsection 2. At the same time that it reduces these statutory deductions, however, the Legislature intends that the parties in requesting or recommending dispositions and the sentencing courts, who ultimately impose sentences, to the extent that they have imposed longer terms of imprisonment in an effort to compensate for the impact of substantial good time and meritorious good time deductions, must make, pursuant to this subsection, the necessary adjustments in their sentencing decisions in view of the substantially reduced deductions. Application of section 1253, subsection 8 to the sentencing process must be reflected in the imposition of shorter terms of imprisonment by courts.

Sec. 2. 17-A MRSA §1253, sub-§6-A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

6-A. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the person for the same offense, day-for-day credit ~~shall~~ **must** be accorded on the new sentence both for each day the person served in execution of the initial sentence and for all previously earned deductions specified in subsections 4 ~~and~~ 5 ~~and~~ 8 and Title 30-A, section 1606. Prior to the day-for-day credit being given on the new sentence, the new sentence ~~shall~~ **must**, after first having been reduced by any deductions specified in subsection 2 previously or subsequently received, have applied to it the controlling deduction specified in either subsection 3 or 3-B, ~~if applicable~~.

Sec. 3. 17-A MRSA §1253, sub-§7, as enacted by PL 1983, c. 456, §8, is repealed and the following enacted in its place:

7. Notwithstanding the fact that subsections 3, 3-B and 4 directly address only persons who are committed to the custody of the Department of Corrections, they apply also to persons who are committed to the custody of a sheriff. Subsection 5 does not apply to persons who are committed to the custody of a sheriff.

Sec. 4. 17-A MRSA §1253, sub-§8 is enacted to read:

8. For any person who commits a crime on or after October 1, 1995 and is subsequently sentenced to a term of imprisonment for that crime, up to 5 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, whose conduct, participation in programs and fulfillment of assigned responsibilities during that month are such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail.

A. Deductions under this subsection must be calculated as follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 6 days</u>	<u>up to 1</u>
<u>7 to 12 days</u>	<u>up to 2</u>
<u>13 to 18 days</u>	<u>up to 3</u>
<u>19 to 24 days</u>	<u>up to 4</u>
<u>25 to 31 days</u>	<u>up to 5</u>

B. Any portion of the time deducted from the sentence of any person pursuant to this subsection may be withdrawn by the chief administrative officer of the state facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section, or by the sheriff of the county jail in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the person up to and including the maximum authorized for that sentence.

C. The chief administrative officer of the state facility or the sheriff of the county jail may restore any portion of deductions that have been withdrawn if the person's later conduct, participation in programs and fulfillment of assigned responsibilities are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or sheriff.

D. This subsection supersedes subsections 3, 3-B, 4, 5 and 6 for persons who commit offenses on or after October 1, 1995.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1995-96

CORRECTIONS, DEPARTMENT OF

Administration - Corrections

All Other \$20,000

Provides funds for the Department of Corrections to rewrite the computer program used to project prisoner release dates.

See title page for effective date.

CHAPTER 434

S.P. 204 - L.D. 547

An Act to Broaden the Crime of Criminal Mischief and to Repeal the Crime of Animal Enterprise Terrorism

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

Sec. 1. 17-A MRSA §805, sub-§1, as enacted by PL 1975, c. 499, §1, is amended to read:

1. A person is guilty of aggravated criminal mischief if ~~he~~ that person intentionally ~~or~~, knowingly or recklessly:

A. Damages or destroys property of another in an amount exceeding \$1,000 in value, having no reasonable ground to believe that ~~he~~ the person has a right to do so; ~~or~~

B. Damages or destroys property in an amount exceeding \$1,000 in value, to enable any person to collect insurance proceeds for the loss caused; ~~or~~

C. Damages, destroys or tampers with the property of a law enforcement agency, fire department or supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having no reasonable ground to believe that ~~he~~ the person has a right to do so, and thereby causes a substantial interruption or impairment of service rendered to the public; or

D. Damages, destroys or tampers with property of another and thereby recklessly endangers human life.

Sec. 2. 17-A MRSA §807, as enacted by PL 1993, c. 83, §1, is repealed.

See title page for effective date.

CHAPTER 435

H.P. 382 - L.D. 517

An Act to Repeal the Retail Seed Dealer's License

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

Sec. 1. 7 MRSA §1044-A, first ¶, as enacted by PL 1979, c. 672, Pt. A, §25, is amended to read:

For the purpose of providing revenues to defray the expense of the inspection and analysis prescribed in this subchapter, the commissioner shall license ~~retail seed dealers and~~ seed labelers. The commissioner shall prescribe the license application form. License fees established under this subchapter may be collected on other than an annual basis if the ~~licenses~~ license required in this section ~~are~~ is issued in conjunction with a ~~nurseryman's~~ nursery operator's license issued under Title 32, section 1901.

Sec. 2. 7 MRSA §1044-A, sub-§1, as enacted by PL 1979, c. 672, Pt. A, §25, is repealed.

Sec. 3. Effective date. This Act takes effect on July 1, 1996.

Effective July 1, 1996.

CHAPTER 436

H.P. 148 - L.D. 196

An Act to Develop the Landowner Relations Program

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

Sec. 1. 12 MRSA §7035, sub-§13, as enacted by PL 1989, c. 441, §1, is repealed and the following enacted in its place:

13. Landowner relations program. The commissioner shall develop and implement a program to improve landowner relations. The program must foster public use of private land for hunting and fishing and promote high standards of courtesy, respect and responsibility by hunters and anglers for private lands and prevent abuse of private lands by hunters and anglers. The program must have the following 2 components:

A. A program that supports landowners, called the Support Landowners Program. Twelve dollars of each \$15 collected under section 7101, subsection 5-A, section 7133, subsection 4-A and section 7151, subsection 5-A is dedicated to the Support Landowners Program. The Support Landowners Program may:

(1) Offer a toll-free number for landowner concerns;

(2) From among existing staff, appoint a landowner relations coordinator at the Augusta office of the department and regional landowner relations coordinators at the regional offices;

(3) Provide linkage with local conservation organizations, volunteer groups and advisory groups;

(4) Enhance enforcement of trespass, dumping and property damage violations;

(5) Provide educational materials and signs; and

(6) Coordinate with other related land-owner relations activities, including Landowner Recognition Day; and

B. A program called the Sport Hunter Program. The Sport Hunter Program is established to combat disrespect and misconduct and to improve the hunter's image through landowner relations, coordination with hunter safety programs and conservation ethics. Three dollars of each \$15 collected under section 7101, subsection 5-A, section 7133, subsection 4-A and section 7151, subsection 5-A is dedicated to the Sport Hunter Program.

The Support Landowners Program and the Sport Hunter Program must operate within the department and must be implemented no later than January 1, 1996.

Sec. 2. 12 MRSA §7101, sub-§5, ¶E, as repealed and replaced by PL 1993, c. 419, §5, is repealed.

Sec. 3. 12 MRSA §7101, sub-§5-A is enacted to read:

5-A. Supersport hunting license. In addition to the fees listed in subsection 5, a person may purchase a supersport license from the commissioner for \$15.

Sec. 4. 12 MRSA §7133, sub-§4-A is enacted to read:

4-A. Supersport trapping license. In addition to the fees listed in subsection 4, a person may purchase a supersport trapping license from the commissioner for \$15.

Sec. 5. 12 MRSA §7151, sub-§5-A is enacted to read:

5-A. Supersport fishing license. In addition to the fees listed in subsection 5, a person may purchase a supersport fishing license from the commissioner for \$15.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1995-96	1996-97
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF Support Landowners Program		
All Other	\$18,000	\$36,000

Allocates funds for the operating costs of the newly established Support Landowners Program.

Sport Hunter Program

All Other	4,500	9,000
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Allocates funds for the operating costs of the newly established Sport Hunter Program.

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

TOTAL	\$22,500	\$45,000
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See title page for effective date.

CHAPTER 437

S.P. 21 - L.D. 52

An Act Concerning the Labeling of Refundable Beverage Containers

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

Sec. 1. 32 MRSA §1865, sub-§1-B is enacted to read:

1-B. Labels; nonrefillable containers; exclusive distributorships. Notwithstanding subsection 1 and with respect to nonrefillable beverage containers, for the deposits that are initiated pursuant to section 1863-A, subsection 2, the refund value and the word "Maine" or the abbreviation "ME" may be clearly indicated on refundable beverage containers sold or offered for sale by a dealer in this State by use of stickers or similar devices if those containers are not otherwise marked in accordance with subsection 1. A redemption center shall accept containers identified by stickers in accordance with this subsection or by embossing or stamping in accordance with subsection 1.

See title page for effective date.

CHAPTER 438

H.P. 536 - L.D. 732

An Act to Increase the Compensation of Members of the State Claims Commission

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

Sec. 1. 5 MRSA §12004-B, sub-§5, as enacted by PL 1987, c. 786, §5, is amended to read:

5. State \$400 \$150/Day 23 MRSA
Claims Com- §152
mission

Sec. 2. 23 MRSA §152, 2nd ¶, as repealed and replaced by PL 1987, c. 395, Pt. A, §92, is amended to read:

Members of the State Claims Commission ~~shall~~ must be compensated according to the provisions of Title 5, chapter 379. The daily rate for commission members is \$150.

Sec. 3. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

	1995-96	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF		
State Claims Commission		
Personal Services	\$5,175	\$6,900
All Other	193	255
Allocates funds to increase the per diem of commission members from \$100 to \$150 and for related charges.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	\$5,368	\$7,155

See title page for effective date.

CHAPTER 439

H.P. 590 - L.D. 800

An Act to Amend the Laws Related to Optometry

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

Sec. 1. 32 MRSA §2411, sub-§1, ¶A, as amended by PL 1987, c. 542, Pt. K, §§2 and 20, is further amended to read:

A. The examination of the eye and related structures without the use of invasive surgery or other invasive techniques or tissue-altering lasers to ascertain defects, abnormalities or diseases of the eye;

Sec. 2. 32 MRSA §2411, sub-§1, ¶C, as repealed and replaced by PL 1987, c. 542, Pt. K, §§3 and 20, is amended to read:

C. The correction, treatment or referral of vision problems and ocular abnormalities by the prescribing, adapting and application of ophthalmic lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy, ~~ocular~~ pharmaceutical agents and prosthetic devices and other optical aids, and by using other corrective procedures to preserve, restore or improve vision, excluding invasive, laser or other surgery and tissue-altering lasers;

Sec. 3. 32 MRSA §2411, sub-§3, as repealed and replaced by PL 1987, c. 542, Pt. K, §§4 and 20, is repealed and the following enacted in its place:

3. Pharmaceutical agent. "Pharmaceutical agent" means any medicinal diagnostic and therapeutic substances for use in the diagnosis, cure, treatment or prevention of glaucoma, and any topical medicinal diagnostic and therapeutic substances for use in the diagnosis, cure, treatment or prevention of ocular conditions and diseases other than glaucoma.

Sec. 4. 32 MRSA §2411, sub-§5, as enacted by PL 1987, c. 542, Pt. K, §§5 and 20, is amended to read:

5. Therapeutic pharmaceuticals. "Therapeutic pharmaceuticals" means those pharmaceutical agents required to prevent, manage or treat abnormal ocular conditions or diseases, excluding glaucoma.

Nothing in this section may be construed to permit the optometric use of pharmaceutical agents ~~which~~ that are:

A. Controlled substances identified in schedules I and II as described in the United States Code, Title 21, Section 812;

B. Any pharmaceutical agent administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injections, except injections for the emergency treatment of anaphylactic shock; and

C. Any pharmaceutical agent for the specific treatment of a systemic disease, unless the agent is used specifically for an ocular disease.

Notwithstanding any other provision of this Act, an optometrist may dispense, prescribe and administer nonlegend agents.

Sec. 5. 32 MRSA §2417, sub-§6 is enacted to read:

6. Determination of the scope of the practice of optometry. The board, in accordance with the Maine Administrative Procedure Act, shall adopt reasonable rules to carry out the purposes of this chapter.

Sec. 6. Optometry Study Panel.

1. Panel established. There is created the Optometry Study Panel, referred to in this section as the "panel."

2. Membership. The panel consists of 5 members to be appointed as follows:

- A. Two licensed optometrists appointed by the State Board of Optometry;
- B. One licensed ophthalmologist appointed by the Board of Licensure in Medicine;
- C. One licensed pharmacist appointed by the Board of Commissioners of the Profession of Pharmacy; and
- D. One member of the general public appointed by the Governor.

3. Convening. The Commissioner of Professional and Financial Regulation shall call the first meeting of the panel within 15 days of the effective date of this Act.

4. Chair. The panel shall elect a chair from among its members.

5. Staff. Staffing must be provided from within the existing personnel of the Board of Licensure in Medicine and the State Board of Optometry.

6. Duties. The panel shall:

- A. Determine the qualifications required of optometrists for prescription and use of nontopical medicinal diagnostic and therapeutical substances for the diagnosis, cure, treatment or prevention of glaucoma;
- B. Determine the qualifications required of optometrists for prescription and use of nontopical medicinal diagnostic and therapeutical substances for the diagnosis, cure, treatment or prevention of abnormal ocular conditions and diseases other than glaucoma;

C. Determine what, if any, restrictions or limitations should be placed on prescription and use of nontopical medicinal diagnostic and therapeutical substances by optometrists for the diagnosis, cure, treatment or prevention of abnormal ocular conditions and diseases other than glaucoma; and

D. Develop a detailed evaluation program to determine the incidence of mistreatment of glaucoma by optometrists. The panel shall include in its recommendations the agency or agencies to be responsible for final design, conduct and review of this evaluation.

7. Report to the Legislature. The panel shall prepare and submit a report to the Joint Standing Committee on Business and Economic Development with a copy to the Executive Director of the Legislative Council and the Law and Legislative Reference Library. The report must summarize the findings of the panel and must be signed by all members of the panel as either in favor of or opposed to the recommendations. The report must include specific proposed legislation for putting the specific recommended qualifications of treating glaucoma into statute. The report must be submitted on January 1, 1996. The Joint Standing Committee on Business and Economic Development shall submit legislation that has an effective date of October 1, 1996 based on the issues dealt with by the panel.

Sec. 7. Education and training. The Board of Optometry shall require an applicant for certification to treat glaucoma to successfully complete the education and training requirements as approved by the Legislature for that certification.

Sec. 8. Effective date. Those sections of this Act that repeal and replace the Maine Revised Statutes, Title 32, section 2411, subsection 3 and amend Title 32, section 2417, subsection 6 take effect October 1, 1996.

See title page for effective date, unless otherwise indicated.

CHAPTER 440

H.P. 472 - L.D. 653

An Act to Amend the Excise Tax Charged on Commercial Vehicles

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

Sec. 1. 29-A MRSA §531, sub-§6 is enacted to read:

6. Excise tax on commercial vehicles operated by nonresident owners. Nonresident owners of motor vehicles paying an apportioned registration fee to the State through the International Registration Plan shall pay to the Secretary of State an apportioned excise tax determined by multiplying the apportioned mileage percentage by the purchase price of the vehicle and by the appropriate mill rate for the model year as determined in Title 36, section 1482, subsection 1, paragraph C.

Sec. 2. 29-A MRSA §533 is enacted to read:

§533. Use of apportioned excise tax

1. Deposits. The revenue derived pursuant to Title 29-A, section 531, subsection 6 must be deposited into the Highway Fund by the Secretary of State. These funds may be used as follows.

A. Annually, between July 1st and September 30th, the Secretary of State shall disburse to each municipality a sum equal to the amount of excise revenue representing the difference between the excise tax that would have been collected using the manufacturer's list price and the excise tax actually collected on the purchase price of commercial motor vehicles subject to Title 36, section 1482, subsection 1, paragraph C, subparagraph (3). The Secretary of State shall provide supporting documentation to each municipality.

B. The Secretary of State shall request allocations in fiscal year 1997-1998 and annually thereafter in order to make the first disbursement by September 30, 1997.

C. Municipal participation in an excise reimbursement program is optional. Any municipality wishing to participate shall collect and provide to the Secretary of State any information the Secretary of State requires to calculate reimbursement.

Sec. 3. 36 MRSA §1481, sub-§7 is enacted to read:

7. Purchase price. "Purchase price" means the actual price paid, including any trade-in value applied to the cost of purchasing the vehicle.

Sec. 4. 36 MRSA §1482, sub-§1, ¶C, as amended by PL 1993, c. 297, Pt. B, §6 and affected by §7, is further amended to read:

C. For the privilege of operating a motor vehicle or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as follows, except as specified in subparagraph (3): a sum equal to 24 mills on each

dollar of the maker's list price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is \$5 for a motor vehicle other than a bicycle with motor attached, \$2.50 for a bicycle with motor attached, \$15 for a camper trailer other than a tent trailer and \$5 for a tent trailer. The excise tax on a stock race car is \$5.

(1) On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.

(2) Vehicles registered under the International Registration Plan are subject to an excise tax determined on a monthly proration basis if their registration period is less than 12 months.

(3) For commercial vehicles manufactured in model year 1996 and after, the amount of excise tax due for commercial vehicles, as defined in Title 29-A, section 101, subsection 17, paragraph A and for special mobile equipment, as defined in Title 29-A, section 101, subsection 70, is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

~~For motor vehicles being registered in the International Registration Plan, the excise tax must be prorated for the number of months in the registration. If the registration period is for more than 12 months, for the number of months in excess of 12 the next mill rate is used.~~

Sec. 5. Effective date. This Act takes effect July 1, 1996.

Effective July 1, 1996.

CHAPTER 441

H.P. 508 - L.D. 689

An Act to Amend the Law Regulating 53-foot Semitrailers

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

Sec. 1. 29-A MRSA §2390, sub-§1, ¶J, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

J. Notwithstanding any other provision of this subsection, a single semitrailer whose total length exceeds 48 feet but does not exceed 53 feet may be operated in combination with a truck tractor ~~on highways on a highway network and access system~~ designated by the Commissioner of Transportation if the following conditions are met.

- (1) The wheelbase of the semitrailer, measured as the distance from the kingpin to the center of the rearmost axle of the semitrailer, may not exceed 43 feet.
- (2) The kingpin setback of the semitrailer, measured as the distance from the kingpin to the front of the semitrailer, may not exceed 3 1/2 feet in length.
- (3) The rear overhang of the semitrailer, measured as the distance from the center of the rear tandem axles of the semitrailer to the rear of the semitrailer, may not exceed 35% of the wheelbase of the semitrailer.
- (4) The semitrailer must be equipped with a rear underride guard that is of sufficient strength to prevent a motor vehicle from penetrating underneath the semitrailer, extends across the rear of the semitrailer to within an average distance of 4 inches of the lateral extremities of the semitrailer, exclusive of safety bumper appurtenances, and is placed at a height not exceeding 22 inches from the surface of the ground as measured when the semitrailer is empty and is on a level surface.
- (5) The semitrailer must be equipped with vehicle lights that comply with or exceed federal standards and reflective material approved by the Commissioner of Transportation that must be located on the semitrailer in a manner prescribed by the commissioner. The semitrailer must display a conspicuous warning on the rear of the semitrailer indicating that the vehicle combination has a wide turning radius.
- (6) The semitrailer and the truck tractor used in combination with the semitrailer may not have liftable axles.
- (7) The maximum gross weight of the truck tractor and semitrailer combination may not exceed 80,000 pounds or the maximum gross vehicle weight permitted

by chapter 21, subchapter I, whichever is less.

(8) The overall length of the truck tractor and semitrailer combination may not exceed 70 feet, including all structural parts of the vehicle, permanent or temporary, and any load carried on or in the vehicle.

(9) Notwithstanding section 2380, the width of the semitrailer must be 102 inches, except that the width of the rear safety bumper and appurtenances to the safety bumper may not exceed 103 inches and except that the width of a flatbed or lowboy semitrailer, measured as the distance between the outer surface edges of the semitrailer's tires, must be at least 96 inches but no more than 102 inches.

~~(10) For semitrailers being operated off the designated routes, a 53-foot semitrailer access permit must be obtained from the Department of Transportation. The permit must apply to a specific motor carrier, specify routing and any other travel conditions and be carried in the truck tractor. Access to service facilities for the purpose of food, fuel, repairs and rest must be permitted only on intersecting crossroads within 1/2 mile of the system of federal aid primary highways designated by the Commissioner of Transportation for 53-foot semitrailer travel. Access is permitted to service facilities or terminals within 1/2 mile of the highway network and access system designated by the Commissioner of Transportation for 53-foot semitrailer traffic. For operations to terminals beyond the 1/2-mile distance, an access permit specifying the motor carrier, specific routing and terminal location must be obtained from the Department of Transportation and carried in the truck tractor.~~

(11) A 53-foot semitrailer permit must be obtained from the Secretary of State. The fee, which is nontransferable and nonrefundable, is \$60 per year for a maximum of 2 years or \$5 per month or portion of a month for a period of from one to 24 months. The Secretary of State shall issue an identification decal of such size and design as the Secretary of State prescribes that must be permanently affixed to the exterior of the semitrailer in a location the Secretary of State specifies and the decal must be at all times visible and legible.

(12) This vehicle combination may not transport cargo that has been prohibited for this vehicle combination by the Commissioner of Transportation.

The Secretary of State shall adopt rules for the permitting of this vehicle combination.

See title page for effective date.

CHAPTER 442

H.P. 1090 - L.D. 1534

An Act to Establish the Board of Licensure of Water Treatment Plant Operators

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

Sec. 1. 5 MRSA §12004-A, sub-§46 is enacted to read:

<u>46. Board of</u>	<u>Expenses Only</u>	<u>22 MRSA</u>
<u>Licensure of Water</u>		<u>§2624-A</u>
<u>Treatment Plant</u>		
<u>Operators</u>		

Sec. 2. 22 MRSA §2624-A is enacted to read:

§2624-A. Board of Licensure of Water Treatment Plant Operators

The Board of Licensure of Water Treatment Plant Operators, referred to in this section as the "board," is established within the department pursuant to Title 5, chapter 379.

1. Membership; general qualifications. The board consists of 7 members appointed by the Governor as follows: 3 water system or water treatment operators, one holding a Class II license, one holding a Class III license and one holding a Class IV license; one member of the public who is a registered professional engineer; one person who is an educator in the field of water supply or service; one person who is a water utility management representative; and one person from the department, as the commissioner may recommend, subject to appointment by the Governor.

2. Terms. Except as provided in this subsection, each member of the board is appointed for a 3-year term. The initial appointee who is a water system or water treatment operator holding a Class II license and the initial appointee who is a registered professional engineer employed by a water utility are appointed for one-year terms. The initial appointee who is a water system or water treatment operator

holding a Class III license and the initial appointee who is an educator in the field of water supply or service are appointed for 2-year terms. The appointee from the department serves at the pleasure of the Governor. The commissioner may recommend to the Governor at any time that the appointee from the department be replaced. Vacancies must be filled by appointment of the Governor for all unexpired terms.

3. Chair; secretary. Members of the board shall elect from among the members a chair at the first meeting of each year. Members shall also elect from among the members a secretary who is responsible for maintaining records and providing administrative support.

4. Call of meetings. Meetings of the board may be called by the chair, or by the chair at the request of any other 2 members, as necessary to carry out this chapter.

5. Conduct of meetings. A majority of the members of the board constitutes a quorum for the purpose of conducting the business of the board and exercising all the powers of the board. A vote of the majority of members present is sufficient for all actions of the board.

6. Powers and duties. The powers and duties of the board are as follows.

A. The board shall license persons to serve as operators of all or part of any public water system.

B. The board shall design and hold at least one examination each year at a time and place designated for the purpose of examining candidates for licensure.

C. The board may enter into contracts to carry out its responsibilities under this section.

7. Fund. The Board of Licensure of Water Treatment Plant Operators Fund is established and is governed by the following provisions.

A. All money collected by the board in the form of application fees, reinstatement and renewal fees, expense reimbursements ordered by the board or payment for services such as reproduction and distribution of copies of board decisions and photocopying or for the use of facilities must be deposited with the Treasurer of State in a separate account to be known as the Board of Licensure of Water Treatment Plant Operators Fund.

B. The board may use the fund to defray the reasonable costs incurred by the board in carrying out its duties.

C. Except as specified in this paragraph, any amount within the fund that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended by the board in carrying out its duties in succeeding fiscal years. Upon certification of the board that certain amounts in the fund are not required by the board, the Treasurer of State shall transfer the amounts to the General Fund.

8. Records. The board shall keep all records and minutes necessary to the ordinary dispatch of its functions. The board shall keep a register of all applicants for licensure and a register of all licensees.

9. Reports. No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions in the preceding fiscal year ending June 30th and shall transmit to the commissioner a complete statement of all the receipts and expenditures of the board, attested by affidavits of the board's chair and secretary.

10. Staff. The commissioner, to the extent possible and reasonable, shall make available to the board such staff, facilities, equipment, supplies, information and other assistance as the board may reasonably require to carry out its activities. The commissioner may also appoint, subject to the Civil Service Law, the employees necessary to carry out this section. Any person so employed must be located in the department and under the administrative and supervisory direction of the commissioner.

11. Compensation of members. Members of the board are entitled to reimbursement for expenses only pursuant to Title 5, section 12004-A, subsection 46.

Sec. 3. 22 MRSA §2625, first ¶, as amended by PL 1985, c. 748, §27, is further amended to read:

The ~~commissioner~~ Board of Licensure of Water Treatment Plant Operators shall issue biennial licenses to individuals to act as operators. The license ~~shall~~ must indicate the classification level of the systems or parts of systems for the operation of which the individual is qualified to act as an operator.

Sec. 4. 22 MRSA §2625, 3rd ¶, as amended by PL 1985, c. 748, §27, is repealed.

Sec. 5. 22 MRSA §2625, last ¶, as amended by PL 1985, c. 748, §27, is repealed.

Sec. 6. 22 MRSA §2625-A, last ¶, as amended by PL 1985, c. 748, §28, is further amended to read:

The ~~commissioner~~ Board of Licensure of Water Treatment Plant Operators shall notify ~~everyone~~ a

person registered under this subchapter of the date of expiration of ~~his~~ that person's license and the fee required for its renewal for a 2-year period. The notice ~~shall~~ must be mailed to the person's last-known address at least 30 days in advance of the expiration date of ~~his~~ that person's license.

Sec. 7. 22 MRSA §§2626, 2628 and 2629, as amended by PL 1985, c. 748, §29, are further amended to read:

§2626. License from outside the State

The ~~commissioner~~ Board of Licensure of Water Treatment Plant Operators, upon application ~~therefor~~ for licensure, may issue a license without examination, in a comparable classification, to any person who holds a license in any state, territory or possession of the United States or any country, providing the requirements for licensure of operators under which the person's license was issued does not conflict with this chapter and, in the opinion of the ~~commissioner~~, with the advice of the board, are of a standard not lower than that specified by regulations adopted under this chapter.

§2628. Rules

The ~~commissioner~~, with the advice of the board Board of Licensure of Water Treatment Plant Operators, in accordance with any other appropriate state laws, shall make such rules as are reasonably necessary to carry out the intent of this subchapter. The rules ~~shall~~ must include, but are not limited to, provisions establishing requirements for licensure and procedures for examination of candidates and such other provisions as are necessary for the administration of this subchapter.

§2629. Fees

The application fees, biennial renewal fees and reinstatement fees ~~shall~~ must be established by the ~~commissioner~~ Board of Licensure of Water Treatment Plant Operators by rule and ~~shall~~ must be based upon different classifications of water treatment systems and the levels of competence to operate various water systems. The application fee ~~shall~~ may not exceed \$35, and the biennial renewal fee ~~shall~~ may not exceed \$30. Revenues derived from applicants failing the examination ~~shall~~ must be retained.

Sec. 8. 22 MRSA §2630, 2nd ¶, as amended by PL 1983, c. 819, Pt. A, §55, is further amended to read:

The ~~commissioner~~ Board of Licensure of Water Treatment Plant Operators may, in the event of extenuating circumstances, issue a waiver of the licensure requirements for a period not exceeding 13 months. In granting the waiver, the ~~commissioner~~

board may impose such terms, conditions or requirements as, in ~~his~~ its judgment, are necessary to protect the public health and interest.

Sec. 9. Study. The Board of Licensure of Water Treatment Plant Operators shall conduct a study of the need for licensure of backflow prevention device testers and, if the board considers necessary, determine what standards for licensure would be appropriate. The results of this study must be communicated to the Commissioner of Human Services no later than June 1, 1996. In conducting this study, the board may hold any public hearings or seek any public comment as it considers necessary.

See title page for effective date.

CHAPTER 443

H.P. 841 - L.D. 1172

An Act to Increase Moose Hunting Permit Application Fees

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

Sec. 1. 12 MRSA §7463-A, sub-§4, as repealed and replaced by PL 1993, c. 680, Pt. A, §21, is amended to read:

4. Hunting permits. In accordance with the provisions of subsections 1-A and 2-A, the commissioner may issue moose hunting permits and may establish the number of moose hunting permits to be issued for each moose hunting zone. No more than 10% of the moose hunting permits may be issued to nonresident and alien hunters. A person whose application is selected may purchase a moose hunting permit upon presentation of proof that the person possesses:

A. A valid Maine hunting license, if the person is a resident of the State; or

B. A valid Maine big game hunting license, if the person is a nonresident or alien.

The fee for a moose hunting permit is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996 and every year thereafter for residents and \$200 for 1993, \$202 for 1994, ~~\$203~~ \$300 for 1995 ~~and \$204 for 1996~~ and every year thereafter for nonresidents and aliens. While hunting moose, each nonresident or alien hunter, both permittee and subpermittee, must be in possession of a valid Maine nonresident or alien big game hunting license, whichever is applicable.

Sec. 2. 12 MRSA §7463-A, sub-§6, as enacted by PL 1981, c. 118, §2, is amended to read:

6. Application procedure. Eligible persons wishing to apply for a permit shall file a written application for a permit on a form furnished by the commissioner. The application ~~shall~~ must be accompanied by an application fee of \$5 for residents and ~~\$10~~ \$20 for nonresidents and aliens. The application fee may not be refunded. ~~No~~ A person may not file more than one application. Any person who submits more than one application ~~shall be~~ is disqualified from the selection of permittees.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1995-96 1996-97

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Enforcement Operations - Inland Fisheries and Wildlife

All Other	\$215,600	\$215,600
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Provides additional funds for enforcement purposes.

See title page for effective date.

CHAPTER 444

H.P. 734 - L.D. 1008

An Act to Provide a 3-day Nonresident Small Game Hunting License

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

Sec. 1. 12 MRSA §7101, sub-§5, ¶H-1 is enacted to read:

H-1. Nonresident 3-day small game hunting license (Permits hunting of all legal species except deer, bear, turkey, moose, raccoon and bobcat)

0	0	\$30	\$30
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See title page for effective date.

CHAPTER 445

S.P. 511 - L.D. 1370

**An Act to Promote Long-term
Economic Development through the
Establishment of the Maine
Technology Investment Fund**

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

Sec. 1. 5 MRSA §13122-I is enacted to read:

§13122-I. Plan

The foundation shall develop and submit to the Governor and the Legislature by January 1, 1996 and the first day of the first legislative session of each biennium thereafter:

1. Action plan. An action plan for the application of science and technology to improve the State's position in the global economy. The plan must be based on the State's overall economic development strategy as determined by the Commissioner of Economic and Community Development. The action plan must identify specific steps that public and private institutions must implement to improve the State's science and technology infrastructure. The plan must also identify action steps that could be implemented immediately without new state appropriations and resources and action steps that will require new state appropriations or major reallocation of state appropriations and resources.

The action plan must include numerical objectives, costs and an evaluation protocol. The plan must also include a provision for assigning and ensuring accountability for those who receive state funds through the foundation. In the preparation of this plan, the foundation shall seek the advice of state agencies, the Maine Economic Growth Council, the University of Maine System and the business, education and research communities; and

2. Report card. A report card that:

A. Compares the State's science and technology infrastructure standing to that of other states, based on the results of all independent organizations or reports that make such comparisons and on any other appropriate comparisons as determined by the foundation and those agencies with which the foundation is directed by this section to consult;

B. Assesses the performance of the State and those who receive state funds in meeting the goals, objectives and action steps outlined in the action plan; and

C. Makes recommendations for improving the results shown on the report card.

Sec. 2. 5 MRSA §13131 is enacted to read:

§13131. Establishment of the Maine Technology Investment Fund

The Maine Technology Investment Fund is established within the Maine Science and Technology Foundation to strengthen employment opportunities in the State by increasing the science and technology investment level through partnerships among the State Government, private enterprise, the Federal Government and private and public research institutions. The fund may be used to match federal, foundation or other grants and to invest directly in market-oriented technology extension, commercialization and development opportunities.

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

A. "Enterprise" means a firm doing business in this State that is engaged or proposes to be engaged in this State in value-added agricultural, natural resource-based or other manufacturing, research and development, or in the provision of knowledge-based services.

B. "Fund" means the Maine Technology Investment Fund.

C. "Intellectual property" means any legal protectable materials, including any new information, technologies, inventions, designs, works of authorship, any strain, variety or culture of an organism, or any portion, modification, translation or extension of these items, any processes, mineral discoveries and other legally protectable materials, including know-how and trade secrets, that are generated as a direct and indirect result of investments made by the foundation through contracts, grants or any other legal agreement.

D. "Protection of intellectual property rights" means protecting the foundation's rights to intellectual property through intellectual property protection mechanisms, including, but not limited to, patents, copyrights, trademarks, trade secrets and licensing rights.

E. "Technology commercialization" means the process of bringing an investment-grade technology out of an enterprise or a private or public laboratory for first-run application in the marketplace.

F. "Technology development" means strategically focused research aimed at developing

investment-grade technologies essential to market competitiveness. "Technology development" does not refer to basic research, but rather to products, devices, techniques or processes that have advanced beyond the theoretical stage and are in a prototype or industry practice stage.

G. "Technology extension" means the introduction and adaptation of off-the-shelf technologies and state-of-the-art management practices to the specific circumstances of individual firms.

2. Organization. The board of directors of the foundation has all the powers and authority, not explicitly prohibited by law, necessary or convenient to carry out and effectuate the functions, duties and responsibilities of the fund, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Increase the rate of technology extension across manufacturing and other knowledge-based firms throughout the State;

(2) Increase the amount of technology development occurring in the State; and

(3) Increase the rate at which technologies with potential commercial application are moved out of private and public laboratories into the marketplace;

B. Soliciting, borrowing, accepting and receiving money from any public or private source to augment state contributions to the fund;

C. Approving an annual budget for the fund and investing and expending money from within the fund;

D. Contracting with public entities as necessary to further the directives of this section;

E. Carrying forward any unexpended state appropriations into succeeding fiscal years;

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature within the annual report of the foundation, setting forth:

(1) The operations and accomplishments of the fund during the fiscal year;

(2) A capitalization target for the fund to enable the State to achieve and maintain competitiveness with other states;

(3) The assets and liabilities of the fund at the end of its most recent fiscal year; and

(4) The operations, costs and net income or loss of the direct investment pool as described in subsection 3 and federal and nonstate matching funds;

G. Owning intellectual property, licensing intellectual property, and negotiating for and collecting royalty rights or otherwise realizing a return on investment made under the fund and all programs of the foundation when appropriate in order to promote the interests and investments of the State in furthering science and technology; and

H. Protecting all proprietary information contained in proposals, contracts and grants or any other legal agreement only when such information is likely to involve patentable material that loses its protectable nature when presented in a public forum.

3. Authorized activities. The board of directors of the foundation shall allocate the resources of the fund to, and has the power to transfer resources between:

A. Matching grants activities, including, but not limited to, federal, private and foundation awards for technology extension, science and technology development and technology commercialization activities that require state funding matches and are considered consistent with the purposes of the fund. Focus areas for investment include, but are not limited to: marine sciences and technologies; environmental sciences, technologies and engineering; sensor and materials sciences and technologies; wood science and engineering; genetics and immunology; and metals and electronics; and

B. Direct investment activities that demonstrate and develop effective approaches to commercially oriented science and technology development and commercialization efforts conducted collaboratively among the State Government, as represented by the fund, private enterprise, the Federal Government and private and public research institutions in accordance with the following:

(1) The board of directors of the foundation shall direct funds to commercial activities with high growth potential, including, but not limited to, agriculture, food processing and sustainable fisheries, including aquaculture; electronics and metals manufacturing; energy and environmental technologies; biotechnology,

biomedicine and biomaterials from the sea; and forest products;

(2) Separate accounts must be established by the foundation for the direct investment pool. The board of directors of the foundation shall endeavor to maintain the resources dedicated to direct investment activities as a self-supporting pool once the pool and the overall fund have been sufficiently capitalized as reflected in the annual report;

(3) The foundation shall limit its direct investment activities to qualified securities in private enterprises or public or private laboratories in this State. Qualified securities include loans, royalty agreements or any other contractual arrangement allowed by law between the foundation and a federal, state, county or municipal agency, or any individual, corporation, enterprise, association or other entity involving technology development; and

(4) The foundation shall, from time to time, release a program solicitation that describes eligible activities and eligible organizations. All proposal and review criteria, procedures and schedules must be included in the program solicitation.

4. Guidelines. The board of directors of the foundation shall establish guidelines for:

A. The amounts of the revenues generated by the investment of money contained in the fund that may be used to pay the foundation's operating expenses associated with the operation of the fund. The operating expenses may not exceed the indirect cost rate negotiated between the foundation and its cognizant federal agency; and

B. Cash and in-kind match requirements based on the activities to be supported with the fund. The foundation shall strive to achieve a minimum match of 1:1, on an annual basis, for matching grant activities supported under the fund.

5. Liquidation and dissolution. In the event of liquidation or dissolution of the foundation or the fund, any rights or interests in a qualified security or portion of a qualified security purchased with money invested by the State vest in the State. The State is entitled to, in proportion to the amount of investment in the fund by the State, any balance of money remaining in the fund after payment of all debts and

obligations upon liquidation or dissolution of the foundation or the fund.

See title page for effective date.

CHAPTER 446

H.P. 802 - L.D. 1119

An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement

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

Sec. 1. 36 MRSA §2903-B, as amended by PL 1987, c. 772, §28, is further amended by inserting at the end a new paragraph to read:

In addition to the set aside of .5% of the total excise tax on internal combustion fuel sold or used within this State, the Legislature finds that an additional percentage of .17% must be paid to the Treasurer of State to be made available to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation, established under Title 12, section 7824.

Sec. 2. 36 MRSA §2903-C is enacted to read:

§2903-C. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the all-terrain vehicle user, is estimated to be not less than .045% of the total "gasoline tax" revenue. Based on this estimate, there is set aside .045% of the total excise tax on internal combustion engine fuel sold within this State, not including internal combustion fuel sold for use in the propulsion of aircraft. This .045% allocation must be expended for the purposes required by Title 12, section 7854, subsection 4, paragraph B. The State Tax Assessor shall certify to the State Controller by the 15th day of each month the amounts to be credited under this section as of the close of the State Controller's records for the previous month.

Sec. 3. Allocation. The following funds are allocated from tax revenues on internal combustion engine fuel to carry out the purposes of this Act.

1995-96

1996-97

**CONSERVATION,
DEPARTMENT OF**

**Bureau of Parks and
Recreation Snowmobile
Trail Fund**

All Other	\$149,695	\$201,548
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Provides funds to be granted to snowmobile clubs and municipalities for the development and maintenance of snowmobile trails.

**ATV Recreational
Management Fund**

All Other	\$39,625	\$53,351
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Provides funds for development of all-terrain vehicle trails, grants and technical assistance to correct problems caused by uncontrolled all-terrain vehicle use and grants to clubs and municipalities for the development of all-terrain vehicle trails and the development of multiple-use rail trails.

**DEPARTMENT OF
CONSERVATION
TOTAL**

\$189,320	\$254,899
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See title page for effective date.

CHAPTER 447

S.P. 53 - L.D. 82

**An Act to Increase the Limit on the
Extradition Account**

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

Sec. 1. 15 MRSA §224-A, sub-§1, as enacted by PL 1983, c. 843, §11, is amended to read:

1. Establishment. Notwithstanding any other provision of law, there is established an Extradition Account in each prosecutorial district in an amount not to exceed ~~\$10,000~~ \$20,000, to be administered by the district attorney and to be used solely for the purpose of paying the expenses of extraditing persons charged with or convicted of a crime in this State and who are fugitives from justice, as defined in section 201, subsection 4.

Sec. 2. 15 MRSA §224-A, sub-§2, as amended by PL 1991, c. 377, §7, is further amended to read:

2. Funding. The Extradition Account in each prosecutorial district is funded by bail forfeited to and recovered by the State pursuant to the Maine Rules of Criminal Procedure, Rule 46. Whenever bail is so forfeited and recovered by the State, the district attorney shall determine whether it or a portion of it is deposited in the Extradition Account for that district attorney's prosecutorial district, but in no event may the account exceed ~~\$10,000~~ \$20,000. Any bail so forfeited and recovered and not deposited in the Extradition Account must be deposited in the General Fund. Any unexpended balance in the Extradition Account of a prosecutorial district established by this section may not lapse but must be carried forward into the next year.

Sec. 3. 15 MRSA §224-A, sub-§3, as enacted by PL 1983, c. 843, §11, is amended to read:

3. Review by district attorney. The district attorney shall ~~regularly~~ review monthly the Extradition Account and the expenses of ~~his~~ that prosecutorial district in connection with the extradition of fugitives from justice and shall determine whether any funds in the account ~~shall~~ must be transferred to the General Fund.

See title page for effective date.

CHAPTER 448

H.P. 1099 - L.D. 1546

**An Act to Expedite the Appeal
Process in the Case of a Writ of
Possession**

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

Sec. 1. 14 MRSA §§6006 and 6007 are repealed.

Sec. 2. 14 MRSA §6008, as amended by PL 1989, c. 377, is repealed and the following enacted in its place:

§6008. Appeal

1. Right to appeal. Either party may appeal on questions of law from a judgment to the Superior Court as in other civil actions. Either party may appeal on any issue triable by right by a jury to a trial de novo in the Superior Court as provided in this section.

2. Appeal by defendant; record; stay. When the defendant appeals, the District Court shall promptly transmit the record to the Superior Court without waiting for the preparation of a transcript of recorded testimony. The Superior Court may stay the issuance of a writ of possession pending disposition of the appeal.

A. The Superior Court shall condition the granting and continuation of the stay on the defendant's payment of the current rent for the premises to the plaintiff or, if there is a dispute about the rent, into an escrow account to be administered by the clerk of the Superior Court. Upon application of either party, the Superior Court may authorize payments from the escrow account for appropriate expenses related to the premises. The appeal decision or an agreement of the parties must provide for the disposition of the escrowed rent.

B. The Superior Court may condition the granting and continuation of the stay, in appropriate cases, on the defendant's agreement to refrain from causing any nuisance or damage.

3. Vacation of stay; security; remedial order. Upon finding a violation of the conditions for granting the stay, the Superior Court shall vacate the stay and may issue a writ of possession. The Superior Court may require the plaintiff to provide security as may be necessary to protect the defendant's interest while the appeal is pending. If the defendant prevails, the Superior Court may issue a remedial order as necessary to make the defendant whole, including damages.

4. Claim of title. In disputes involving a claim of title, the District Court may provide for discovery on an expedited schedule.

5. Security. For the purposes of this section, "security" may include a bond, an escrow account, a lien, a mortgage, an order to make payments under a lease or contract as they become due or any other financial protection as is reasonably necessary to protect the interests of a party. The District Court and the Superior Court may make any necessary orders with respect to the provision of security, revise the orders when required by the interests of justice, sanction a party for failure to comply with a security requirement and waive or modify the requirement of security for good cause shown and recited in an order.

Sec. 3. 14 MRSA §6009, as repealed and replaced by PL 1979, c. 172, §2, is repealed.

Sec. 4. 14 MRSA §6012, as amended by PL 1979, c. 231, is repealed and the following enacted in its place:

§6012. Personal property

1. Action to resolve dispute. If 2 or more persons claim rights in, title to or possession of personal property, any claimant may bring an action in District Court to resolve a dispute among the claimants.

2. Evidence; discovery. When the plaintiff claimant serves a copy of the complaint on the defendant claimants, the plaintiff shall include with the complaint a copy of any security instrument, bill of sale or other evidence of title. In the court hearing, the plaintiff shall produce the best available evidence under which the plaintiff claims an interest in the personal property. The defendant then shall show why possession of the property should not be delivered immediately to the plaintiff. The District Court may provide for discovery on an expedited schedule.

3. Court authority. The court has equitable power to make all appropriate orders, including but not limited to turnover orders, in relation to the personal property and the parties to the action, to compel obedience to its judgment and orders.

4. Appeal. Any party may appeal within 30 days of the judgment. Any issue triable by right by a jury may be appealed to a trial de novo in the Superior Court. Security may be required in accordance with the provisions of section 6008, subsection 5.

5. Rules. The Maine Rules of Civil Procedure governing forcible entry and detainer apply in actions under this section as applicable.

6. Equity. The remedy provided in this section is a remedy in equity and is in addition to and not in lieu of other remedies. There is no right of removal.

See title page for effective date.

CHAPTER 449

H.P. 803 - L.D. 1120

An Act to Restore State Funding for State Expenses at County Jails

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

Sec. 1. 34-A MRSA §1210, sub-§2, as amended by PL 1995, c. 368, Pt. K, §3, is further amended to read:

2. Reimbursement. Except as provided in subsection 6-A, the department shall, under this section, reimburse each county quarterly for each

actual day served at that county correctional facility by:

A. Persons convicted of a Class A, Class B or Class C crime sentenced after March 31, 1987, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1, or section 1252, subsection 1; and

B. Persons convicted of a Class A, Class B or Class C crime sentenced after December 31, 1988, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1 or section 1252, subsection 1.

Reimbursement for periods after June 30, 1987 may not be authorized until the reimbursable costs for the operations of the jail are agreed upon by the commissioner and the county commissioners for that county. Reimbursable costs for the operations of the jail must, to the extent practicable, be mutually agreed upon prior to the actual expenditures of funds for those costs. Prior approval of all capital expenditures is required for reimbursement of that expense item. If the commissioner and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision is final and both the commissioner and the county commissioners are bound by that decision.

The obligation of the Department of Corrections to reimburse counties pursuant to this section may not exceed the actual amount appropriated during fiscal years 1993-94, 1994-95, 1995-96 and 1996-97.

Sec. 2. Effective date. This Act takes effect July 1, 1997.

Effective July 1, 1997.

CHAPTER 450

H.P. 1065 - L.D. 1500

An Act to Reduce Theft in the Forest Products Industry

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

Sec. 1. 14 MRSA §7551-A, as enacted by PL 1983, c. 362, §1, is repealed.

Sec. 2. 14 MRSA §7552, as amended by PL 1989, c. 555, §13, is repealed and the following enacted in its place:

§7552. Injury to lands or property

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

A. "Agricultural product" means crops produced and livestock raised as a result of cultivating the soil and harvesting. Agricultural products include, but are not limited to, vegetables, fruit, forages, grain, nuts, berries, flowers, ornamental plants, nursery crops, milk, dairy products, eggs, domestic livestock and other products in varying degrees of preparation. Agricultural products also include the soil amendments and by-products that are used in cultivation.

B. "Christmas tree" and "evergreen boughs" have the same meanings as provided in Title 12, section 8841.

C. "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, evergreen boughs or cones or other seed products.

D. When there is damage to public property, the term "owner" may include a suitable official authorized to act on behalf of the public entity.

For damage to a monument or mark under subsection 2, paragraph C, "owner" may include the entity for whose benefit the monument or mark is maintained.

E. "Professional services" may include:

- (1) The damage estimate of a licensed professional forester;
- (2) A boundary survey;
- (3) A title opinion; and
- (4) Attorney's fees for preparing the claim and bringing a court action.

2. Prohibitions. Without permission of the owner a person may not:

A. Cut down, destroy, damage or carry away any forest product, ornamental or fruit tree, agricultural product, stones, gravel, ore, goods or property of any kind from land not that person's own;

B. Damage or throw down any fence, bar or gate, or leave a gate open, or break glass or do other damage to any structure on property not that person's own; or

C. Disturb, remove or destroy any lawfully established transit point, reference point, stake, plug, hub, guardstake, bench mark, pipe, iron, concrete post, stone post or other monument of any railroad, highway, public utility or other engineering location or survey or any such monument marking the bounds of public or private property.

3. Measure of damages. Paragraphs A and B govern the measurement of damages resulting from a violation of subsection 2.

A. When agricultural or forest products have been destroyed or carried away, the owner's damages may be measured either by the value of the lost products themselves or by the diminution in value of the real estate as a whole resulting from the violation.

B. For lost trees, the owner may claim in lieu of market value the forfeiture amounts in Title 17, section 2510, subsection 2. In addition, the owner's damages may include the costs for regeneration of the stand in accordance with Title 12, section 8869.

4. Damages recoverable. Damages are recoverable as follows.

A. A person who negligently or without fault violates subsection 2 is liable to the owner for 2 times the owner's damages as measured under subsection 3.

B. A person who intentionally or knowingly violates subsection 2 is liable to the owner for 3 times the owner's damages as measured under subsection 3.

5. Costs and fees. In addition to damages, interest and costs, the owner may also recover from the person who violates subsection 2 the reasonable costs of professional services necessary for determining damages and proving the claim, provided that the person first has written notice or actual knowledge that a claim is being asserted.

The amount awarded for professional services may not exceed 50% of the damages recovered pursuant to subsection 4 plus interest on the damages. Interest may be assessed after service of a notice of claim pursuant to section 1602.

6. Offer of settlement. At any time after the violation but more than 10 days before trial begins, the person who violated subsection 2 may make a written offer to settle the owner's claim.

A. For such an offer to be valid, it must by its terms remain open for at least 10 days and the

owner must first be provided with liability and damage information that is:

(1) Available to the person and not reasonably available to the owner; and

(2) Necessary or pertinent to an evaluation of the owner's claim.

B. Notwithstanding the Maine Rules of Civil Procedure, Rule 68, any offer not paid within 10 days of its acceptance is void for purposes of this subsection but may be specifically enforced by the owner, if the owner so elects.

C. If the owner does not accept the offer, the owner may not recover any interest, costs or professional fees incurred following the date of the offer unless the owner later proves that the value of the claim, at the time the offer was made, exceeded the amount of the offer.

7. Issues of fact. The court sitting without a jury shall resolve issues of fact arising under subsections 5 and 6.

Sec. 3. 14 MRSA §7552-A, as repealed and replaced by PL 1977, c. 313, §2, is amended to read:

§7552-A. Land on which 10 acres or more of wood is to be cut

Any person who authorizes the cutting of timber or wood on ~~his~~ the person's own property, when the cutting involves an area of 10 or more acres, shall clearly mark any property lines ~~which~~ that are within 200 feet of the area to be cut. If any such person fails to clearly mark such property lines and if the person or persons who are authorized to cut then cut timber or wood on abutting land without the authorization of the owner of that land, the person who failed to mark ~~his~~ the person's property lines ~~shall be~~ is liable in a civil action, in double damages, to that owner of the abutting land. ~~Such~~ These damages ~~shall be~~ are in addition to any damages to which the owner of the abutting land may be entitled ~~to~~ under section 7552.

Sec. 4. 14 MRSA §§7553, 7554 and 7555 are repealed.

Sec. 5. 17 MRSA §2510, sub-§2, as enacted by PL 1981, c. 355, is amended to read:

2. Forfeitures. The following forfeitures may be adjudged for each tree ~~which~~ over 2 inches in diameter that has been cut or felled:

A. If the tree is no more than 6 inches in diameter, a forfeiture of \$25;

B. If the tree is over 6 and up to 10 inches in diameter, a forfeiture of \$50;

C. If the tree is over 10 and up to 14 inches in diameter, a forfeiture of \$75;

D. If the tree is over 14 and up to 18 inches in diameter, a forfeiture of \$100;

E. If the tree is over 18 and up to 22 inches in diameter, a forfeiture of \$125; and

F. If the tree is greater than 22 inches in diameter, a forfeiture of \$150.

Sec. 6. 17 MRSA §9564, sub-§7, as enacted by PL 1981, c. 43, is amended to read:

7. Damages. Any complaint ~~which~~ that either seeks damages for the wrongful removal of a building or structure or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order ~~which~~ that is the subject of the appeal. The damages ~~which~~ that may be awarded for wrongful demolition are limited to the actual value of the structure at the time of its removal. The provisions of Title 14, section 7552 ~~and section 7555~~ do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees.

See title page for effective date.

CHAPTER 451

S.P. 536 - L.D. 1474

An Act to Establish the Maine Judicial Compensation Commission

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

Sec. 1. 4 MRSA c. 35 is enacted to read:

CHAPTER 35

JUDICIAL COMPENSATION COMMISSION

§1701. Judicial Compensation Commission

1. Commission established. The Judicial Compensation Commission, referred to in this chapter as the "commission," established by Title 5, section 12004-G, subsection 23-A shall study and make recommendations concerning the salary, benefits and retirement to be paid for all justices and judges of the Supreme Judicial Court, the Superior Court, the District Court and the Administrative Court.

2. Members. The commission consists of 3 members selected from among the registered voters of the State; one is appointed by the Governor, one by

the President of the Senate and one by the Speaker of the House. The public official with the power to appoint a member is the person in office on the day that member's term begins. The commission may not contain more than 2 members of the same political party. The initial appointments must be made within 10 days of the effective date of this section.

3. Terms of office. The initial member appointed by the Speaker of the House serves until December 31, 1996. The initial member appointed by the President of the Senate serves until December 31, 1997. The initial member appointed by the Governor serves until December 31, 1998. After the initial appointments, members serve for terms of 4 years, beginning January 1, 1997 for the member appointed by the Speaker of the House, beginning January 1, 1998 for the member appointed by the President of the Senate and beginning January 1, 1999 for the member appointed by the Governor. Members are limited to 2 consecutive terms.

4. Vacancies. A vacancy on the commission is filled promptly for the remainder of the term in the same manner in which the position was originally filled under subsection 2. If a vacancy remains unfilled for more than 90 days, a temporary member of the commission must be appointed by a vote of the remaining commission members to serve with full powers of a commission member. A temporary member of the commission serves until the vacancy is filled by the public official with the power to appoint that member under subsection 2 and this subsection.

5. Prohibition on public service. A member of the commission may not hold any other public office or be an employee or member of any state department, agency, board or commission during the member's tenure on the commission. A violation of this subsection by a member of the commission results in immediate constructive resignation and the resulting vacancy must be filled according to subsection 4.

6. Designation of chair. The members, by majority vote, shall designate a chair from among their number who shall serve for 2 years from the date of election or until a successor is designated by majority vote and assumes the responsibilities.

7. Meeting; quorum; concurrence. The Executive Director of the Legislative Council shall call the first meeting of the commission no later than 5 days after the appointments are made. For all subsequent meetings, the commission shall meet, either in person or by teleconference, on the call of the chair or on the request of at least 2 members. The presence of at least 2 members is required to conduct a meeting. The concurrence of at least 2 members is required for any formal action taken by the commission. The working papers, draft reports and other

papers of the commission in the possession of a legislative employee are excepted from the definition of public records in accordance with Title 1, section 402, subsection 3, paragraph C.

8. Administration. The Legislative Council shall provide staff support for the commission when the Legislature is not in session.

9. Reimbursement. Notwithstanding Title 5, section 12002-A, members are entitled to reimbursement for actual and necessary expenses related to the travel to and from commission meetings when the expenses are approved by the chair and submitted to the Executive Director of the Legislative Council and are entitled to reimbursement for reasonable expenses incurred in the exercise of their powers under subsection 11 when approved by the Executive Director. The reimbursement must be made from the funds of the administrative office of the court system upon the request of the Executive Director. Other expenses may not be reimbursed by state funds.

10. No compensation. The members of the commission receive no compensation for their services.

11. Directive of commission. The commission shall study and make recommendations with respect to all aspects of judicial compensation in this State so that the judicial compensation structure is adequate to ensure that the most highly qualified lawyers in this State, drawn from diverse life and professional experiences, are not deterred from serving or continuing to serve in the state judiciary and do not become demoralized during service because of compensation levels that do not meet the criteria set forth in subsection 12.

12. Criteria for recommendations. In order to carry out its responsibilities under subsection 13 to make findings, conclusions and recommendations as to the proper salary and benefits for all justices and judges of this State and to fulfill the directive of the commission as set out in subsection 11, the commission may consider the following factors as they apply specifically in this State and where relevant elsewhere:

A. The skill and experience required of the particular judgeship at issue;

B. The time required of the particular judgeship at issue;

C. The value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the Federal Government;

D. The value of comparable service performed in the private sector, including private judging,

arbitration and mediation, based on the responsibility and discretion required in the particular judgeship at issue and the demand for those services in the private sector;

E. The compensation of attorneys in the private sector;

F. The Consumer Price Index and changes in that index;

G. The overall compensation presently received by other public officials and employees; and

H. Any other factors that are normally or traditionally taken into consideration in the determination of compensation.

13. Biennial report required. No later than December 1st of each odd-numbered year, the commission shall make its biennial report to the joint standing committees of the Legislature having jurisdiction over appropriations matters and judicial matters. The biennial report must include findings, conclusions and recommendations as to the proper salary and benefits, including retirement, to be paid from the State Treasury and other sources for all justices and judges of this State. The commission is authorized to submit with its report any proposed legislation the commission determines necessary to implement these recommendations.

§1702. Repeal

This chapter is repealed December 31, 1999.

Sec. 2. 5 MRSA §12004-G, sub-§23-A is enacted to read:

23 -A.	<u>Judicial</u>	<u>Expenses</u>	<u>4</u>
<u>Judiciary</u>	<u>Compensation</u>	<u>Only</u>	<u>MRSA</u>
<u>Commission</u>			<u>§1701</u>

See title page for effective date.

CHAPTER 452

S.P. 338 - L.D. 919

An Act to Amend the Continuing Care Retirement Community Law

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

Sec. 1. 22 MRSA §2053, sub-§3-A, as amended by PL 1993, c. 661, §1, is further amended to read:

3-A. Health care facility. "Health care facility" means a nursing home that is, or will be upon

completion, licensed under chapter 405; a residential care facility that is, or will be upon completion, licensed under chapter 1663; a continuing care retirement community that is, or will be upon completion, licensed under Title 24-A, chapter 73; a hospital; a community mental health facility; or a community health center.

Sec. 2. 24-A MRSA §6201, sub-§5, as enacted by PL 1987, c. 482, §1, is amended to read:

5. Entrance fee. "Entrance fee" means an initial payment of a sum of money or any other consideration ~~which that~~ assures a subscriber a place in a facility for a term of years or for life. An accommodation fee, admission fee, entrance loan or other fee of similar form and application, even if refundable in whole or in part at the termination of the subscriber's contract, ~~shall be~~ is considered to be an entrance fee. The purchase price of a condominium, or of a share or shares of or membership in, a consumer cooperative subject to Title 13, chapter 85, subchapter I, ~~shall or a cooperative affordable housing corporation subject to Title 13, chapter 85, subchapter I-A is not be~~ considered an entrance fee.

Sec. 3. 24-A MRSA §6201, sub-§11-A is enacted to read:

11-A. Preliminary marketing. "Preliminary marketing" means, for the purpose of evaluating market demand for a proposed facility:

A. Advertising of a proposed facility;

B. Entering of reservation agreements, which are cancelable at the option of either the prospective subscriber or the prospective provider;

C. Soliciting, collecting or receiving reservation fees, which:

(1) Are sums of money not in excess of \$1,000 per prospective resident paid by a prospective resident for deposit in escrow in an interest-bearing account with interest accruing for the benefit of the prospective resident and in accordance with section 6203-B, subsection 1, paragraphs A, C, D, E and F;

(2) Are refundable on request of a prospective subscriber; and

(3) Are not considered deposits for purposes of this chapter; and

D. Constructing and maintaining a sales office and model units.

Sec. 4. 24-A MRSA §6201, sub-§13, as amended by PL 1989, c. 343, §1 and affected by §23, is further amended to read:

13. Provider. "Provider" means ~~the corporate entity which is~~ the owner of an institution, building, residence or other place, whether operated for profit or not, in which the owner undertakes to provide continuing care. If the facility is owned by the subscribers, then "provider" means the operator of the facility.

Sec. 5. 24-A MRSA §6201, sub-§14-B is enacted to read:

14-B. Residential unit. "Residential unit" means an apartment, room or other area within a facility set aside for the exclusive and independent living use of one or more identified subscribers.

Sec. 6. 24-A MRSA §6202, sub-§3, as amended by PL 1989, c. 343, §3 and affected by §23, is further amended to read:

3. Kinds of communities. ~~There shall be are 2 types of certificates of authority~~ kinds of communities that qualify for certification.

A. To qualify for certification as a life-care community, the provider shall offer a continuing care agreement that explicitly provides all of the following:

(1) Full and lifetime prepaid health care, prepaid supportive services and shelter, as prescribed by the department by rule, which ~~shall~~ include a true continuum of care from independent living through nursing home care;

(2) The maintenance fee ~~shall~~ may not increase, regardless of the level of services provided or a change in accommodations, with the following exceptions:

(a) Annual increases in the maintenance fee applicable to all subscribers; and

(b) Any increase in the maintenance fee applicable to a specific subscriber resulting from the voluntary selection of an optional service by that subscriber. An optional service is a service or change in accommodations ~~which that~~ is not required to be offered in order to qualify for certification as a life-care community under the department's rules;

(3) With the exception of maintenance fees and insurance premiums, neither the sub-

scriber nor any 3rd party, other than the subscriber's insurer, ~~shall be~~ is liable for the cost of health care or supportive services other than optional services as defined in subparagraph (2); and

(4) The provider shall continue to provide full and lifetime health care, supportive services and shelter without diminution to a subscriber who has not intentionally depleted ~~his~~ that subscriber's resources.

B. A provider offering a continuing care agreement ~~which~~ that does not qualify for certification as a life-care community, as defined in paragraph A, ~~shall~~ must be certified as a continuing care retirement community if it complies with the other applicable provisions of this chapter.

Sec. 7. 24-A MRSA §6202, sub-§6 is enacted to read:

6. Preliminary marketing. Upon written approval by the superintendent of the proposed forms of the reservation agreement and the reservation fee escrow agreement referred to in section 6201, subsection 11-A, and prior to applying for a preliminary certificate of authority or a certificate of authority, a prospective provider may engage in preliminary marketing.

Sec. 8. 24-A MRSA §6203, sub-§1, ¶B, as amended by PL 1989, c. 343, §4 and affected by §23, is further amended by repealing and replacing sub-¶(6) to read:

(6) A list of the names and addresses of stockholders and those persons who hold official positions responsible for the conduct of the affairs of the provider, including all members of the board of directors, the principal officers and persons having a 10% or greater equity or beneficial interest in the provider. Section 222, including the requirement of approval of the superintendent, the submission of tender offers or acquisitions materials, information as to acquisitions or tender offers and examination of accounts, records, documents and transactions, is also applicable in the event of either:

(a) Any tender offer for, or a request or invitation for tenders of, or an agreement to exchange securities for, or otherwise acquire any voting security of a provider or of any person controlling a provider if, as a result of the consummation thereof, the person making the tender offer, request or agreement would directly or indirectly

acquire control of the provider or controlling person; or

(b) Any purchase, exchange, merger or acquisition of control of a provider;

Sec. 9. 24-A MRSA §6203, sub-§1, ¶B, as amended by PL 1989, c. 343, §4 and affected by §23, is further amended by repealing and replacing sub-¶(20) to read:

(20) Pro forma projected financial statements for the provider for the coming 10 years, including notes of the statements, presented in conformity with guidelines for forecasting as prescribed by the American Institute of Certified Public Accountants;

Sec. 10. 24-A MRSA §6203, sub-§1, ¶ B, as amended by PL 1989, c. 343, §4 and affected by §23, is further amended by repealing sub-¶(22).

Sec. 11. 24-A MRSA §6203, sub-§1, ¶¶ G, H and I are enacted to read:

G. The department has approved the adequacy of all services proposed under the continuing care agreement not otherwise reviewed under the certificate of need process.

H. The superintendent finds that the provider has met the requirements under this chapter and that the provider has furnished evidence satisfactory to the superintendent that the provider's methods of operation do not make its proposed operation hazardous to the public or its subscribers in this State.

I. The department certifies to the superintendent that the provider has demonstrated the willingness and potential ability to ensure that the health care services or supportive services, or both, will be provided in a manner to ensure availability, accessibility and continuity of services.

Sec. 12. 24-A MRSA §6203, sub-§2, ¶B, as enacted by PL 1987, c. 482, §1, is repealed.

Sec. 13. 24-A MRSA §6203, sub-§2, ¶D, as amended by PL 1989, c. 343, §7 and affected by §23, is further amended to read:

D. The superintendent has determined that the provider's continuing care agreement meets the requirements of section 6206, subsection 3, and the rules promulgated in this chapter; and

Sec. 14. 24-A MRSA §6203, sub-§2, ¶E, as enacted by PL 1987, c. 482, §1, is repealed.

Sec. 15. 24-A MRSA §6203, sub-§2, ¶F, as amended by PL 1987, c. 769, Pt. A, §102, is repealed.

Sec. 16. 24-A MRSA §6203, sub-§2, ¶G, as amended by PL 1989, c. 343, §8 and affected by §23, is repealed and the following enacted in its place:

G. The provider certifies to the superintendent either:

(1) That preliminary continuing care agreements have been entered and deposits of not less than 10% of the entrance fee have been received either:

(a) From subscribers with respect to 70% of the residential units, including names and addresses of the subscribers, for which entrance fees will be charged; or

(b) From subscribers with respect to 70% of the total entrance fees due or expected at full occupancy of the community; or

(2) That preliminary continuing care agreements have been entered and deposits of not less than 25% of the entrance fee received from either:

(a) Subscribers with respect to 60% of the residential units, including names and addresses of the subscribers, for which entrance fees will be charged; or

(b) Subscribers with respect to 60% of the total entrance fees due or expected at full occupancy of the community.

Sec. 17. 24-A MRSA §6203, sub-§3, ¶B, as amended by PL 1989, c. 343, §10 and affected by §23, is further amended to read:

B. A provider who has been issued a preliminary certificate of authority may advertise, solicit and collect deposits, ~~not to exceed 10% of not less than 10% nor more than 50%~~ of the entrance fee, ~~provided that if:~~

(1) The provider ~~shall furnish~~ furnishes the prospective subscriber a signed deposit agreement stating that:

(a) The provider has a preliminary certificate of authority and the deposit is received subject to the issuance by the superintendent to the provider of a final certificate of authority;

(b) Both the proposed continuing care agreement and the disclosure statement are subject to change;

(c) The provider will refund the prospective subscriber's deposit with interest earned on it:

(i) Within one month of notification of the superintendent's decision not to issue the final certificate of authority;

(ii) At the request of the prospective subscriber any time 3 years or more after the deposit was paid, if the community has not become operational;

(iii) If the prospective subscriber requests a refund due to a material difference between the proposed continuing care agreement furnished at the time the deposit is paid and the agreement as finally approved by the superintendent;

(iv) In the event of the death of the prospective subscriber prior to the execution of the continuing care agreement, unless the surviving spouse is also a prospective subscriber and still wishes to occupy the unit; or

(v) If the provider determines that the subscriber is ineligible for entrance into the facility because of the subscriber's physical, mental or financial condition;

(d) The provider will refund the deposit, without interest, if the community becomes operational and the subscriber chooses not to join for any reason other than that listed in division (c) and the refund will be paid on the receipt by the provider of the same percentage deposit of the entrance fee from another subscriber for a residential unit that is the same as or similar to the residential unit to which the cancelled deposit agreement applied; ~~and~~

(e) There is a nonrefundable application fee and the amount of that fee; and

(f) The subscriber may cancel the deposit agreement by written notice to the provider within 10 days from the date on which the subscriber signed

the deposit agreement, in which event the provider will refund the prospective subscriber's deposit in full together with any interest earned on the deposit; and

(2) At least 10 days prior to collecting a preliminary deposit, the provider ~~shall furnish~~ furnishes the prospective subscriber:

- (a) A copy of the proposed continuing care agreement;
- (b) A copy of the proposed disclosure statement described in section 6209;
- (c) An unsigned copy of the preliminary deposit agreement described in subparagraph (1); and
- (d) A copy of the escrow agreement required by paragraph E.

Sec. 18. 24-A MRSA §6203, sub-§3, ¶C, as amended by PL 1989, c. 343, §11 and affected by §23, is further amended to read:

C. After the community is operational, the provider may advertise, solicit and collect deposits; of not less than 10% of the entrance fee and not to exceed 40% 50% of the entrance fee, provided that:

(1) The provider shall furnish the prospective subscriber a signed deposit agreement stating that:

(a) The provider will refund the deposit, without interest, if the subscriber chooses not to join for any reason other than those listed in division (b), and the refund will be paid on the receipt by the provider of the same percentage deposit of the entrance fee from another subscriber for a residential unit that is the same as or similar to the residential unit to which the cancelled deposit agreement applied;

(b) The provider will refund the deposit with interest earned on it:

- (i) In the event of the death of the prospective subscriber prior to the execution of the final continuing care agreement, unless the surviving spouse is also a subscriber and still wishes to occupy the unit; or

(ii) If the provider determines, prior to occupation by the subscriber, that the subscriber is ineligible for entrance into the facility because of the subscriber's physical, mental or financial condition; ~~and~~

(c) There is a nonrefundable application fee and the amount of that fee; and

(d) The subscriber may cancel the deposit agreement by written notice to the provider within 10 days from the date on which the subscriber signed the deposit agreement, in which event the provider will refund the prospective subscriber's deposit in full together with any interest earned on the deposit; and

(2) At least 10 days prior to collecting a deposit, the provider ~~shall furnish~~ furnishes the prospective subscriber:

- (a) A copy of the continuing care agreement;
- (b) A copy of the disclosure statement described in section 6209;
- (c) An unsigned copy of the deposit agreement described in subparagraph (1); and
- (d) A copy of the escrow agreement required by paragraph E.

Sec. 19. 24-A MRSA §6203, sub-§3, ¶H is enacted to read:

H. Notwithstanding paragraph E and section 6203-B, deposits may be released from escrow to a provider that is organized as a nonprofit corporation subject to Title 13-B, as a consumer cooperative subject to Title 13, chapter 85, subchapter I or as a cooperative affordable housing corporation subject to Title 13, chapter 85, subchapter I-A, and any such provider may pledge the deposits as security for a loan to acquire, construct and develop a facility or may use the deposits to pay costs to acquire, construct and develop a facility, if:

(1) Either of the following applies:

(a) Deposits for at least 10% of the entrance fee have been received from prospective subscribers for not less than 70% of the facility's residential units for which entrance fees will be

charged or not less than 70% of the total entrance fees due or expected at full occupancy and the prospective subscribers have agreed in writing to such use of the deposits; or

(b) Deposits for at least 25% of the entrance fee have been received from prospective subscribers for not less than 60% of the facility's residential units for which entrance fees will be charged or not less than 60% of the total entrance fees due or expected at full occupancy and the prospective subscribers have agreed in writing to such use of the deposits;

(2) The superintendent has issued a final certificate of authority to the provider;

(3) The superintendent is satisfied that the provider has demonstrated an ability to finance and complete construction in a reasonable manner, without limitation, by showing that:

(a) The deposits together with other funds held by or loaned to the provider are reasonably expected to be sufficient to pay for all costs of construction and equipping of the facility; and

(b) The provider has obtained or has the benefit of performance and payment bonds with respect to construction of the facility; and

(4) The superintendent is satisfied that the provider has obtained all necessary governmental permits and approvals necessary to construct the facility in accordance with all applicable laws, regulations, building codes and ordinances.

Sec. 20. 24-A MRSA §6203, sub-§6 is enacted to read:

6. Provision of services to nonresidents. The final certificate of authority must state whether any skilled nursing facility that is part of a life-care community or a continuing care retirement community may provide services to persons who have not been bona fide residents of the community prior to admission to the skilled nursing facility. If the life-care community or the continuing care retirement community is a nonprofit corporation that is a Section 501(c)(3) organization under the federal Internal Revenue Code and that admits to its skilled nursing facility only persons who have been bona fide residents of the community prior to admission to the

skilled nursing facility, then the community is exempt from the provisions of Title 22, chapter 103, but is subject to the licensing provisions of Title 22, chapter 405, and is entitled to only one skilled nursing facility bed for every 4 residential units in the community. However, any community so exempted from Title 22, chapter 103 may admit nonresidents of the community to its skilled nursing facility only during the first 3 years of operation. For purposes of this subsection, a "bona fide resident" means a person who has been a resident of the community for a period of not less than 180 consecutive days immediately preceding admission to the nursing facility or has been a resident of the community for less than 180 consecutive days but who has been medically admitted to the nursing facility resulting from an illness or accident that occurred subsequent to residence in the community. Any community so exempted from Title 22, chapter 103 is not entitled to and may not seek any reimbursement or financial assistance under the Medicaid program from any state or federal agency and, as a consequence, that community must continue to provide nursing facility services to any person who has been admitted to the facility.

Sec. 21. 24-A MRSA §6203-B is enacted to read:

§6203-B. Escrow account

1. Deposit of funds. When funds are required to be deposited in an escrow account pursuant to section 6203, the following apply.

A. The escrow account must be established in a bank or trust company authorized to do business in this State within the meaning of Title 9-B, section 131, subsection 2 and acceptable to the superintendent. The funds deposited in the escrow account must be kept and maintained in an account separate from the provider's business accounts.

B. An escrow agreement must be entered into between the bank or trust company and the provider of the facility. The agreement must state that its purpose is to protect the subscriber or the prospective subscriber. Upon presentation of evidence to the superintendent of compliance with applicable portions of this chapter, or upon order of a court of competent jurisdiction, the escrow agent shall release and pay over the funds or portions of the funds together with any interest accrued on the funds or earned from investment of the funds to the provider or subscriber as directed.

C. When funds are received from a prospective subscriber, the provider shall deliver to the subscriber a copy of the executed deposit agreement. The deposit agreement must state the payor's

name and address, the date, the price of the care agreement and the amount of money paid. A copy of each agreement together with the funds must be deposited with the escrow agent.

D. Checks, drafts and money orders for deposit from prospective subscribers may be made payable only to the escrow agent. At the request of a prospective subscriber of a facility, the escrow agent shall issue a statement indicating the status of the subscriber's portion of the escrow account.

E. All funds deposited in the escrow account remain the property of the subscriber until released to the provider in accordance with this chapter. The funds are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the provider or facility.

F. At the request of either the provider or the superintendent, the escrow agent shall issue a statement indicating the status of an escrow account.

G. Upon determining that the requirements of section 6203, subsection 3, paragraph E have been met, the superintendent shall authorize the escrow agent to release, and the escrow agent shall release, to the provider the amount of escrowed funds received from prospective subscribers and deposited in the account while the provider was operating under a preliminary certificate of authority.

2. Agreement. Any agreement establishing an escrow account required under the provisions of this chapter is subject to approval by the superintendent. The agreement must be in writing and contain, in addition to any other provisions required by law, a provision by which the escrow agent agrees to abide by the duties imposed under this section.

3. Monthly statement; withdrawal of funds. The agreement must require the escrow agent to furnish the provider with a monthly statement indicating the amount of any disbursements from or deposits to the escrow account and the condition of the account during the monthly period covered by the statement. On or before the 20th day of the month following the month for which the monthly statement is due, the provider shall file with the superintendent a copy of the escrow agent's monthly statement.

The escrow agent or the escrow agent's designee and the provider shall notify the superintendent in writing 10 days before the payment to the provider of any portion of any funds required to be escrowed under the provisions of this chapter.

Sec. 22. 24-A MRSA §6206, sub-§2, ¶A, as enacted by PL 1987, c. 482, §1, is amended to read:

A. A description of the procedures to be followed by the provider when the provider temporarily or permanently changes the subscriber's accommodation within the facility, transfers the subscriber pursuant to section 6228 or transfers the subscriber to another health facility. A subscriber's accommodations ~~shall~~ may be changed only for the protection of the health or safety of the subscriber or the general welfare of the residents;

Sec. 23. 24-A MRSA §6206, sub-§2, ¶¶C and D, as enacted by PL 1987, c. 482, §1, are amended to read:

C. A policy statement of the provider with regard to changes in accommodations and the procedure to be followed to implement that policy in the event of an increase or decrease in the number of persons occupying an individual unit, including a reasonable grievance procedure and a description of the circumstances whereby the provider may cancel the agreement prior to occupancy; ~~and~~

D. Specifications of the circumstances, if any, under which the subscriber will be required to apply for Medicare, Social Security or any other state or federal insurance or pension benefits; ~~and~~

Sec. 24. 24-A MRSA §6206, sub-§2, ¶E is enacted to read:

E. A statement of the rights of residents of continuing care retirement communities granted by section 6227.

Sec. 25. 24-A MRSA §6208, first ¶, as enacted by PL 1987, c. 482, §1, is amended to read:

As part of the continuing care agreement, a subscriber may purchase or acquire or be the beneficiary of a purchase or acquisition of a membership interest or share or shares in an incorporated or unincorporated group organized on a cooperative basis subject to the requirements of Title 13, chapter 85, subchapter 4 I, governing consumer cooperatives or Title 13, chapter 85, subchapter I-A, governing cooperative affordable housing corporations.

Sec. 26. 24-A MRSA §6209, sub-§3, ¶H, as enacted by PL 1987, c. 482, §1, is amended to read:

H. An examined pro forma projected financial statement for the coming ~~40~~ 5 years, including notes of that statement, presented in conformity with guidelines for forecasting as prescribed by

the American Institute of Certified Public Accountants and including a narrative description of the basis of assumptions utilized. The pro forma projected financial statement need not be included in the disclosure statement after the facility has commenced operations;

Sec. 27. 24-A MRSA §6209, sub-§3, ¶¶I and J, as enacted by PL 1987, c. 482, §1, are amended to read:

I. If the facility is already in operation or, if the provider or operator operates one or more similar facilities within the State, tables showing the frequency and average dollar amount of each increase in periodic rates at each facility for the previous 5 years, or as many years as the facility has been operated by the provider or operator, whichever is less; ~~and~~

J. Any other material information ~~which~~ that the provider wishes to include in the disclosure statement or that the superintendent or department requires by rule; ~~and~~

Sec. 28. 24-A MRSA §6209, sub-§3, ¶K is enacted to read:

K. Whether the provider has misappropriated funds or otherwise breached the terms of a deposit agreement to the detriment of a subscriber.

Sec. 29. 24-A MRSA §6210, sub-§2, ¶D, as amended by PL 1989, c. 343, §19 and affected by §23, is further amended to read:

D. A maximum of ~~4%~~ 2% of the entrance fee for each month of occupancy, if any, which refund, in the case of a subscriber who terminates the continuing care agreement for any reason other than death, will be paid on the receipt by the provider of the same percentage deposit of the entrance fee from another subscriber for a residential unit that is the same as or similar to the residential unit to which the cancelled continuing care agreement applied; and

Sec. 30. 24-A MRSA §6215, as repealed and replaced by PL 1989, c. 343, §20 and affected by §23, is repealed and the following enacted in its place:

§6215. Reserves

A provider shall establish and maintain the following reserves:

1. Mortgage debt. A liquid amount equal to the aggregate amount of all principal and interest payments due during the fiscal year on any mortgage loan or other long-term financing of the facility, which reserve may be held by a lender, mortgagee or trustee for bondholders in a debt service reserve fund or

similar fund, including, without limitation, any reserve fund of the Maine Health and Higher Educational Facilities Authority established pursuant to Title 22, chapter 413;

2. Operating reserve. A liquid amount equal to 20% of the total cash operating expenses, other than principal and interest payments on any mortgage loan or other long-term financing of the facility, projected for the forthcoming 12-month period, which reserve may be held by the provider in an operating fund; provided, however, that the percentage of the total cash operating expenses must be increased from 20% to 25% in the case of a provider who offers an extensive health care guarantee. For purposes of this section, "extensive health care guarantee" means a term in a continuing care agreement requiring the provision of health care to the subscriber on a prepaid basis for more than one year; and

3. Reserve liabilities; actuarial value. Each provider shall establish and maintain reserve liabilities that place a sound value on the provider's liabilities under its contracts with subscribers. The reserve must equal the excess of the present value of future benefits promised under the continuing care agreement over the present value of future revenues and any other available resources, based on conservative actuarial assumptions. The provider shall provide every 3 years to the superintendent an actuarial valuation or statement of actuarial opinion as to the adequacy of the reserve, signed by a qualified actuary, that, based on reasonable assumptions, the continuing care retirement community's assets, including the present value of estimated future maintenance fees and any other available resources, are at least equal to the present value of estimated future liabilities.

Unless otherwise approved by the superintendent, the actuarial opinion must be based on reasonable assumptions with the following provisions and margins.

A. The liabilities of a continuing care retirement community must include, but not be limited to:

(1) An amount equal to the present value of future health care expenses guaranteed pursuant to the continuing care contract; and

(2) The liabilities under this section must be calculated for the continuing care retirement community population existing on the valuation date under assumptions that, in the actuary's opinion, fairly represent the expected value of future costs and population decrements adjusted by the margins specified in paragraph B.

B. Margins required to be included in the valuation assumptions to be added to the actuary's best estimate assumptions are as follows.

(1) Health care costs per resident or per health care facility bed must be assumed to increase at a rate at least one percentage point higher than the general inflation rate.

(2) A mortality margin of 5% must be subtracted from that assumed for active residents and 10% subtracted from those in the health care facilities.

(3) A health care utilization margin of 5% must be added to the assumed rates at which residents require permanent transfer to a health care facility.

(4) The discount rate used to calculate present values may not be more than 2 1/2 percentage points higher than the rate used in the valuation of long-term life insurance contracts to be issued in the year of valuation in this State.

(5) All other assumptions must include margins that are adequate in the opinion of the actuary.

The superintendent may adopt reasonable rules further defining the standards contained in this section.

Sec. 31. 24-A MRSA §6223, sub-§§2 and 3, as enacted by PL 1987, c. 482, §1, are amended to read:

2. Material changes. Any material changes in the information submitted pursuant to this chapter; ~~and~~

3. Report. A report of the total number and disposition of complaints handled through the provider complaint system and a compilation of causes underlying the complaints; ~~and~~

Sec. 32. 24-A MRSA §6223, sub-§4 is enacted to read:

4. Statement of financial condition. A full and true statement of the provider's financial condition, transactions and affairs as of the end of its fiscal year. The report must be in the general form and context of, and require information as called for by, the form of the annual statement as currently in general and customary use in the United States for the type of provider and kind of community to be reported upon, with any useful or necessary modification or adaptation thereof and as supplemented by additional information required by the superintendent. The statement must be verified by either the provider's president or vice-president, and either the secretary or

actuary, as applicable, or in the absence of the foregoing, by 2 other principal officers.

The superintendent may adopt rules that prescribe accounting standards applicable to statements filed pursuant to this section. These rules may permit or require any provider to conform its financial presentations to the standards of preparation prescribed in the accounting practices and procedures manual of the National Association of Insurance Commissioners.

Sec. 33. 24-A MRSA §6227 is enacted to read:

§6227. Rights of residents

1. Individual rights. All residents of continuing care retirement communities have the following rights:

A. The right to self-organize;

B. The right to be represented by an individual of their own choice;

C. The right to engage in concerted activities for their own purposes;

D. The right, individually and severally, to obtain outside advice, consultation and services of their own choosing and at their own expense on any matter, including, but not limited to, medical, legal and financial matters; and

E. The right to independence, dignity, individuality, privacy, choice and a home-like environment. These rights also include, but are not limited to, the following:

(1) A recognition of the resident's rights, responsibilities, needs and preferences;

(2) Assurances that the resident is free to select or refuse services and to accept responsibility for the consequences;

(3) Freedom to develop and maintain social ties with opportunities for meaningful interaction and involvement with the community;

(4) Recognition of personal space and the furnishing and decorating of personal space as private;

(5) Recognition that ensuring a resident's well-being does not violate a resident's civil rights;

(6) Freedom of a resident to set the resident's own schedule, have visitors and leave the facility;

(7) Acknowledgment that a resident is entitled to a "bill of rights" including methods of resolving resident complaints and freedom from abuse, neglect and the use of chemical and physical restraints;

(8) Assurances that methods of preventing and responding to incidents involving injury, loss of property, abuse and neglect will be identified and implemented; and

(9) Recognition of a resident's transfer rights under section 6228.

The department may adopt reasonable rules further defining the rights contained in this subsection. Nothing in this subsection affects the rights of nursing facility residents or residential care residents as currently provided by state or federal law or regulation.

2. Meetings with provider. A provider must be available for meetings with residents and their representatives at least once every 3 months. These meetings are for the purpose of providing a forum for free and open discussion of any point the residents or the provider wishes to discuss. At least 2 weeks' notice of each meeting must be given to residents.

Sec. 34. 24-A MRSA §6228 is enacted to read:

§6228. Transfer of residents

A resident of a continuing care retirement community may be transferred to a residential care unit or a bed within the skilled nursing facility under the following conditions:

1. Written consent. With the written consent of the resident or the resident's authorized representative; or

2. Health or safety danger. Upon a finding that the resident poses a health or safety danger to other residents or a change in a resident's health status or abilities necessitates a move to a higher level of care. A decision to transfer or change a resident's accommodations may be made only after extended consultation between the provider's interdisciplinary team, including, but not limited to, medical personnel, social workers and therapists of the community, and the resident, the resident's treating physician and the resident's family or other representative. The decision may also consider all reasonable care alternatives. A written decision to transfer or change a resident's accommodations must describe why the resident's health care needs can not be met at the resident's present location. The resident may appeal this determination to the department pursuant to rules prescribed by the department.

Sec. 35. Application. Any provider holding a preliminary or final certificate of authority or both as of the effective date of this Act is subject only to the provisions of the law in effect prior to October 1, 1994.

See title page for effective date.

CHAPTER 453

H.P. 1069 - L.D. 1504

An Act to Clarify Terms and Increase Effectiveness of the Lead Poisoning Control Act

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

Sec. 1. 22 MRSA §1315, sub-§1-B, as enacted by PL 1991, c. 810, §3, is repealed.

Sec. 2. 22 MRSA §1315, sub-3-A, as enacted by PL 1991, c. 810, §5, is amended to read:

3-A. Environmental lead hazard. "Environmental lead hazard" means the presence of lead in any form that exceeds the permissible concentration and that exists in an unacceptable condition. "Permissible concentration" and "unacceptable condition" are defined by rules ~~adopted by the department~~ adopted under this Act, using information currently available on environmental lead hazards, including but not limited to information from the federal Environmental Protection Agency or the federal Department of Housing and Urban Development. "Environmental lead hazard" may include, but is not limited to, lead in dust, paint, soil or water.

Sec. 3. 22 MRSA §1315, sub-§3-D is enacted to read:

3-D. Interim controls. "Interim controls" means a set of measures designed to temporarily reduce human exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards and the establishment of management and resident education programs.

Sec. 4. 22 MRSA §1315, sub-§5-A, as enacted by PL 1991, c. 810, §9, is amended to read:

5-A. Lead-free. "Lead-free" means that a ~~children's home, residential child-care facility or~~ preschool facility, dwelling or premises contains no lead that is injurious or that could be injurious in the future.

Sec. 5. 22 MRSA §1315, sub-§§5-C, 5-D, 5-E and 5-F, as enacted by PL 1991, c. 810, §9, are amended to read:

5-C. Lead poisoning. "Lead poisoning" means a confirmed elevated level of blood lead that is injurious, as defined in rules adopted by the department using intervention levels no higher than those set by the federal Centers for Disease Control.

5-D. Lead-safe. "Lead-safe" means that a ~~children's home,~~ residential child-care facility or preschool facility, dwelling or premises does not contain lead at a level or in a condition that constitutes an environmental lead hazard.

5-E. Occupant. "Occupant" means a person who resides in or uses regularly a dwelling, ~~children's home~~ residential child-care facility or preschool facility.

5-F. Owner. "Owner" means any person who individually, jointly or in common with others:

~~A. Has legal title to any dwelling or premises or, if the person having legal title can not be located through reasonable efforts, is the owner's agent, as described in Title 14, section 6023;~~

~~B. Is the guardian of the owner or is the executor, administrator or trustee of the estate of the owner;~~

C. Is the chief executive officer of the municipality, school administrative unit or state agency that controls the use of publicly owned property; ~~or~~

D. Is a mortgagee who has taken actual possession in accordance with applicable law. A mortgagee who has not taken actual possession is not the owner; or

E. Is characterized by the following:

(1) Has legal title to any dwelling or premises;

(2) Has charge, care or control of any premises as owner or agent of the owner and has authority to expend money for compliance with the state sanitary code or as an executor, an administrator, a trustee or a guardian of the estate or the holder of legal title;

(3) Is a real estate property manager or other entity that has the authority to fund capital or major property rehabilitation on the owner's behalf;

(4) Is an estate or trust of which the premises is a part or the grantor or beneficiary of an estate or trust; or

(5) Is the association of unit owners of a condominium or cooperative, which is considered as owner solely with respect to common areas and exterior surfaces and fixtures of that condominium or cooperative.

Sec. 6. 22 MRSA §1315, sub-§6-C is enacted to read:

6-C. Small preschool facility. "Small preschool facility" means a preschool facility, as defined in subsection 6-B, licensed to take no more than 12 children in its program.

Sec. 7. 22 MRSA §1315-A, first ¶, as enacted by PL 1991, c. 810, §18, is amended to read:

The commissioner may take any action that is in accordance with the purposes of this chapter and is within the powers granted in this Title to protect ~~children~~ the public from lead poisoning. That action may include, but is not limited to, the following:

Sec. 8. 22 MRSA §1316, sub-§§1 and 2, as amended by PL 1991, c. 810, §19, are further amended to read:

1. Interiors. In or upon any exposed surface of a dwelling, ~~children's home~~ residential child-care facility or preschool facility;

2. Fixtures. In or upon any fixtures or other objects used, installed or located in or upon any exposed surface of a dwelling, ~~children's home~~ residential child-care facility or preschool facility or intended to be so used, installed or located; and

Sec. 9. 22 MRSA §1319-B, as enacted by PL 1991, c. 810, §26, is repealed and the following enacted in its place:

§1319-B. Inspection of residential child-care facilities and preschool facilities

The department shall adopt rules that require all residential child-care facilities and preschool facilities to have environmental lead inspections at least every 3 years except that environmental lead inspections are not required if the residential child-care facility or preschool facility has been certified by a lead inspector as lead-safe within the previous 3 years or has been certified as lead-free. As of July 1, 1998, a small preschool facility, residential child-care facility or preschool facility may not be licensed, registered, certified or otherwise approved or receive any state funds unless it is in compliance with this section.

Sec. 10. 22 MRSA §1321, first ¶, as amended by PL 1991, c. 810, §28, is further amended to read:

If the department determines that an environmental lead hazard exists in or on any dwelling, premises, ~~children's home~~ residential child-care facility or preschool facility:

Sec. 11. 22 MRSA §1321, sub-§§1, 3 and 4, as amended by PL 1991, c. 810, §28, are further amended to read:

1. Notice posted. The department shall post in or upon the dwelling, premises, ~~children's home~~ residential child-care facility or preschool facility, in a conspicuous place or places, notice of the existence of environmental lead hazard. Notice may not be removed until the department states that the environmental lead hazard no longer exists;

3. Notice to owner; removal. The department shall give notice of the existence of the environmental lead hazard to the owner and order that the lead-based substances be removed, replaced or securely and permanently covered within 30 days of receipt of the notice. The department shall adopt rules for removal, replacement or covering of the lead-based substance. If the lead-based substances can not be removed, replaced or securely and permanently covered within 30 days, the department may grant an extension of reasonable time; ~~and~~

4. Sale of dwelling, residential facility or preschool facility. If, before the end of the 30-day period or extension, the owner sells the dwelling, premises, ~~children's home~~ residential child-care facility or preschool facility, the owner must notify the prospective buyer of the environmental lead hazard and the new owner must assume the responsibility of carrying out the requirements of this section within the specified time period; and

Sec. 12. 22 MRSA §1321, sub-§5 is enacted to read:

5. Abatement procedures. An individual performing abatement procedures authorized under this Act is subject to the standards and rules adopted under this Act, including the abatement and postabatement testing standards.

Sec. 13. 22 MRSA §1322, as enacted by PL 1991, c. 810, §29, is amended by adding at the end a new paragraph to read:

If the owner decides to bring any residential dwelling or premises into compliance with this Act while a tenant is occupying a dwelling unit, the owner may move the tenant to a substitute dwelling unit upon reasonable notice as long as the owner pays reason-

able moving expenses and any use and occupancy charges for a substitute dwelling unit that exceed the rent for the vacated dwelling unit for which the tenant remains responsible. "Substitute dwelling unit" means a dwelling unit of like or similar accommodation and in like or similar location that is lead-safe. If the tenant fails to accept the substitute dwelling unit selected by the owner while the owner is required to bring the vacated dwelling unit into compliance with this Act or the tenant fails to remain current in rent pursuant to the lease or tenancy at will under Title 14, section 6002, including the statutory period of right to cure, the owner is not obligated beyond 10 days after completion of remediation to reimburse the tenant for any expense or inconvenience other than moving expenses and any use and occupancy charges for the substitute dwelling unit selected by the owner that exceed the rent for the vacated dwelling unit.

Sec. 14. 22 MRSA §1322-A, sub-§1, as enacted by PL 1991, c. 810, §30, is amended to read:

1. Prohibition. A person may not conduct environmental lead inspections or lead abatement unless that person is licensed by the department under this chapter or unless the person is at least 18 years of age and is performing lead abatement ~~on or~~ in the dwelling unit of which the person is ~~an~~ the owner and occupant. This prohibition includes persons located in other states who offer lead-related services to residents of the State directly or through the mail.

Sec. 15. 22 MRSA §1323, first ¶, as amended by PL 1991, c. 810, §31, is further amended to read:

The department shall adopt rules to carry out the purposes of this chapter and to ensure that state law relating to lead poisoning satisfies minimum requirements of federal law in all respects. The rules may address, but are not limited to, the following:

Sec. 16. 22 MRSA §1323, sub-§3, as enacted by PL 1991, c. 810, §31, is amended to read:

3. Inspections; tests; abatement. Inspecting, testing and abating lead in dwellings where children are at risk of lead poisoning, in ~~children's homes~~ residential child-care facilities and in preschool facilities;

Sec. 17. 22 MRSA §1324-A, as amended by PL 1991, c. 810, §32, is repealed and the following enacted in its place:

§1324-A. Liability of owners; damages

The owner of any dwelling, premises, residential child-care facility or preschool facility is liable for damages as a result of lead poisoning in accordance with this section.

1. Owner liable for damages. Subject to the limitation of liability under subsection 3, an owner is liable for all damages caused by failure to perform the duties required under this chapter.

2. Punitive damages. Subject to the limitation of liability under subsection 3, an owner who has received notice under this chapter of an environmental lead hazard and who does not satisfactorily correct or remove the environmental lead hazard is, in addition to subsection 1, subject to punitive damages, which are treble the actual damages found.

3. Limitation on award. In actions for damages, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices and aids, may not exceed \$750,000 except for the following claims:

A. Claims against lead abatement professionals licensed under this chapter;

B. Claims against an individual who rents or sells property to anyone with children, has knowledge of the presence of an environmental lead hazard in a dwelling or dwelling unit and deliberately fails to disclose to the prospective tenant or buyer the presence of lead paint; and

C. Claims against an individual who receives written notification of the presence of an environmental lead hazard or of a child-poisoning incident and who fails or refuses to take corrective measures, including interim controls, within a 60-day period from the date of notification.

4. Repeal. This section is repealed April 15, 1996.

Sec. 18. 22 MRSA §1326, as amended by PL 1991, c. 810, §34, is further amended to read:

§1326. Injunction requiring removal

If the lead-based substance remains an environmental lead hazard at the expiration of 30 days or at the expiration of an extension given by the commissioner pursuant to section 1321, the State, in addition to any other remedies it has, may seek a mandatory injunction ordering the environmental lead hazard removed by a suitable 3rd party at the expense of the owner of the dwelling, premises, ~~children's home~~ residential child-care facility or preschool facility.

Sec. 19. 22 MRSA §1327 is enacted to read:

§1327. Essential maintenance practices

Notwithstanding any other provision of law, an owner of a building constructed prior to 1978 that is rented for residential purposes or used as a residential

child-care facility or a preschool facility may perform essential maintenance practices if the owner:

1. Precautions. Takes all necessary precautions to avoid creating lead hazards during any renovation, remodeling, maintenance or repair project that disturbs a lead-based painted surface pursuant to guidelines issued by the department. For purposes of essential maintenance practices, all paint is presumed to be lead-based unless a certified inspector has determined that it is not lead-based paint. The guidelines must include:

A. A prohibition against paint removal by burning, water blasting, dry scraping, power sanding or sandblasting, unless undertaken with proper containment, cleanup and disposal;

B. A description of good work practices and precautions to prevent the spread of lead dust, including limiting access to work areas to workers, covering the work area with appropriate protective covering, protecting workers, protecting belongings of occupants by covering or removing them from the work area, wetting painted surfaces before disturbing the paint and wet sweeping debris; and

C. Appropriate cleaning of the work area at the conclusion of the work using methods designed to remove lead dust;

2. Checks. Performs visual checks of the property to identify deteriorated paint upon a change of tenant or within 12 months of the effective date of this subsection, whichever is sooner, and annually thereafter;

3. Removes or stabilizes paint. Promptly and safely removes or stabilizes paint if more than one square foot of deteriorated paint is found on any interior surface, exterior porch or exterior wall or surface or fixture within an exterior porch, and restore that surface within 30 days after visual identification of deteriorated paint or within 30 days of receiving a written or oral report of deteriorated paint from a tenant or from an owner of a child-care facility. If exterior repair work is identified after November 1st of any year, the repair work may be delayed but must be commenced no later than May 31st of the following year;

4. Repairs. If more than one contiguous square foot of deteriorated paint is found on any exterior wall, surface or fixture not covered by subsection 3 and is located in an area frequented by children in warm weather, promptly and safely repairs and stabilizes the paint and restores the surface or prohibits access to the area, surface or fixture to ensure that children can not come into contact with the deteriorated paint; and

5. Provides information. Provides written lead-based paint hazard information to current and prospective tenants and to current and prospective owners or managers of child-care or preschool facilities, including but not limited to information on the importance of promptly reporting the presence of deteriorated paint to the owner or to the owner's agent. The notice must include the name, address and telephone number of the owner or the owner's agent.

See title page for effective date.

CHAPTER 454

H.P. 1093 - L.D. 1538

An Act to Strengthen the Motor Vehicle Laws Pertaining to Registration of Motor Vehicles

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

Sec. 1. 29-A MRSA §101, sub-§62, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

62. Resident. "Resident" means a person who has declared or established residency in this State or has been domiciled in this State for a period of at least 30 days, except for persons in compliance with section 109, subsection 1.

A nonresident who has a place of business in this State Except for a person in compliance with section 109, subsection 1, a person is deemed to be a resident:

A. For all vehicles owned by that person that are garaged or maintained in this State; or

B. If engaged in the business of renting you-drive or you-haul vehicles for an apportioned share of all vehicles based on the ratio of the mileage of vehicles operated in this State to the total mileage of vehicles operated both within and without the State.

Sec. 2. 29-A MRSA §351, sub-§1-A is enacted to read:

1-A. Residents required to register. An owner establishing residency in the State shall apply for a registration within 30 days of becoming a resident.

Sec. 3. 29-A MRSA §514, first ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A person required to register a vehicle in this State who instead registers the vehicle in another state or province or who fails to register a vehicle in this

State within 30 days of establishing residency is guilty of evasion of registration fees and excise taxes. Violation of this section is a traffic infraction punishable by a fine of not less than \$500 nor more than \$1,000.

See title page for effective date.

CHAPTER 455

S.P. 562 - L.D. 1530

An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife

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

Whereas, confusion exists as to the application of certain laws administered by the Department of Inland Fisheries and Wildlife; and

Whereas, this confusion poses difficulties for the sporting public and those charged with enforcement of these laws; and

Whereas, it is vitally necessary that this confusion be resolved to prevent any injustice or hardship to the hunters, anglers, trappers and recreational vehicle owners of the State; 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. 12 MRSA §7035, sub-§11-A, as enacted by PL 1989, c. 177, is repealed.

Sec. 2. 12 MRSA §7071, sub-§8, as enacted by PL 1985, c. 90, is repealed and the following enacted in its place:

8. Trespass reminder. The following notice must be printed on each hunting and fishing license: This license does not authorize you to enter private property without permission.

Sec. 3. 12 MRSA §7074, sub-§6 is enacted to read:

6. Rules. Notwithstanding any other provision of this section, the commissioner may adopt rules as necessary to satisfy the provisions of the federal

migratory bird harvest information program. These rules may include a requirement that agents appointed to sell hunting licenses submit license sales information on a weekly basis. The commissioner is responsible for all costs associated with any additional reporting requirements imposed on agents appointed to sell hunting licenses, including mailing costs.

Sec. 4. 12 MRSA §7101, sub-§3, as amended by PL 1983, c. 440, §7, is repealed.

Sec. 5. 12 MRSA §7101, sub-§6, as repealed and replaced by PL 1979, c. 543, §8, is repealed.

Sec. 6. 12 MRSA §7102, sub-§3, as repealed by PL 1993, c. 24, §2 and affected by §7 and as repealed and replaced by c. 419, §6, is repealed.

Sec. 7. 12 MRSA §7102-A, sub-§4, as enacted by PL 1993, c. 24, §3 and affected by §7, is repealed and the following enacted in its place:

4. Schedule of fees. The schedule of fees is as follows:

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996 and after</u>
<u>A. Resident archery license</u>	<u>\$15</u>	<u>\$17</u>	<u>\$18</u>	<u>\$19</u>
<u>B. Resident combination archery hunting and fishing license</u>	<u>\$28</u>	<u>\$32</u>	<u>\$34</u>	<u>\$36</u>
<u>C. Nonresident archery license</u>	<u>\$47</u>	<u>\$51</u>	<u>\$53</u>	<u>\$55</u>
<u>D. Alien archery license</u>	<u>\$62</u>	<u>\$66</u>	<u>\$68</u>	<u>\$70</u>

Sec. 8. 12 MRSA §7107-A, sub-§1-A, as enacted by PL 1993, c. 47, §2, is amended to read:

1-A. Form of license. The muzzle-loading hunting license must be in the form of a stamp that must be affixed to the person's big game hunting license or junior hunting license. ~~The stamp must bear the words "RIGHT TO BEAR ARMS."~~

Sec. 9. 12 MRSA §7109-A is enacted to read:

§7109-A. Migratory game bird certification

1. Certification required. Beginning January 1, 1996, a person may not hunt migratory game birds unless that person is certified under this section.

2. Eligibility. Any resident of the State, nonresident or alien who is eligible to obtain a state hunting license is eligible to be certified to hunt migratory game birds.

3. Certification procedure. An eligible person becomes certified to hunt migratory game birds when that person indicates on that person's hunting license at the time of purchase the intention to hunt migratory game birds during the calendar year for which the license is valid.

Sec. 10. 12 MRSA §7151, sub-§3, ¶¶A and B, as enacted by PL 1979, c. 420, §1, are repealed.

Sec. 11. 12 MRSA §7153, as amended by PL 1993, c. 438, §8, is further amended to read:

§7153. Alewife, eel, sucker and yellow perch permit

1. Issuance. The commissioner may issue permits to fish for or possess alewives, eel, suckers and yellow perch by means of eel pots, traps, spears or nets in inland waters, under such rules as the commissioner may establish, provided these permits do not interfere with rights granted under section 6131.

2. Fee. The minimum fee for ~~these permits~~ an individual permit is \$38 for 1993, \$40 for 1994, \$41 for 1995 and \$42 for 1996 and every year thereafter. Beginning in calendar year 1996, a crew permit may be sold for \$100 authorizing up to 3 persons to engage in the licensed activity.

Sec. 12. 12 MRSA §7154, sub-§3, as amended by PL 1995, c. 210, §1, is repealed and the following enacted in its place:

3. Fee. The fee for a bass tournament permit is:

A. For weigh-in tournaments, \$24 per day; and

B. For catch and release tournaments, \$5 per day.

Sec. 13. 12 MRSA §7171, sub-§4, ¶B, as amended by PL 1987, c. 317, §10, is further amended by enacting a new subparagraph (7) to read:

(7) The holder of a baitfish wholesale license who attempts to take live bait for resale using drop nets from the inland waters of the State by fishing through the ice must mark all holes made in the ice by that person for that purpose. The holes must be marked by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

Sec. 14. 12 MRSA §7171, sub-§4, ¶C, as amended by PL 1993, c. 438, §9, is further amended by amending subparagraphs (2) and (8) to read:

(2) The holder of a smelt wholesaler's license may take live smelts for resale from any inland water in accordance with general rules ~~promulgated~~ adopted by the commissioner in regard to the taking of smelts. In taking smelts under the general rules, the holder of a smelt wholesaler's license shall comply with the same daily bag limit and the same tackle restrictions that apply to all other anglers. The holder of a smelt wholesaler's license may not take multiple limits from waters governed by general rules in order to attain the 8-quart limit of smelts described in subparagraph (3).

(8) The holder of a smelt wholesaler's license, or the holder's designee, may transport live smelts, except that live smelts being transported directly from an inland water source must be accompanied by the licensee. The holder of a smelt wholesaler's license may not transport from an inland water source to the licensee's place of business more than 8 quarts of live smelts.

Sec. 15. 12 MRSA §7171, sub-§4, ¶C, as amended by PL 1993, c. 438, §9, is further amended by enacting a new subparagraph (9) to read:

(9) The holder of a smelt wholesaler's license who attempts to take live smelt for resale using drop nets from the inland waters of the State by fishing through the ice must mark all holes made in the ice by that person for that purpose. The holes must be marked by suspending at least one strand of fluorescent biodegradable tape at least 3 feet above the ice around the entire perimeter of the hole so that the tape is visible from all sides.

Sec. 16. 12 MRSA §7171, sub-§4, ¶D is enacted to read:

D. For purposes of this subsection, "business facility" means a fixed place of business and does not include a motor vehicle or trailer. Live smelts or baitfish that are held in or on a motor vehicle or trailer by a person licensed under this section are considered in transport even if the motor vehicle or trailer may be temporarily placed at a specific location by the licensee, or the licensee's designee, for the purpose of selling live smelts and baitfish to anglers.

Sec. 17. 12 MRSA §7235-A, sub-§3, ¶A, as amended by PL 1995, c. 213, §2, is further amended to read:

A. A ringneck pheasant or bobwhite quail, whether live or dressed, that is possessed by virtue of this permit must be identified with a ~~metallic~~ permanent leg band before being removed from the premises of the permittee. This ~~metallic~~ permanent leg band, supplied by the permittee, must remain attached to the bird until that bird is finally prepared for consumption.

Sec. 18. 12 MRSA §7240, sub-§3, as amended by PL 1983, c. 22, §2, is further amended to read:

3. Restrictions. Upon receipt of shipment, importers of ~~Ringneck~~ ringneck pheasants shall attach securely to each bird a ~~metallic~~ permanent leg band.

A. This leg band ~~shall~~ must remain attached to the birds until they are finally prepared for consumption.

Sec. 19. 12 MRSA §7363, sub-§13, as enacted by PL 1983, c. 502, §4, is amended to read:

13. Whitewater trip. "Whitewater trip" means any commercial effort to transport passengers by means of a whitewater craft on rapidly flowing rivers, except commercial efforts by guides licensed under section 7311 to transport clients by means of a whitewater craft on rapidly flowing rivers while principally engaged in fishing.

Sec. 20. 12 MRSA §7368-A, sub-§3, as enacted by PL 1989, c. 883, §10, is amended to read:

3. Passenger limitation. ~~An~~ Except as provided in this subsection, an outfitter may not carry more than 80 passengers per day on any rapidly flowing river. On allocated days, that limit may be exceeded only as provided in section 7369, subsection 10, paragraph C. On unallocated days, an outfitter may occasionally carry up to 4 additional passengers to accommodate problems in booking. Abuse of this privilege results in its loss.

Sec. 21. 12 MRSA §7369, sub-§10, ¶A, as amended by PL 1993, c. 438, §24, is further amended to read:

A. Allocations are required for Saturdays for the period of June 8th to August 31st. ~~Except as provided in paragraph F, allocations are required for Sundays on the Penobscot River for the period of~~ The commissioner may adopt rules establishing allocations for Sundays between June 8th to August 31st. If the department determines that the recreational use limit will be

reached other days, the department shall provide by rule for allocations.

Sec. 22. 12 MRSA §7369, sub-§10, ¶F, as amended by PL 1993, c. 574, §19, is repealed.

Sec. 23. 12 MRSA §7372, as enacted by PL 1979, c. 420, §1, is amended to read:

§7372. Intentional issuance of resident license or permit to nonresident

A town clerk or agent is guilty of intentional issuance of a resident license or permit to a nonresident if ~~he the town clerk or agent~~ intentionally issues a resident license or permit to a person who is not a resident of the municipality in which the license or permit is issued.

Sec. 24. 12 MRSA §7377, sub-§5, as amended by PL 1979, c. 723, §15, is repealed.

Sec. 25. 12 MRSA §7377, sub-§5-A is enacted to read:

5-A. Importing live freshwater fish or eggs. Notwithstanding section 7202, the commissioner may adopt rules allowing the importation after January 1, 1996 of certain species of tropical fish and goldfish without a permit. The commissioner may allow the importation of those species without a permit only for aquarium purposes and only if the commissioner determines that the species does not pose a significant risk to the health, habitat or genetic integrity of any native species of fish or other aquatic organism.

Sec. 26. 12 MRSA §7451, sub-§4 is enacted to read:

4. Bear tags. The commissioner shall prescribe the form and content of a bear tag, except that the commissioner may not produce a bear tag that is part of a hunting license issued for calendar year 1996 or later.

Sec. 27. 12 MRSA §7452, sub-§11, as amended by PL 1987, c. 317, §20, is further amended to read:

11. Failure to attach bear tag to bear. A person is guilty of failure to attach a bear tag to a bear if, prior to presenting a bear for registration, ~~he that~~ person possesses or leaves in the fields or forests a bear ~~which he has killed and which killed by that person that~~ does not have securely attached to it and plainly visible ~~the bear tag portion of his hunting license bearing his full name and address, or if the bear was taken by trapping, a tag bearing his full name, address and trapping license number~~ a bear tag that conforms to the requirements of section 7451, subsection 4.

Sec. 28. 12 MRSA §7452, sub-§13, as enacted by PL 1979, c. 543, §40, is amended to read:

13. Illegally transporting bear. A person is guilty, except as otherwise provided in chapters 701 to 721 and except as provided in subsection 15, paragraph E, of illegally transporting bear if ~~he~~, at any time and in any manner, that person moves or transports any bear, and:

A. The bear is not open to view;

B. ~~The A bear tag portion of the hunting license bearing the name and address of the person who killed the bear~~ that conforms to the requirements of section 7451, subsection 4 is not securely attached to the bear; or

C. The person who killed the bear does not accompany the bear while it is being moved or transported.

Sec. 29. 12 MRSA §7456, sub-§1-A is enacted to read:

1-A. Hunting migratory game birds without certification. A person is guilty of hunting migratory game birds without certification if that person hunts migratory game birds and has not been certified to do so as provided in section 7109-A.

Sec. 30. 12 MRSA §7457, sub-§1, ¶D, as amended by PL 1981, c. 644, §24, is further amended to read:

D. There ~~shall be~~ is a continual closed season on deer in the following places:

- (1) Mount Desert Island;
- (2) Cross Island in Washington County;
- (3) Scotch Island in Washington County;
- (4) The Town of Isle au Haut and the islands within the confines of the Town of Isle au Haut in Knox County;
- (5) Wildlife sanctuaries ~~which that~~ have been established by law, except as provided in section 7653;
- (6) All of Swan Island in the Town of Swan's Island in Hancock County;
- (7) The Town of Islesboro in Waldo County, except that a person may hunt deer in that town with bow and arrow from the first day of ~~October~~ the special archery season on deer, established in accordance with section 7102-A, subsection 6, paragraph C, to the end of the regular firearm season on

deer of each calendar year in Waldo County;

(8) The whole of Cranberry Isles in Hancock County; and

(9) The whole of Long Island in Long Island Plantation in Hancock County.

Sec. 31. 12 MRSA §7457, sub-§3 is enacted to read:

3. Deer tags. The commissioner shall prescribe the form and content of a deer tag, except that the commissioner may not produce a deer tag that is part of a hunting license issued for calendar year 1996 or later.

Sec. 32. 12 MRSA §7458, sub-§6, as amended by PL 1981, c. 414, §34, is further amended to read:

6. Failure to attach deer tag to deer. A person is guilty of failure to attach a deer tag to a deer if, prior to presenting a deer for registration, ~~he that person~~ possesses or leaves in the fields or forests a deer ~~which he has killed which~~ killed by that person that does not have securely attached to it and plainly visible ~~the deer tag portion of his hunting license bearing his full name and address~~ a deer tag that conforms to the requirements of section 7457, subsection 3.

Sec. 33. 12 MRSA §7458, sub-§11, ¶B, as enacted by PL 1979, c. 420, §1, is amended to read:

B. ~~The A~~ deer tag ~~portion of the hunting license~~ bearing the name and address of the person who killed the deer ~~that conforms to the requirements of section 7457, subsection 3~~ is not securely attached to the deer; or

Sec. 34. 12 MRSA §7463-A, sub-§13, ¶C, as enacted by PL 1993, c. 577, §1, is amended to read:

C. An eligible person wishing to apply for a permit under this subsection shall submit a written application in such form as the commissioner may require. The application must be accompanied by a bidding fee of \$25, which, except as otherwise provided in paragraph D, may not be refunded. The commissioner may waive the requirements of this paragraph when, as provided in paragraph G, the commissioner enters into contract with a conservation organization to auction the permits.

Sec. 35. 12 MRSA §7464, sub-§6, as enacted by PL 1979, c. 543, §50, is amended to read:

6. Failure to attach moose tag to moose. A person is guilty of failure to attach a moose tag to a

moose if, prior to presenting a moose for registration, ~~he that person~~ possesses or leaves in the fields or forests a moose ~~which he the person~~ has killed ~~which~~ that does not have securely attached to one of its head hind legs, and plainly visible, the moose tag portion of ~~his the~~ permit, bearing ~~his the person's~~ full name and address.

Sec. 36. 12 MRSA §7557 is enacted to read:

§7557. Identifying waters where children may fish with single baited hook and line

Rules adopted by the commissioner that set forth the special fishing regulations for inland waters of the State must include a list of waters where a person under 12 years of age may fish with a single baited hook and line.

Sec. 37. 12 MRSA §7606-B is enacted to read:

§7606-B. Failure to check baitfish traps

A person is guilty of failure to check a baitfish trap if that person, while trapping for baitfish in the inland waters with the use of a baitfish trap as defined in section 7001, subsection 1-B, fails to check the baitfish trap or cause the same to be checked at least once in every 3 calendar days.

Sec. 38. 12 MRSA §7652, sub-§3, ¶B, as amended by PL 1991, c. 443, §32, is repealed and the following enacted in its place:

B. The following areas are classified as state-owned wildlife management areas, or "WMAs":

(1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS - Piscataquis County;

(2) Brownfield WMA - Brownfield, Denmark, Fryeburg - Oxford County;

(3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec County;

(4) Caesar Pond WMA - Bowdoin - Sagadahoc County;

(5) Chesterville WMA - Chesterville - Franklin County;

(6) Coast of Maine WMA - all state-owned coastal islands that are owned or managed by the Department of Inland Fisheries and Wildlife;

(7) Dickwood Lake WMA - Eagle Lake - Aroostook County;

(8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot County;

(9) Fahi Pond WMA - Embden - Somerset County;

(10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock County;

(11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor - Kennebec County;

(12) Great Works WMA - Edmunds Township - Washington County;

(13) Jamies Pond WMA - Manchester, Farmingdale - Kennebec County;

(14) Jonesboro WMA - Jonesboro - Washington County;

(15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;

(16) Kennebunk Plains WMA - Kennebunk - York County;

(17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft, Garland - Penobscot and Piscataquis Counties;

(18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill - Waldo County;

(19) Long Lake WMA - St. Agatha - Aroostook County (All of Long Lake within the Town of St. Agatha);

(20) Madawaska WMA - Palmyra - Somerset County;

(21) Mainstream WMA - Cambridge - Somerset County;

(22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus - Aroostook County;

(23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York County;

(24) Mercer Bog WMA - Mercer - Somerset County;

(25) Merrymeeting Bay WMA - Dresden, Bowdoinham - Lincoln and Sagadahoc Counties;

(26) Morgan Meadow WMA - Raymond - Cumberland County;

(27) Mt. Agamenticus WMA - York, South Berwick - York County;

(28) Muddy River WMA - Topsham - Sagadahoc County;

(29) Narraguagus Junction WMA - Cherryfield - Washington County;

(30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;

(31) Orange River WMA - Whiting - Washington County;

(32) Peaks Island WMA - Portland - Cumberland County;

(33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;

(34) Steve Powell WMA - Perkins Township - Sagadahoc County. (Being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island, formerly known as Alexander Islands);

(35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;

(36) Ruffingham WMA - Montville, Searsmont - Waldo County;

(37) St. Albans WMA - St. Albans - Somerset County;

(38) Sandy Point WMA - Stockton Springs - Waldo County;

(39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland and York Counties;

(40) Steep Falls WMA - Standish, Baldwin - Cumberland County;

(41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;

(42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;

(43) Weskeag Marsh WMA - South Thomaston, Thomaston, Rockland, Owl's Head - Knox County; and

(44) Such other areas as the commissioner designates, by rules adopted in accordance

with section 7653, as state-owned wildlife management areas.

Sec. 39. 12 MRSA §7653, as amended by PL 1981, c. 414, §36, is further amended to read:

§7653. Commissioner's authority over sanctuaries; wildlife management areas and access sites

1. Public use. The commissioner may, pursuant to section 7035, subsection 1, ~~promulgate~~ adopt rules regulating hunting, fishing, trapping or other public use of any wildlife management area or wildlife sanctuary as designated in section 7651, subsection 1, except that ~~no a landowner shall~~ may not be prohibited from operating any vehicle on land on which ~~he~~ that person is domiciled.

2. Natural products. The commissioner may harvest and sell natural products of the land on lands owned by the department.

3. Trapping. The commissioner may regulate the trapping of wild animals on wildlife sanctuaries or closed territories.

4. Fees. The commissioner may establish reasonable fees for admission to the Fish and Wildlife Visitors' Center at Gray, ~~Maine~~ Cumberland County, and the Steve Powell Wildlife Management Area at Perkins Township, Sagadahoc County, known as Swan Island and Little Swan Island.

5. Access sites to inland and coastal waters. The commissioner may, pursuant to section 7035, subsection 1, adopt rules regulating public use of department-owned or department-maintained sites that provide public access to inland or coastal waters. The commissioner may establish reasonable fees for use of these sites by members of the public as necessary to help defray the cost of routine maintenance and security.

Sec. 40. 12 MRSA §7801, sub-§30, ¶A, as enacted by PL 1989, c. 469, §4, is amended to read:

A. Or any passenger is not wearing ~~Coast Guard~~ Coast Guard approved Type I ~~or~~ or Type II or Type III personal flotation devices while operating or riding on the personal watercraft;

Sec. 41. 12 MRSA §§7829 and 7830 are enacted to read:

§7829. Liability for damage by other persons

The owner of a snowmobile, the person who gives or furnishes that snowmobile to a person under 18 years of age and the parent or guardian responsible for the care of that minor are jointly and severally liable with the minor for any damages caused in the operation of the snowmobile by that minor.

§7830. Impoundment of snowmobiles

When a law enforcement officer issues a summons for a violation under this subchapter, the officer may impound the snowmobile operated by the person who receives the summons if, in the judgment of the officer, based on actual previous offenses by the operator or other considerations, the operator will continue to operate the machine in violation of this subchapter and that operation may be a hazard to the safety of persons or property.

The operator or owner of an impounded snowmobile may reclaim the snowmobile at any time subsequent to 24 hours after the issuance of the summons upon payment of the costs of impoundment to the enforcement agency impounding the snowmobile.

Sec. 42. 12 MRSA §7857, sub-§16, as amended by PL 1993, c. 438, §40, is further amended to read:

16. Operating an ATV with insufficient lights.

A person is guilty, except as provided in subsection 24, paragraphs B, E-1 and G, of operating an ATV with insufficient lights, if that person operates an ATV that is not equipped as follows.

A. Every ATV must have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the ATV.

B. Every ATV must have mounted on the rear at least one ~~lamp~~ taillight capable of displaying a ~~red~~ light that must be visible at a distance of at least 100 feet behind the ATV.

~~C. Every new ATV, except 2 wheel off road motorcycles, manufactured after January 1, 1991, and sold in Maine, must be equipped with working headlights, taillights and brake lights.~~

D. Every ATV, excluding 2-wheel off-road motorcycles, must have mounted on the rear at least one brake light capable of displaying a red light when the brakes are applied that is visible for at least 100 feet.

This subsection applies to any ATV operated in this State, regardless of where it was purchased.

Sec. 43. 12 MRSA §7857, sub-§25 is enacted to read:

25. Prohibition on sales without lights. Except as provided in this subsection, a person may not sell or offer to sell a new ATV unless that ATV is equipped with a functioning headlight, a taillight and brake light. This subsection does not apply to an ATV that:

A. Is a 2-wheel off-road motorcycle; or

B. Was manufactured prior to 1991.

Sec. 44. Task force established. The Task Force to Study the Operations of the Department of Inland Fisheries and Wildlife, referred to in this section as the "task force," is established.

1. Membership. The task force consists of 8 members, appointed as follows.

A. The Speaker of the House of Representatives and the President of the Senate shall jointly appoint 5 members of the Legislature who are members of the Joint Standing Committee on Inland Fisheries and Wildlife. The Speaker of the House and the President of the Senate shall appoint these members from among names recommended for appointment by a majority of the members of the Joint Standing Committee on Inland Fisheries and Wildlife.

B. The Governor shall appoint 2 public members at large.

C. The Board of Directors of the Sportsman's Alliance of Maine shall appoint one member.

2. Appointments; meetings; chair. All members of the task force must be appointed not later than 30 days after the effective date of this section. The Executive Director of the Legislative Council must be notified of all appointments. When all appointments have been made, the Chair of the Legislative Council shall call the first meeting of the task force not later than July 31, 1995. At its first meeting, the task force shall elect a chair from among its members. The chair of the task force shall call all subsequent meetings.

3. Purpose. The task force shall conduct a comprehensive review of the operations and functions of the Department of Inland Fisheries and Wildlife. The Commissioner of Inland Fisheries and Wildlife, the Commissioner of Administrative and Financial Services, the Director of the Bureau of Human Resources and all other appropriate agencies shall cooperate with requests from the task force for information or records pertaining to the operations of the department.

4. Staffing. The task force shall request staffing assistance from the Legislative Council.

5. Per diem and expenses. Appointed members of the task force are entitled to legislative per diem and reimbursement for expenses related to work of the task force. Expenses that are eligible for reimbursement include travel, meals and lodging associated with travel outside this State.

6. Costs paid by department. The Department of Inland Fisheries and Wildlife shall reimburse the Legislature for all per diem and expenses of the task force upon request of the Executive Director of the Legislative Council.

7. Report. The task force shall submit its report and any accompanying legislation to the Second Regular Session of the 117th Legislature not later than December 1, 1995.

Sec. 45. Retroactivity. That section of this Act that repeals the Maine Revised Statutes, Title 12, section 7102, subsection 3 and that section of this Act that repeals and replaces Title 12, section 7102-A, subsection 4 are retroactive to January 1, 1995.

Sec. 46. Effective date. That section of this Act that repeals the Maine Revised Statutes, Title 12, section 7377, subsection 5 takes effect January 1, 1996.

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

Effective July 3, 1995, unless otherwise indicated.

CHAPTER 456

S.P. 430 - L.D. 1198

An Act to Amend the Maine Bail Code to Penalize Defendants Who Have Been Granted a Stay of Execution and Fail to Report

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

Sec. 1. 15 MRSA §1091-A is enacted to read:

§1091-A. Failure to report

1. Failure to report after stay of execution. A defendant who has been sentenced but granted a stay of execution to report at a specific time and who fails to report as ordered is guilty of:

A. A Class E crime if the underlying crime was punishable by a maximum period of imprisonment of less than one year; or

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more.

It is an affirmative defense that the failure to appear resulted from just cause.

See title page for effective date.

CHAPTER 457

S.P. 480 - L.D. 1304

An Act to Establish the DNA Data Base and Data Bank Act

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

Sec. 1. 25 MRSA c. 194 is enacted to read:

CHAPTER 194

DNA DATA BASE AND DATA BANK ACT

§1571. Short title

This chapter may be known and cited as the "DNA Data Base and Data Bank Act."

§1572. Definitions

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

1. CODIS. "CODIS" means the Federal Bureau of Investigation's national DNA identification index system that allows for storage and exchange of DNA records submitted by state and local forensic DNA laboratories and is derived from the Combined DNA Index System.

2. Crime lab. "Crime lab" means the Maine State Police Crime Laboratory located in Augusta.

3. DNA. "DNA" means deoxyribonucleic acid.

4. DNA analysis. "DNA analysis" means DNA typing tests that derive identification information specific to a person from that person's DNA.

5. DNA record. "DNA record" means DNA identification information obtained from DNA analysis and stored in the state DNA data base or CODIS.

6. DNA sample. "DNA sample" means a blood sample provided by a person convicted of one of the offenses listed in this chapter or submitted to the crime lab for analysis pursuant to a criminal investigation.

7. FBI. "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

8. State DNA data base. "State DNA data base" means the DNA identification record system administered by the Chief of the State Police.

9. State DNA data bank. "State DNA data bank" means the repository of DNA samples maintained by the Chief of the State Police at the crime lab collected pursuant to this chapter.

§1573. Responsibility for DNA identification record system; procedural compatibility with the FBI

1. Responsibility for system. The Chief of the State Police is responsible for DNA analysis and establishing, managing and administering the state DNA data base and the state DNA data bank to support law enforcement and for liaison with the FBI regarding the State's participation in CODIS. The state DNA data base and state DNA data bank must be physically located at the crime lab.

2. Procedural compatibility. The state DNA data base established by the Chief of the State Police must be compatible with procedures specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies and computer software.

3. DNA analysis. Notwithstanding subsection 1, the Chief of the State Police is not required to collect or analyze DNA samples collected pursuant to section 1574 unless adequate funding is available.

§1574. Blood sample required for DNA analysis upon conviction

1. Conviction subsequent to effective date. A person convicted, on or after January 1, 1996, of a crime listed in this section shall have a DNA sample drawn upon intake to a jail or prison or at any time during that confinement. A person who is not sentenced to a term of confinement shall provide a DNA sample as a condition of the sentence.

2. Conviction prior to effective date. A person convicted and incarcerated prior to January 1, 1996, as a result of a conviction for a crime listed in this section, shall have a DNA sample drawn before release from the corrections system.

3. Juvenile offenders. If a juvenile court adjudicates a juvenile to have committed a juvenile crime that, if committed by an adult, would constitute an offense listed in this section, then the juvenile is subject to the requirements of this section.

4. Applicable offenses. This section applies to a person convicted of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder;
- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- E. Gross sexual assault;
- F. Sexual abuse of a minor;
- G. Unlawful sexual contact;
- H. Kidnapping;
- I. Criminal restraint;
- J. Burglary;
- K. Robbery;
- L. Arson;
- M. Aggravated criminal mischief; or
- N. Any lesser included offense of any crime identified in paragraphs A to M if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

§1575. Procedure for withdrawal of blood sample for DNA analysis

1. Collection equipment. The crime lab shall provide collection equipment or a kit for the collection of a blood sample required by section 1574 to persons authorized to draw blood samples.

2. Person to draw sample. Only a duly licensed physician, physician assistant, registered nurse or a person certified by the Department of Human Services may draw a blood sample for the purpose of DNA analysis.

3. Liability. A person authorized under this section to draw blood samples is not liable for damages or liable for the act of drawing a blood sample for DNA analysis when that person exercises due care in drawing the blood sample.

4. Crime lab. All blood samples collected pursuant to this Act must be forwarded to the crime lab for DNA analysis.

§1576. Procedure for collection; conducting DNA analysis

The Chief of the State Police may adopt rules governing the procedures to be used in the collection, submission, identification, analysis and storage of DNA samples and the results of the typing of blood

samples submitted pursuant to this Act. The DNA sample must be securely stored in the state DNA data bank. The results of the typing of the blood samples must be securely stored in the state DNA data base.

§1577. DNA records

1. Confidentiality. All DNA records are confidential and may not be disclosed to any person or agency unless disclosure is authorized by this section.

2. Access to records. The following persons or agencies may have access to DNA records:

A. Local, county, state and federal criminal justice and law enforcement agencies, including forensic laboratories serving the agencies, for identification purposes that further official criminal investigations;

B. The FBI for storage and maintenance of CODIS;

C. Medical examiners and coroners for the purpose of identifying remains; and

D. A person who has been identified and charged with a criminal offense as a result of a search of DNA records stored in the state DNA data base. A person who has been identified and charged with a criminal offense has access only to that person's records and any other records that person is entitled to under the Maine Rules of Evidence.

3. Statistical interpretation. Notwithstanding subsections 1 and 2, DNA records may be released to advance DNA analysis methods and support statistical interpretation of DNA analysis, including development of population data bases, if personal identifying information is removed from DNA records prior to the release of those records.

4. Expungement. A person whose DNA record has been stored in the state DNA data base may petition the Superior Court for expungement on the ground that the conviction justifying the inclusion of the DNA record in the state DNA data base has been reversed or dismissed. Upon receipt of an expungement order and a certified copy of the order reversing and dismissing the conviction, the Chief of the State Police shall purge from the state DNA data base the DNA record and all identifiable information resulting exclusively from the reversed conviction.

§1578. Unlawful dissemination

1. Offense. A person is guilty of unlawful dissemination of a DNA record if the person knowingly disseminates a DNA record in violation of this Act.

2. Penalty. Unlawful dissemination of a DNA record is a Class E crime.

Sec. 2. Report to Legislature. The Commissioner of Public Safety shall collect and evaluate data regarding the DNA data bank and testing processes and report the findings and any recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice and to the Legislature no later than January 1997 or one year after the program is fully operational, whichever is earlier. The report must include information about implementation of DNA testing standards and procedures, the number of tests being performed, federal funding resources utilized, the Maine State Police Crime Laboratory's capabilities and any other relevant information.

See title page for effective date.

CHAPTER 458

S.P. 571 - L.D. 1545

An Act to Update and Clarify the Corporate Laws

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

Sec. 1. 11 MRSA §9-407, sub-§2, as amended by PL 1993, c. 616, §3, is further amended to read:

(2) Upon the written request of any person, the filing officer shall issue ~~a certificate of information~~ an information request report, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for ~~certification~~ an information request report is ~~\$10~~ \$5, plus 50¢ for each page of the ~~certificate after the first page report~~. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release for a fee of \$2, plus 50¢ for each page of the copy after the first page.

Notwithstanding this subsection, if the filing officer is a municipal clerk or a register of deeds, issuance of the certificate of information is discretionary.

Upon reasonable request and within the existing ability of the office of the Secretary of State to respond, the filing officer shall furnish to any

municipal clerk, without charge and for municipal purposes only, a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release.

The uniform fee for certification is \$5 for a short-form certificate and \$10 for a specially worded certificate.

Sec. 2. 13-A MRSA §301, sub-§5, as amended by PL 1981, c. 544, §2, is further amended to read:

5. Any corporation may grant to any domestic corporation or any foreign corporation authorized to transact business in this State, or to any person, by executing and filing with the Secretary of State, as provided in sections 104 and 106, proof of a resolution of its board of directors making such grant, the exclusive right thereafter to authorize the use of a name similar to that of the granting corporation by any other corporation or corporations, or person for use as a name or as a trade mark or service mark as defined in Title 10, chapter 301-A. Any such resolution ~~shall be~~ is revocable unless by its terms it is irrevocable. ~~No proof~~ Proof of a subsequent resolution by the board of directors of the granting corporation ~~shall~~ may not thereafter be required under subsection 1, paragraph B, until and unless the granting corporation ~~shall~~, in the case of a revocable resolution, ~~revoke~~ revokes the grant by executing and filing in the manner provided under this section proof of a further resolution of its board of directors revoking the grant.

If proof of a resolution is not appropriate, then the Secretary of State may accept without a filing fee a letter from the entity controlling use of the corporation name or mark in this State. The letter must state that a franchise relationship exists and must be dated and signed by an officer. If no franchise relationship exists, then the letter must demonstrate how the corporation attempting to file is affiliated with the controlling entity.

Sec. 3. 13-A MRSA §303, sub-§2, as amended by PL 1993, c. 316, §17, is further amended to read:

2. Such registration is made by delivering for filing, in accordance with section 106, an application for registration executed in accordance with section 104, setting forth the name of the corporation, the current principal or registered office, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is actually doing business, ~~and~~ a brief statement of the business in which it is engaged, and a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations.

Sec. 4. 13-A MRSA §803, sub-§1, as enacted by PL 1971, c. 439, §1, is amended to read:

1. Prior to the election of the initial directors, if they were not named in the articles of incorporation, or prior to the organizational meeting of the board of directors required by section 407, if the initial directors were named in the articles, the articles of incorporation may be amended by the incorporator or, ~~if there is more than one incorporator, then~~ by 2/3 of the incorporators. If the incorporators do not sign the document, the Secretary of State shall accept the signature of the clerk.

Sec. 5. 13-A MRSA §1302, sub-§1, as amended by PL 1993, c. 616, §5, is further amended to read:

1. A corporation required to deliver an annual report for filing as provided by section 1301 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to do business in this State, for suspending domestic corporations. A foreign corporation whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report, together with the current annual filing fee, and by paying the ~~sum~~ reinstatement fee of \$125 for each year the corporation failed to file an annual report. The maximum ~~fee for reinstatement fee~~ may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. 6. 13-B MRSA §303, sub-§2, as amended by PL 1993, c. 316, §37, is further amended to read:

2. **Application.** The registration must be made by delivering for filing, in accordance with section 106, an application for registration executed in accordance with section 104 setting forth the name of the corporation, the current principal or registered office, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is actually engaged in corporate activities, a brief statement of the activities in which it

is engaged and a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the Secretary of State of such state or territory or by such other official as may have custody of the records pertaining to corporations.

Sec. 7. 13-B MRSA §308, sub-§7, ¶B, as enacted by PL 1993, c. 316, §41, is amended to read:

B. That it no longer intends to ~~transact business~~ carry on activities under the assumed name; and

Sec. 8. 13-B MRSA §801-A is enacted to read:

§801-A. Amendment before organizational meeting

The articles of incorporation may be amended before the organizational meeting by the following procedures.

1. Timing. The articles of incorporation may be amended:

A. If the initial directors were not named in the articles of incorporation, before the election of the initial directors; or

B. If the initial directors were named in the articles of incorporation, before the organizational meeting of the board of directors required by section 406.

2. Authority to amend. The articles of incorporation may be amended by:

A. The incorporator; or

B. If there is more than one incorporator, by 2/3 of the incorporators.

3. Accepted signature. If the incorporators do not sign the document, the Secretary of State shall accept the signature of either the clerk or secretary of the corporation.

Sec. 9. 13-B MRSA §1101-A is enacted to read:

§1101-A. Voluntary dissolution by incorporators

A corporation that has not carried on activities may be voluntarily dissolved by its incorporator or incorporators at any time after the filing date of its articles of incorporation in the following manner.

1. Articles of dissolution. Articles of dissolution must be executed by a majority of the incorporators and delivered for filing, as provided by sections 104 and 106, and must set forth:

- A. The name of the corporation;
- B. The filing date of its articles of incorporation;
- C. That the corporation has not carried on activities;
- D. That no debts of the corporation remain unpaid; and
- E. That a majority of the incorporators consent to the dissolution of the corporation.

2. Corporation's existence ceases. On the filing date of the articles of dissolution, the existence of the corporation ceases.

3. No vote or action of directors. Dissolution pursuant to this section does not require any vote or action of the directors.

Sec. 10. 13-B MRSA §1301, sub-§1, ¶C, as repealed and replaced by PL 1993, c. 680, Pt. A, §23, is amended to read:

- C. The names and business or residence addresses, of the president, the treasurer, the registered agent ~~and~~ the secretary or clerk, and directors of the corporation, including the street or rural route number, town or city and state.

Sec. 11. 31 MRSA §6, as amended by PL 1981, c. 698, §153, is further amended to read:

§6. Prohibition of certain names

No person or persons, partnership or other entity engaged in any business, except a corporation, ~~shall~~ may adopt a name for such business ~~which that~~ contains the words "~~corporation~~", "corporation", "~~incorporated~~" or "~~limited~~", "limited," or any abbreviation of any such words. A limited partnership may use the term "limited partnership" as part of its name and a limited liability company may use the term "limited liability company" as part of its name.

Sec. 12. 31 MRSA §403, sub-§1, ¶A, as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

- A. Must contain the words "~~Limited Partnership~~" "Limited Partnership," unless filing a registration of name under section 406;

Sec. 13. 31 MRSA §406, sub-§2, ¶B, as enacted by PL 1991, c. 552, §2 and affected by §4, is amended to read:

- B. The state or territory under the laws of which it is organized and the current principal or registered office;

Sec. 14. 31 MRSA §422, sub-§7 is enacted to read:

7. Change in address of general partners. If there is a change in the address of one or more of the general partners from that appearing on the record of the office of the Secretary of State, the certificate of limited partnership must be amended to set forth the new business, residence or mailing address of each general partner.

Sec. 15. 31 MRSA §495, as amended by PL 1993, c. 316, §61, is further amended to read:

§495. Amendments to application

If any statement in the application for authority to do business of a foreign limited partnership ~~becomes inaccurate~~ requires change as a result of subsequent events, the foreign limited partnership shall promptly file with the Secretary of State a certificate, executed by a general partner, ~~correcting~~ amending the statement.

If there is a change in the address of one or more of the general partners from that appearing on the record of the office of the Secretary of State, the application must be amended to set forth the new business, residence or mailing address of each partner. A general partner must also file an amendment to the application if the address of the registered or principal office of the limited partnership changes in the jurisdiction of its organization.

Sec. 16. 31 MRSA §526, sub-§7, as amended by PL 1993, c. 316, §67, is further amended to read:

7. Certificate of limited partnership, amendment or cancellation. For filing of a certificate of limited partnership under section 421, a certificate of amendment under section 422, except as provided in subsection 5, or a certificate of cancellation under section 423, a fee in the amount of \$250. For filing of a certificate of amendment under section 422, subsection 7, a fee in the amount of \$20;

Sec. 17. 31 MRSA §526, sub-§8, as amended by PL 1993, c. 316, §69, is further amended to read:

8. Foreign limited partnerships. For filing of an application for authority to do business as a foreign limited partnership under section 492, a certificate of amendment under section 495, except as provided in subsection 9, or a certificate of cancellation under section 496, a fee in the amount of \$250. For filing a certificate of amendment under section 495 to change the address of a general partner or to change the address of the registered or principal office in the

jurisdiction of its organization, a fee in the amount of \$30;

Sec. 18. 31 MRSA §530, sub-§1, as enacted by PL 1991, c. 780, Pt. U, §33, is amended to read:

1. Failure to file annual report. A limited partnership required to deliver an annual report for filing as provided by section 529 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension of the limited partnership. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign limited partnership's authority to do business in this State and suspend a domestic limited partnership from doing business. The Secretary of State shall use the procedures set forth in section 498, subsection 2, relative to revoking the right of foreign limited partnerships to do business in this State, for suspending domestic limited partnerships. A foreign limited partnership whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 492. A domestic limited partnership that has been suspended under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the ~~sum~~ reinstatement fee of \$125 for each year the limited partnership failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. 19. 31 MRSA §603, sub-§1, ¶A, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

A. Must contain the words "~~Limited Liability Company~~" "Limited Liability Company," unless filing a registration of name under section 606;

Sec. 20. 31 MRSA §606, sub-§2, ¶¶B and E, as enacted by PL 1993, c. 718, Pt. A, §1, are amended to read:

B. The state or territory under ~~whose~~ the laws of which it is organized and the current principal or registered office;

E. A brief ~~description~~ statement of the activities in which it is engaged; and

Sec. 21. 31 MRSA §645, sub-§4 is enacted to read:

4. Choosing personal liability. All or specified members of a limited liability company may be liable in their capacity as members for all or specified debts, obligations or liabilities of the company if:

A. A statement to that effect is contained in the articles of organization; and

B. Any member so liable has either voted for the adoption of the provision or has consented in writing to be bound by the provision.

A member of a limited liability company may act as guarantor or surety, may provide collateral or may otherwise assume responsibility for the debts, obligations or liabilities of the limited liability company whether or not a statement under paragraph A exists or a vote or consent under paragraph B has occurred.

Sec. 22. 31 MRSA §715, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

§715. Amendments to application

If a statement in the application for authority to do business of a foreign limited liability company ~~becomes inaccurate~~ requires change as a result of subsequent events, the foreign limited liability company shall promptly file with the Secretary of State a certificate executed by a manager or, if there is no manager, by a member ~~correcting~~ amending the statement.

Sec. 23. 31 MRSA §751, sub-§12, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

12. Foreign limited liability companies. For filing of an application for authority to do business as a foreign limited liability company under section 712, a certificate of amendment under section 715, except as provided in subsection 13 or a certificate of cancellation under section 717, a fee of \$250. For filing a certificate of amendment under section 715 to change the address of the registered or principal office in the jurisdiction of its organization, a fee in the amount of \$30;

Sec. 24. 31 MRSA §758, sub-§1, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

1. Failure to file annual report. A limited liability company required to deliver an annual report for filing as provided by section 757 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, if the report is received by the Secretary of State prior to revocation or suspension of the limited liability company. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State,

notwithstanding Title 4, chapter 25 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and suspend a domestic limited liability company from doing business. The Secretary of State shall use the procedures set forth in section 719, subsection 2, ~~related~~ relative to revoking the right of foreign limited liability companies to do business in this State, for suspending domestic limited liability companies. A foreign limited liability company whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 712. A domestic limited liability company that has been suspended under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the ~~sum~~ reinstatement fee of \$125 for each year the limited liability company failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

See title page for effective date.

CHAPTER 459

H.P. 1042 - L.D. 1461

An Act to Update and Clarify the Election Laws

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

Sec. 1. 21-A MRSA §1, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Absentee voter. "Absentee voter" means a person who qualifies under section ~~754~~ 751-A to cast an absentee ballot.

Sec. 2. 21-A MRSA §23, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Registration and enrollment applications. The registrar shall keep registration, enrollment and changes of enrollment applications and requests in ~~his~~ the registrar's office permanently, except that those records must be kept only 10 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and ~~162~~ 162-A.

Sec. 3. 21-A MRSA §102, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The registrar may appoint one or more deputies. If the registrar is ~~to be absent from the municipality~~ unavailable for a period exceeding 15 consecutive days, ~~he~~ the registrar shall appoint a deputy registrar

who must be ~~physically present in the municipality~~ available to perform the duties of the registrar. If the registrar and ~~his~~ the appointed deputy are ~~absent from the municipality~~ unavailable for more than 15 consecutive days, the municipal clerk shall serve as registrar pro tem.

Sec. 4. 21-A MRSA §103, as amended by PL 1991, c. 862, §§1 and 2, is further amended by repealing and replacing the headline to read:

§103. Registration appeals board

Sec. 5. 21-A MRSA §103, as amended by PL 1991, c. 862, §§1 and 2, is further amended by inserting before subsection 1 a new paragraph to read:

In a city or town that has a population of 5,000 or more, if a person is aggrieved by the decision of the registrar of voters to remove a name from the voting list or to refuse to place it on the voting list, that person may appeal in writing to the registration appeals board.

Sec. 6. 21-A MRSA §103, sub-§1, as amended by PL 1991, c. 862, §1, is further amended to read:

1. Population of 5,000 or over. ~~In a city or town that has a population of 5,000 or over, a board of registration consisting of~~ The registration appeals board consists of 3 members who must be appointed as follows: The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the duties of the ~~board of registration~~ registration appeals board, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the political committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the ~~board of registration~~ registration appeals board, it shall also nominate an alternate board member, who ~~shall serve~~ serves if the member nominated by the municipal committee is or becomes unable to serve. The municipal clerk may not serve as a member or alternate member of the registration appeals board.

Sec. 7. 21-A MRSA §103, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Population of 4,000 to 5,000. A city or town ~~which that~~ has a population of 4,000 to 5,000 may, by vote of its legislative body, have a ~~board of registration instead of a registrar appeals board.~~

Sec. 8. 21-A MRSA §103, sub-§3, as amended by PL 1995, c. 56, §1, is further amended to read:

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until the member's successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until that member's successor is appointed and sworn, ~~except that, when the member nominated by the clerk and appointed to the board is the clerk of the municipality, the clerk's tenure as member ends when the clerk's tenure as clerk ends, unless sooner removed from office on the board.~~

Sec. 9. 21-A MRSA §103, sub-§6, as amended by PL 1985, c. 614, §4, is repealed and the following enacted in its place:

6. Hours. Upon receipt of a complaint by a person aggrieved by the decision of the registrar, the chair of the registration appeals board shall immediately fix a time and place for the board to meet for a prompt hearing. After hearing, the board may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the board to the District Court in accordance with the Rules of Civil Procedure.

Sec. 10. 21-A MRSA §103, sub-§7, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

7. Actions of the registration appeals board. A registration appeals board may only act by unanimous or majority action.

Sec. 11. 21-A MRSA §103, sub-§8, as amended by PL 1995, c. 56, §2 and affected by §3, is further amended to read:

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement, ~~except that when the chair of the board is the clerk of the municipality, the chair may also be removed from office at any time during the chair's term by the municipal officers, for good cause, after notice and opportunity to be heard. When the clerk of the municipality is removed from the board, the~~

~~municipal officers may appoint a replacement of their choice.~~ Any replacement member shall serve out the remainder of the replaced member's term.

Sec. 12. 21-A MRSA §104, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 13. 21-A MRSA §115, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Voting restricted to district. In a municipality ~~which that~~ has voting districts, a voter may, except as provided in section 630, vote using only in the ballot or ballots for the district in which he the voter resides on election day.

Sec. 14. 21-A MRSA §122, sub-§4, as amended by PL 1993, c. 695, §7, is further amended to read:

4. Election day registration. The registrar shall accept registrations of applicants who appear in person on election day. The registrar shall issue to each of these applicants a certificate entitling the applicant to be placed on the voting list at the voting place. Only one certificate may be issued to ~~any a~~ person. An applicant whose address has changed since the applicant last voted must ~~be allowed to vote at the applicant's using the ballot or ballots for the new polling place, if applicable, on election day.~~

Sec. 15. 21-A MRSA §129, sub-3, as amended by PL 1993, c. 695, §9, is further amended to read:

3. Failure to notify. If a voter fails to notify the registrar of a change of name or address before the close of registrations, the voter must appear before the registrar on election day and follow the procedure outlined in section 661 if the voter wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the voter must ~~be allowed to vote at~~ using the ballot or ballots for the new polling place, if applicable, on election day.

Sec. 16. 21-A MRSA §144, sub-§§2 and 3, as amended by PL 1993, c. 330, §1, are further amended to read:

2. Party designation removed from voting list. On receipt of the application, the registrar shall remove the party designation beside the name of the applicant on the voting list. The registrar shall make a notation on the voting list that the applicant is ineligible to vote at a caucus or primary election for 15 days ~~and that the applicant is ineligible to file a petition as a candidate for nomination by primary election for 3 months.~~ Fifteen days after receiving the

application, the registrar shall enroll the applicant in the party requested.

This subsection does not apply in the case of a voter who changes enrollment under subsection 4.

3. Restrictions during change of enrollment.

Except as provided in subsection 4, a voter may not vote at a caucus, convention or primary election for 15 days after filing an application to change enrollment. ~~A voter may not file a petition as a candidate for nomination by primary election within 3 months after filing an application to change enrollment, except as provided in subsection 4. A voter must file an application to change enrollment prior to January 1st to be eligible to file a petition as a candidate in that election year.~~

Sec. 17. 21-A MRSA §154, sub-§1, as amended by PL 1993, c. 695, §§13 and 14, is further amended to read:

1. Application. A person qualified to register under section 111, subsections 1 and 2 and ~~section 751, subsection 8,~~ who ~~is~~ resides outside the United States and does not maintain a fixed and principal home or other address in the State may register and enroll by filing a federal postcard application or an application designed by the Secretary of State ~~and provided by the registrar~~ containing the following information:

- A. First name, middle name or initial and last name, or first name or initial, middle name and last name;
- B. ~~Residence~~ Last residence address immediately before departing from the United States, including street, street number, apartment number, town and zip code;
- C. Mailing address;
- D. Date of birth;
- ~~E. Last domicile immediately before departure from the United States;~~
- ~~F. Voting district of the last domicile within the United States;~~
- H. Notification that failure to complete the entire application may prevent registration;
- I. Passport or identity card registration number;
- J. Signature;
- K. Sworn statement that the applicant is a United States citizen and that all information is correct;

L. Date of application;

M. Date of registration; and

N. Choice of political party if the registrant wishes to enroll in a political party or an indication that the applicant chose not to enroll in a party.

Sec. 18. 21-A MRSA §161, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Proof of qualification is requested. If the registrar is in doubt as to the qualifications of ~~any~~ a person to vote, ~~he~~ the registrar shall request that person's appearance at a reasonable time and place to offer proof. If the person fails to appear, the registrar shall ~~remove his name from the voting list and send him that person~~ a notice in accordance with section ~~162~~ 162-A.

Sec. 19. 21-A MRSA §163, as enacted by PL 1985, c. 161, §6, is amended to read:

§163. Appeal

~~If any~~ In a town that does not have a registration appeals board, if a person is aggrieved by the decision of the registrar of voters to remove a name from the voting list or to refuse to place it on the voting list, ~~he~~ the person may appeal in writing to the municipal officers of a municipality by filing a complaint. The municipal officers shall immediately fix a time and place for a prompt hearing. After hearing, the municipal officers may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the municipal officers to the District Court in accordance with the Rules of Civil Procedure.

Sec. 20. 21-A MRSA §303, sub-§3, as amended by PL 1991, c. 466, §13, is further amended to read:

3. Petition. After filing the declaration described in subsection 1, the voter or a group of voters may then circulate petitions. These petitions must be signed, verified and certified in the same manner as primary petitions under section 335, subsections 3 ~~and~~ 4 ~~and~~ 7. ~~The circulator of the petition must certify the belief that the signatures on it are genuine and that the signers are registered voters.~~ Each page of the petition must have a caption, in conspicuous type, that contains the designation of the proposed party followed by the words "Petition to participate in the primary election." The Secretary of State shall prepare forms for these petitions. The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th day preceding a primary election and must contain the signatures and legal addresses of voters equal in number to at least

5% of the total vote cast in the State for Governor at the last preceding gubernatorial election.

Sec. 21. 21-A MRSA §334, as enacted by PL 1985, c. 161, §6, is amended to read:

§334. Qualification of candidate for primary nomination

A candidate for nomination by primary election must file a primary petition and consent under sections 335 and 336. ~~He~~ The candidate must be enrolled, on or before ~~April 1st~~ March 15th, in the party named in the petition and must be eligible to file a petition as a candidate for nomination by primary election under section 144, subsection 3. The registrar in the candidate's municipality of residence must certify to that fact upon the petition.

Sec. 22. 21-A MRSA §335, sub-§7, ¶B, as enacted by PL 1985, c. 161, §6, is amended to read:

B. The registrar, or clerk at the request or upon the absence of the registrar, of each municipality concerned shall certify which names on a petition appear on the voting list of that municipality as registered and enrolled voters and shall strike out any names ~~which~~ that do not satisfy subsection 3.

Sec. 23. 21-A MRSA §335, sub-§8, as enacted by PL 1985, c. 161, §6, is amended to read:

8. When filed. A primary petition must be filed in the office of the Secretary of State before 5 p.m. on ~~April 1st~~ March 15th of the election year in which it is to be used.

Sec. 24. 21-A MRSA §336, sub-§3, as enacted by PL 1987, c. 214, §1, is amended to read:

3. Residence and party declared. The consent must contain a declaration of the candidate's place of residence and party designation and a statement that the candidate meets the qualifications of the office the candidate seeks, which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 337, any part of the declaration is found to be false by the Secretary of State ~~prior to the date of the general election~~, the consent and the primary petition are void, ~~pursuant to challenge procedures in section 337~~.

Sec. 25. 21-A MRSA §353, as enacted by PL 1985, c. 161, §6, is amended to read:

§353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and 355. If enrolled, the person must also withdraw ~~his~~ enrollment in a party prior to March 1st to be eligible to file a petition as a candidate in that election year, as provided in section 145, ~~at least 3 months before the filing date for the nomination petition~~. The registrar, or clerk at the request or upon the absence of the registrar, in the candidate's municipality of residence must certify to that fact on the petition.

Sec. 26. 21-A MRSA §354, sub-§7, ¶B, as repealed and replaced by PL 1985, c. 614, §14, is amended to read:

B. Petitions must be delivered to the registrar, or clerk at the request or upon the absence of the registrar, for certification at least 5 business days before the date of the primary by 5 p.m. on May 25th in the election year in which the petitions are to be used.

Sec. 27. 21-A MRSA §354, sub-§7, ¶C, as enacted by PL 1985, c. 614, §15, is amended to read:

C. The registrar, or clerk at the request or upon the absence of the registrar, of each municipality concerned shall certify which names on a petition appear on the voting list of the municipality as registered voters and shall strike out any names ~~which~~ that do not satisfy subsection 3.

Sec. 28. 21-A MRSA §354, sub-§8-A, as enacted by PL 1985, c. 383, §8, is amended to read:

8-A. Filed with the Secretary of State. A nomination petition must be filed in the office of the Secretary of State by 5 p.m. on ~~the date of the primary election~~ June 1st in the election year in which it is to be used.

Sec. 29. 21-A MRSA §355, sub-§3, as amended by PL 1989, c. 166, §3, is further amended to read:

3. Residence declared. The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party ~~for 3 months prior to the filing date for the nomination petition~~ qualified to participate in a primary or general election as of March 1st of that election year. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 356, any part of the declaration is found to be false by the Secretary of

State ~~before the general election~~, the consent and the nomination petition are void, ~~pursuant to challenge procedures in section 356.~~

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

Sec. 30. 21-A MRSA §363, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Acceptance filed. A person chosen under this section must file his a written acceptance containing a statement that the person meets the qualifications of the office sought and declaring the person's residence and party enrollment with the Secretary of State.

Sec. 31. 21-A MRSA §367, as enacted by PL 1991, c. 466, §14, is amended to read:

§367. Candidate withdrawal

A candidate who wishes to withdraw from an elective race shall notify the Secretary of State in writing of the candidate's intent to withdraw ~~and the reason for withdrawal~~. This notice must be signed by the candidate. If the reason for the withdrawal is catastrophic illness, the procedures set forth in section 374-A, subsection 1, paragraph B must be complied with if the candidate is to be replaced.

Sec. 32. 21-A MRSA §501, as amended by PL 1987, c. 188, §4, is further amended to read:

§501. Wardens and ward clerks

1. In a city. In a city, the selection, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this Title.

2. In a town. In a town, ~~unless otherwise determined by charter, with the approval of the municipal officers, the clerk of the municipality shall be the supervisor of all elections. With the approval of the municipal officers, he shall~~ appoint a warden and may appoint one or more deputy wardens to assist in the duties on election day. ~~The clerk may designate himself as warden or deputy warden. If the clerk appoints another person as warden, the clerk may serve as deputy warden. It does not constitute an incompatibility of office for the clerk to serve as warden or deputy warden. The municipal clerk, warden and deputy warden shall be paid~~ are entitled to a reasonable compensation as determined by the municipal officers.

3. Provisions applicable to both towns and cities. Neither the warden nor any deputy warden may be an officer of a municipal committee of a political party. Deputy wardens shall perform the

duties of the warden when necessary and may not replace election clerks prescribed by this Title. The warden and deputy wardens must be registered voters of the municipality, except when a nonresident clerk is acting as either warden or deputy warden.

Sec. 33. 21-A MRSA §503, as amended by PL 1993, c. 473, §10 and affected by §46, is repealed and the following enacted in its place:

§503. Election clerks

Election clerks are governed by the following provisions.

1. Qualifications; appointment; compensation. Election clerks must be at least 18 years of age, registered to vote and a resident of the municipality. The municipal officers of each municipality shall appoint election clerks no later than May 1st of each general election year to serve at each voting place during the time the polls are open and as counters after the polls close. A list of the election clerks appointed by the municipal officers must be posted at each voting place. Election clerks are entitled to a reasonable compensation as determined by the municipal officers.

2. Representation of parties. The municipal officers shall consider the following for appointment as election clerks.

A. The municipal officers shall consider persons nominated by the municipal committees of the major parties to serve as election clerks. The municipal officers shall appoint at least one election clerk from each of the major parties to serve at each voting place during the time the polls are open. The municipal officers shall also appoint a sufficient number of election clerks to serve as counters after the polls close. The election clerks must be selected so that the number of election clerks from one major party does not exceed the number of election clerks from another major party by more than one.

B. The municipal officers shall appoint at least one election clerk nominated by the municipal committee of a qualified minor party represented on the last general election ballot for each voting place at the committee's request.

C. Notwithstanding subsection 1, the municipal officers may also consider persons who are 17 years of age to serve as student election clerks for a specific election. A student election clerk may not assist a voter unless the voter specifically requests assistance from the student election clerk.

All nominations for election clerks must be submitted to the municipal officers no later than April 1st of each general election year. If a municipal committee of a major party fails to submit a list of nominees to serve as election clerks, the municipal officers may appoint registered voters enrolled in that party to serve as election clerks.

3. Number appointed to serve each voting place. The municipal officers shall appoint at least 2 election clerks as provided by subsection 2, paragraph A to serve at each voting place during the time the polls are open. If required to do so by subsection 2, paragraph B, they shall also appoint one election clerk to serve at each voting place during the time the polls are open. Additional election clerks may be appointed as needed. In the event of a vacancy in the election clerks appointed under this subsection, the municipal officers shall appoint alternate election clerks who may be called into service.

4. Number appointed to serve as counters. The municipal officers shall appoint election clerks in the same manner as in subsection 3 to serve as counters after the polls close.

5. Vacancies. If a sufficient number of election clerks is not available to serve on election day, the municipal clerk or the warden may appoint the necessary number of election clerks to fill the vacancies. When filling a vacancy, the municipal clerk or the warden shall first draw from the list of alternates appointed under subsection 3 and make every attempt to appoint a person with the same enrollment status as the person who vacated the position.

6. Oath of office. Before assuming the duties of office, election clerks are sworn by the municipal clerk or the warden and the oath is recorded.

7. Term of office. An election clerk holds office for 2 years from the date of appointment and until a successor is appointed and qualified, except that an election clerk who is appointed to represent a qualified minor party represented on the last general election ballot holds office only for 2 years from the date of appointment.

8. Duties. Election clerks shall attend the voting places for which they are appointed at each election during the time the polls are open or during the counting of the ballots after the polls close, as required by the terms of their appointment. They are under the direction of the warden and shall assist the warden as requested.

9. Application of city charter. This section does not affect a city charter that provides for the election of 2 persons to assist the warden in receiving, sorting and counting ballots. The persons elected

under the authority of the charter are considered to be election clerks and each must represent a different major party.

10. Training. The Secretary of State shall encourage municipalities to provide training biennially to all election officials.

Sec. 34. 21-A MRSA §505 is enacted to read:

§505. Municipal clerk

The clerk of the municipality is the supervisor of all elections and is entitled to a reasonable compensation as determined by the municipal officers and has the following duties:

1. Absentee voting. Administer the absentee voting procedures;

2. Instruction. Instruct election officials on election laws and procedures prior to election day;

3. Election officials. Coordinate and schedule election officials to work at the polls on election day;

4. Poll watchers and others. Make arrangements in advance of election day for poll watchers, petition circulators and others who request to be present at the polls;

5. Election materials and equipment. Prepare and deliver to and from the polls all election equipment and materials, including the ballots;

6. Advise warden. Advise the warden on election laws and procedures on election day;

7. Return of votes cast. Report the return of votes cast to the Secretary of State; and

8. Other duties. Perform any other duties required for conducting an election.

Sec. 35. 21-A MRSA §602, sub-§2, ¶A, as amended by PL 1993, c. 473, §15 and affected by §46, is further amended to read:

A. The names of candidates for any one office may not be split into more than one column regardless of number. The initial letters of the last names of the candidates must be printed directly beneath each other in a vertical line and ~~the initial letters of~~ the respective party designations of each nominee must be printed directly beneath each other in a vertical line.

Sec. 36. 21-A MRSA §602, sub-§7, as enacted by PL 1985, c. 161, §6, is amended to read:

7. Contents concealed. The ballots must be folded uniformly so that the interior contents are

concealed, except in municipalities using electronic tabulating systems.

Sec. 37. 21-A MRSA §603, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Available for publication. ~~A~~ Within a reasonable time before the election, the Secretary of State shall make specimen ballots available for publication in all newspapers having general circulation in the area to which the ballots pertain. A single specimen ballot so published may carry the name of each candidate for State Senator and Representative to the Legislature in the area covered by the circulation of the newspaper. The name of the voting district need not be printed on the published specimen ballot.

Sec. 38. 21-A MRSA §603, sub-§4, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 39. 21-A MRSA §603, sub-§§4-A and 4-B are enacted to read:

4-A. Clerk to review specimen ballots. Upon receipt, the clerk shall review the specimen ballots for accuracy and must immediately notify the Secretary of State of any errors.

4-B. Duplication of specimen ballots. Specimen ballots may be duplicated as needed at the clerk's own discretion.

Sec. 40. 21-A MRSA §604, sub-§3 is enacted to read:

3. Candidate or nominee to fill vacancy. When a candidate for nomination or a nominee is chosen to fill a vacancy, the Secretary of State and the clerk of each interested municipality shall perform the duties required by this section as promptly as possible.

Sec. 41. 21-A MRSA §606, first ¶, as amended by PL 1993, c. 695, §26, is further amended to read:

Within a reasonable time before any election, the Secretary of State shall furnish each municipality with official ballots, and specimen ballots, test ballots for electronic voting systems including a sufficient number to be used for testing electronic tabulating systems if applicable, instruction posters, election return forms, posters of specimen ballots for constitutional resolutions and statewide referenda, including the Attorney General's explanatory statements prepared under Title 1, section 353, and the summary of the proposal prepared under section 901, subsection 5, materials setting forth the full text of all constitutional resolutions and statewide referenda and other materials necessary for conducting and reporting the results of the election.

Sec. 42. 21-A MRSA §606, sub-§§1 and 2, as amended by PL 1991, c. 780, Pt. U, §24, are further amended to read:

1. Number of ballots furnished. The Secretary of State shall furnish each voting place with at least 75 ballots for every 50 votes cast at that voting place at the last election of that type review the number of votes cast at the last election of that type as well as current registration and enrollment statistics in each voting district when determining the number of ballots to be furnished to each municipality. If the clerk believes that extra ballots will be needed, the clerk must request them from the Secretary of State a reasonable time before the election. The Secretary of State may send the requested number to the clerk and may furnish as many additional ballots as the Secretary of State believes necessary.

2. How packaged. The ballots must be packed in sealed, marked packages in units as determined by the Secretary of State. The other election materials must be separately packed in a sealed package or packages or box or boxes and sent to the clerk of each municipality. Each package or box must be labeled on the outside with ~~the number of~~ each kind of material enclosed and the name of the voting place for which it is intended.

Sec. 43. 21-A MRSA §606, sub-§3, as amended by PL 1993, c. 695, §27, is further amended to read:

3. Receipt issued; inspection of ballots in an election. The clerk shall immediately send the Secretary of State a receipt for the ballots the clerk receives. Upon receipt of a package or box containing ballots for an election, the clerk shall open, in the presence of one or more witnesses, the sealed package or box containing the ballots in order to ensure that the ballots do not differ materially from the appropriate specimen ballot described in section 603 contain any errors and that the correct number of ballots have been received. The clerk shall immediately notify the Secretary of State if a ballot differs materially from the appropriate specimen ballot described in section 603 is incorrect or if a sufficient number has not been received. Ballots to be used for testing electronic tabulating devices may be removed at this time and immediately marked as provided by section 3-A.

Sec. 44. 21-A MRSA §606, sub-§3-A, as repealed and replaced by PL 1993, c. 695, §28, is amended to read:

3-A. Use of test ballots in an election. Ballots may be used to test ~~automatic~~ electronic tabulating ~~equipment~~ devices under section 854. In the presence of one or more witnesses, the clerk shall clearly mark each ballot used for testing with the word "TEST" across the front side of the ballot in black or blue

indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes ~~throughout the pre-election and post-election~~ and seal the record with the test ballots in a container labeled "TEST BALLOTS" at the conclusion of the testing ~~of the tabulating equipment~~.

Sec. 45. 21-A MRSA §606-A, sub-§2, as enacted by PL 1985, c. 363, §2, is amended to read:

2. Secretary of State to furnish ballots. The Secretary of State shall ~~provide to the clerk at least 75 ballots for every 50 votes cast at that voting place by persons registered or enrolled under section 156 in the last election of that type~~ review the number of votes cast at the last election of that type by persons registered and enrolled under section 156 when determining the number of ballots to be furnished to each municipality. These ballots ~~shall~~ must contain the names of the nominees or candidates for offices in the electoral divisions in which the voters registered under section 156 reside.

Sec. 46. 21-A MRSA §621, first ¶, as amended by PL 1991, c. 862, §5, is further amended to read:

The Secretary of State shall send the ~~warrants~~ warrant to the municipal clerk, who shall prepare and present the warrant to the municipal officers. The municipal officers of each municipality shall announce an election as follows.

Sec. 47. 21-A MRSA §622, as amended by PL 1985, c. 819, Pt. A, §§22 and 23, is further amended to read:

§622. Warrant

The warrant for announcing an election must read substantially as follows.

(Title of election) ELECTION WARRANT

(Name of county), ss.

State of Maine

(Name of Municipality)

To (name of constable or resident), a constable (or resident) of ~~(name of municipality)~~ this municipality: You are hereby required in the name of the State of Maine to notify the voters of this municipality of the election described in this warrant.

To the voters of ~~(name of municipality and voting district, if any)~~ the above-named municipality and (voting district):

You are hereby notified that an election will be held at (name of voting place) on (day and date of election) for the purpose of (nomination or election) to the following offices: (list of offices); and determin-

ing the following referendum questions: (list of questions).

The polls ~~shall~~ must be opened at a.m. and closed at p.m.

The registrar of voters or board of registration ~~will~~ shall hold office hours while the polls are open to correct any error in or change to a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any election. A voter who is not enrolled in a political party may not vote in a primary election.

~~Dated,~~

(date signed).

.....

.....

.....

.....

.....

Majority of municipal officers

~~of (name of municipality)~~

Sec. 48. 21-A MRSA §623, as enacted by PL 1985, c. 161, §6, is amended to read:

§623. Officer's return on warrant

The officer's return must appear on the back of the warrant substantially as follows.

OFFICER'S RETURN

~~(Name of county), ss.~~

~~State of Maine~~

I certify that I have notified the voters of ~~(name of municipality and voting district, if any)~~ of the time and place of the (title of election) election by posting an attested copy of ~~the within~~ this warrant at (place of posting) on (date of posting) which is at least 7 days next prior to election day.

~~Dated at (name of municipality),~~ (date signed).

(Signature of Officer)

Constable ~~or~~ (resident) of

~~(name of municipality)~~

Sec. 49. 21-A MRSA §627, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Pollwatchers. Municipalities must provide a polling place large enough to allow at least one worker from each political party to remain outside the guardrail enclosure for the purpose of checking voters, challenging voters or viewing. Additional party workers are allowed if there is sufficient space at the polling place. If the space at the polling place is so limited that the presence of the additional party workers would interfere with the election process, the warden shall prohibit their presence. If the ~~chairman~~ chair of any party's state committee submits a written complaint to the Secretary of State at least 30 days before an election, the Secretary of State shall authorize an inspection of the polling place considered to be too small to allow party workers access. If the Secretary of State finds a polling place to be too small to allow party workers access, ~~he~~ the Secretary of State shall instruct the municipal officers to change the location of the polling place to one of a suitable size. The municipal officers must advertise the change of the polling place at least 3 times in the daily or weekly newspaper, or both, that covers the area.

Sec. 50. 21-A MRSA §628, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Defective, lost or destroyed. If a ballot box becomes defective, lost or destroyed, the clerk must apply in writing to the Secretary of State for another. The Secretary of State shall supply or approve a replacement at the expense of the municipality.

Sec. 51. 21-A MRSA §629, sub-§1, as amended by PL 1985, c. 315, is further amended to read:

1. Provided by municipality. The municipal officers of each municipality shall provide a sufficient number of voting booths for each election. Those municipalities using voting machines must comply with section 811, subsection 4. ~~Those municipalities using voting devices must comply with section 842, subsection 4.~~

A. In a general election, the municipal officers in each municipality of 4,000 or more population must provide at least one voting booth for each 150, or fraction exceeding 1/2 of that number, of the voters qualified to vote at each voting place. In a municipality of less than 4,000 population, the municipal officers must provide at least one voting booth for each 200, or fraction exceeding 1/2 of that number, of the voters qualified to vote in each voting place.

B. In other than a general election, the municipal officers may provide fewer voting booths than required by paragraph A when circumstances indicate that fewer booths will be adequate to provide for an orderly flow of voters on election day.

C. In any election, the municipal officers may provide more than the number of voting booths required by paragraph A.

D. A reasonable time before a general election, the Secretary of State shall notify the clerk of each municipality of the requirements of this subsection. The clerk shall calculate the number of voting booths required at each voting place based on the number of voters registered at that time. Within 10 days after receiving the notice, the clerk shall certify in writing to the Secretary of State the number of voters registered at each voting place and the number of voting booths the municipality will provide at each voting place for the election.

E. The Secretary of State may arrange for inspections to ensure that municipalities comply with this subsection.

Sec. 52. 21-A MRSA §629, sub-§3, as amended by PL 1993, c. 447, §14, is further amended to read:

3. Described. Each booth must have within it a pencil or marker without an eraser and a shelf on which a voter may mark a ballot conveniently. An instruction poster provided under section 605 must be securely placed above the shelf to assist the voter. Each booth must have back and side panels large enough to screen the voter from the observation of others.

Sec. 53. 21-A MRSA §630, sub-§2, as amended by PL 1989, c. 502, Pt. A, §63, is further amended to read:

2. Voting places. ~~Before July 1, 1985, each~~ Each municipality ~~shall~~ must provide at least one voting place ~~which~~ that is in a building, which is accessible as defined in subsection 1.

~~A. The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which satisfactorily demonstrates that those requirements ought not to apply or would create an extreme hardship. Factors which the Secretary of State may consider in making that determination include, but are not limited to, the following: The municipality has no handicapped voters and the physical limitations of a voting place make it impractical to provide an accessible voting place as described in subsection 1. The Secretary of State shall promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, rules governing the circumstances and procedures for granting a waiver under this paragraph.~~

B. In municipalities in which one or more voting places are inaccessible to handicapped voters and in which the office of the clerk is in a building ~~which that~~ is accessible as defined in subsection 1, paragraph A, the municipal officers shall designate the office of the clerk as an alternative voting place for physically handicapped voters who reside in voting districts ~~which that~~ do not have accessible voting places. In municipalities in which one or more voting places and the office of the clerk are inaccessible to physically handicapped voters and in which one or more voting ~~place is~~ places are accessible to these voters, the municipal officers shall designate one of these accessible voting places, as centrally located as possible, as the alternative voting place for physically handicapped voters who reside in voting districts ~~which that~~ do not have accessible voting places. A physically handicapped voter who wishes to vote at an alternative voting place must notify the clerk of the municipality at least 48 hours before the date of any election. This notice may be waived if an emergency exists. The clerk shall keep a list of the persons who give this notice.

Not later than 10 days before the date of any election, the clerk shall issue a public notice designating the location of the alternative accessible voting place. This notice is not required in any municipality in which all or no voting places are accessible to these persons.

When a physically handicapped voter votes at the office of the clerk or at an alternative voting place, that voter shall vote by absentee ballot and the method of voting ~~shall must~~ be the same as in section 754-A. If an alternative voting place ~~has been~~ is designated, the clerk shall furnish a reasonable number of absentee ballots and return envelopes to the warden. When the clerk or the warden receives such a ballot, the clerk or warden shall follow, as far as applicable, the same procedure prescribed in subchapter IV for the clerk to follow in handling absentee ballots.

Sec. 54. 21-A MRSA §631, sub-§6 is enacted to read:

6. Voting districts. Voting districts are defined as wards that may be further divided into precincts.

Sec. 55. 21-A MRSA §651, sub-§2-A, as enacted by PL 1991, c. 347, §4, is repealed.

Sec. 56. 21-A MRSA §652, as enacted by PL 1985, c. 161, §6, is amended to read:

§652. Certified voting list and official ballot box

The certified copies of the voting list provided by the registrar and official ballot boxes ~~shall must~~ be used exclusively at each voting place. If it becomes impossible to use the official ballot box, the warden shall direct the method by which voting is to proceed. ~~The ward clerk~~ warden shall record the reason why the ballot box was not used and shall place an attested copy of this record in the package with the ballots cast.

Sec. 57. 21-A MRSA §662, sub-§4, as enacted by PL 1987, c. 225, is amended to read:

4. Collection of signatures. The warden may select and designate a specific location at the voting place, accessible and observable by the voters, where the collection of signatures may take place. Persons collecting signatures at the polls may make arrangements with the clerk prior to election day and with the warden on election day. The warden may limit the number of persons collecting signatures to one for each specific question, candidate or issue. Persons collecting signatures may not solicit a voter's signature until the voter has completed voting. The warden may direct the removal, under subsection 2, paragraph A, of any person collecting signatures who does not comply with the requirements of this subsection.

Sec. 58. 21-A MRSA §671, sub-§5, as enacted by PL 1985, c. 161, §6, is amended to read:

5. Ballot deposited. When ~~he the voter~~ leaves the voting booth, the voter shall proceed to the ballot box. The clerk shall require the voter to deposit in the ballot box all ballots, marked or unmarked, issued to the voter under subsection 3, and the voter shall then leave the area enclosed by the guardrail. ~~He The voter~~ The voter may not leave the guardrail enclosure until ~~he the voter~~ the voter has deposited ~~his the~~ the ballot.

A. If, by vote of the municipal officials, a municipality has required the use of ~~a an~~ outgoing voting list, the voter must announce ~~his the~~ the voter's name and, upon request, street address to the election clerk in charge of that list before depositing the ballots in the ballot box.

Sec. 59. 21-A MRSA §673, sub-§1, ¶A, as amended by PL 1991, c. 466, §19, is further amended to read:

A. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) Is not a registered voter;
- (2) Is not enrolled in the proper party, if voting in a primary election;

(3) Is not qualified to be a registered voter because the challenged person is not:

- (a) At least 18 years of age;
- (b) A citizen of the United States; or
- (c) A resident of the municipality or appropriate electoral district within the municipality;

(4) Did not properly apply for an absentee ballot;

~~(5) Is not a qualified absentee voter as prescribed by section 751;~~

(6) Did not properly complete the affidavit on the absentee return envelope;

(7) Did not cast the ballot or complete the affidavit before the appropriate witness;

(8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;

(9) Did not have the ballot returned to the clerk by the time prescribed;

(10) Voted using the name of another; or

(11) Committed any other specified violation of this Title.

Sec. 60. 21-A MRSA §673, sub-§3, as repealed and replaced by PL 1985, c. 357, §§3 and 19, is amended to read:

3. Ballot marked. The warden shall write a number on the outside of the ballot. The warden shall also complete a certificate on which appears the word "Challenged," the name of the voter challenged and the reason for the challenge over ~~his~~ the voter's signature. The challenger shall also sign the certificate. After the challenger has signed the certificate, the warden shall place the number ~~which that~~ was written on the ballot in a conspicuous place on the certificate. ~~No one other than~~ Only the warden may know the ballot number. The warden shall place the challenge certificate in ~~an~~ a sealed envelope marked "Challenge Certificate #(certificate number)" and shall retain the envelope until it is sealed with the ballot materials pursuant to section 698.

Sec. 61. 21-A MRSA §682, sub-§2, as amended by PL 1993, c. 473, §19 and affected by §46, is further amended to read:

2. Influence prohibited. Within 250 feet of the entrance to the voting place as well as within the

voting place itself, a person may not influence or attempt to influence another person's decision regarding a candidate or ballot issue. This limitation does not prohibit a candidate from attending the voting place and orally communicating with voters, as long as the candidate does not attempt to influence their vote. A candidate may not state the name of the office sought or request a person's vote.

Sec. 62. 21-A MRSA §682, sub-§3, as amended by PL 1993, c. 473, §20 and affected by §46, is further amended to read:

3. Advertising prohibited. A person may not display any advertising material, operate any advertising medium, including a sound amplification device, or distribute campaign literature, posters, palm cards, buttons, ~~badges~~ or stickers ~~intended containing a candidate's name or otherwise intending~~ to influence the opinion of any voter within 250 feet of the entrance to either the voting place or the registrar's office. The term "sound amplification device" includes, but is not limited to, sound trucks, loudspeakers and blowhorns.

Party workers and others who remain in the voting place outside the guardrail enclosure may not use within the voting place cellular phones, beepers, voice or signal pagers or similar devices that make noise or allow direct audible voice communication within the voting place. The warden may exempt election officials and emergency workers such as Emergency Medical Technicians and police from this provision.

A. This subsection does not apply to advertising material on automobiles traveling to and from the voting place. It does not prohibit a person from passing out stickers at the voting place to be pasted on the ballot at a primary election. It does not prohibit a person who is at the polls solely for the purpose of voting from wearing a campaign button when the longest dimension of the button does not exceed 3 inches.

B. A person who knowingly engages in activities prohibited by this section commits a Class E crime.

C. Nonpolitical charitable activities and other nonpolitical advertising may be allowed at the discretion of the clerk if arrangements are made prior to election day. If arrangements are not made in advance of election day, the warden may, at the warden's discretion, either allow or prohibit nonpolitical charitable activities and other nonpolitical advertising.

Sec. 63. 21-A MRSA §693, as enacted by PL 1985, c. 161, §6, is amended to read:

§693. Spoiled ballots

If a voter spoils ~~his~~ the ballot, ~~he~~ the voter may obtain a replacement, not more than twice, by returning the spoiled ballot to the election clerk in charge of issuing ballots. The warden or ward clerk shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and ~~keep it segregated from the other ballots.~~ place it in an envelope marked "Spoiled ballots." If a replacement ballot is issued to the voter, the warden or ward clerk must ~~indicate that fact~~ mark "Replacement ballot issued" on the outside of the spoiled ballot.

Sec. 64. 21-A MRSA §696, sub-§2, ¶C, as enacted by PL 1985, c. 161, §6, is amended to read:

C. If a voter marks a write-in square for an office, but does not write ~~in~~ both a name and a municipality of residence in the blank space provided to the right of the write-in square, that vote for that office ~~shall~~ is not be counted, unless a determination of choice under subsection 4 is possible.

Sec. 65. 21-A MRSA §697, as amended by PL 1993, c. 447, §15, is further amended to read:

§697. Use of red pens by election officials

~~Any~~ An election official, ~~ballot election clerk,~~ assistant ballot clerk or ~~any~~ person employed as a counter of ballots must use pens or pencils containing only red ink or red lead.

Sec. 66. 21-A MRSA §698, sub-§§2-A and 2-B, as enacted by PL 1993, c. 473, §25 and affected by §46, are amended to read:

2-A. Used ballots placed in tamper-proof containers. The election clerks shall place the ~~sealed packages of~~ used ballots, envelopes containing challenge certificates, spoiled ballots, defective ballots, void ballots, used absentee ballots, used absentee envelopes and, used absentee applications and official tally tapes from electronic tabulating systems in tamper-proof ballot containers. The ballot containers must be furnished by the Secretary of State.

If a tamper-proof container becomes defective, lost or destroyed, the clerk must apply in writing to the Secretary of State for another. The Secretary of State shall supply or approve a replacement at the expense of the municipality.

A tamper-proof ballot container must be sealed before leaving the precinct with a numbered seal that must correlate with a certificate identifying the person sealing the container and the time of the sealing. The seals and identifying certificates must be furnished by the Secretary of State.

A. Transfer and resealing of the ballots to other containers for permanent storage must be done 60 or more days following the election. The municipal clerk shall make the transfer in the presence of one ~~representative from each of the major political parties~~ or more witnesses. The containers must be securely sealed.

2-B. Unused ballots placed in containers. At the close of the polls, all unused, unsealed absentee and regular ballots must be ~~voided~~ invalidated by a physical mark unless all ~~voted~~ validated ballots ~~have been~~ are used in the course of the election. All sealed ballots must remain sealed ~~and be wrapped with tamper proof tape.~~ All unused ballots, including both the unsealed and the sealed ballots, must be placed in the containers in which the regular ballots were delivered. The containers containing the unused ballots must be clearly marked to indicate that the containers contain unused ballots. These ballots must be stored separately from the used ballots.

Sec. 67. 21-A MRSA §737-A, 4th ¶, as enacted by PL 1993, c. 473, §31 and affected by §46, is amended to read:

A losing candidate in any election who desires a recount must file with the Secretary of State a written request for a recount within 7 business days after the election. The recount is held under the supervision of the Secretary of State, who shall allow the ~~candidate~~ candidate's representatives or ~~the candidate's~~ counsel to recount the ballots. The candidate may not act as a counter of ballots.

Sec. 68. 21-A MRSA §737-A, sub-§1, as enacted by PL 1993, c. 473, §31 and affected by §46, is amended to read:

1. Deposit for recount. All deposits required by this section must be made with the Secretary of State when a recount is requested. Once the ~~recount has begun~~ State Police have taken custody of the ballots and other election materials from the municipalities, the deposit made by the candidate requesting the recount is forfeited to the State if the resulting count fails to change the outcome of the election. If the recount reverses the election, the deposit must be returned to the candidate requesting the recount. The amount of the deposit is calculated as follows.

A. If the percentage difference shown by the official tabulation between the leading candidate and the 2nd-place candidate is 2% or less of the total votes cast for that office, a deposit is not required.

B. If the percentage difference shown by the official tabulation between the leading candidate and the 2nd-place candidate is more than 2% and

less than 4% of the total votes cast for that office, the deposit is \$500.

C. If the percentage difference shown by the official tabulation between the leading candidate and the 2nd-place candidate is 4% or more of the total votes cast for that office, the deposit is \$1,000.

Sec. 69. 21-A MRSA §751, as amended by PL 1991, c. 466, §§24 and 25, is amended by adding at the end a new paragraph to read:

Absentee ballots may be cast in any election by any voter who is unable to vote in person at the voting place on election day. The voter's belief that the voter will be unable to vote in person at the voting place is sufficient reason to allow an absentee ballot to be cast.

Sec. 70. 21-A MRSA §752, sub-§1, ¶A, as amended by PL 1991, c. 466, §26, is further amended to read:

A. At least 90 days before the election to which they pertain, the Secretary of State shall furnish each municipality with a reasonable number of blank absentee ballots for use by members of the Armed Forces and citizens outside the United States who have met the qualifications in section ~~754~~ 751-A. These ballots must be similar to regular ballots, except that no candidate names may be printed. The Secretary of State shall prepare a ballot listing all offices to be selected with a space after each office to write in the voter's preference. The following instructions must be printed in bold type at the top of the ballot: **YOU MAY VOTE FOR A PERSON BY WRITING IN THAT PERSON'S NAME AND MUNICIPALITY OF RESIDENCE IN THE BLANK SPACE UNDER THE PROPER OFFICE.**

Sec. 71. 21-A MRSA §752, sub-§3, as amended by PL 1991, c. 466, §28, is further amended to read:

3. Form of envelope. The return envelope in which the absentee ballot is placed must include on its outside a conspicuously printed summary warning to the voter of the provisions of section 791, subsection 1, paragraph C and Title 17-A, section 703. The envelope must also include an affidavit to be signed by the voter, a witness or witnesses when required and a certification to be completed and signed by an aide who assists a voter under section 754-A, subsection 3.

Sec. 72. 21-A MRSA §753, sub-§2, as amended by PL 1985, c. 357, §§10 and 19, is further amended to read:

2. Request in writing. ~~If a voter is temporarily outside the State, a~~ A written request for an absentee ballot from the voter, the voter's spouse, a blood relative of the voter or the voter's former guardian is sufficient for the municipal clerk to issue an absentee ballot.

Sec. 73. 21-A MRSA §753, sub-§3, as amended by PL 1993, c. 473, §35 and affected by §46, is further amended to read:

3. Application or request received. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk may immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk may not deliver an absentee ballot to any 3rd person ~~whose name appears on an absentee ballot who is a candidate or a member of a candidate's immediate family.~~ The clerk may not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to ~~insure~~ ensure that that person ~~will~~ does not have more than ~~40~~ 2 absentee ballots for voters in a municipality at any time. A 3rd person must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk may not furnish another absentee ballot for that person.

B. The clerk may issue a 2nd absentee ballot to an applicant if the applicant requests one in person or in writing and:

(1) The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot; or

(2) An absentee ballot for the applicant that was furnished to a designated 3rd person is not returned to the clerk's office within 2 business days of the date that ballot was sent or delivered to the 3rd person or the date that 3rd person was notified by the

clerk that the ballot was available, or by 10 a.m. on the day before election day, whichever is earlier. If a ballot for an applicant is not returned to the clerk within 2 days of notification, the clerk shall mail a ballot to that applicant on the 3rd day after notification and may issue no other ballot to the applicant except for good cause as provided in this subsection. This subparagraph does not affect the time for delivery of absentee ballots under section 755.

Sec. 74. 21-A MRSA §753, sub-§7, as amended by PL 1985, c. 357, §§10 and 19, is further amended to read:

7. Absentee voting in presence of clerk. A person who wishes to vote by absentee ballot because ~~he that person~~ will not be ~~present in the municipality~~ or able to vote in person at the voting place on election day may, without completing an application, vote by absentee ballot in the presence of the clerk. The method of voting ~~shall be~~ is otherwise ~~be~~ as prescribed in this Article. After the person has voted, the clerk shall ~~determine whether~~ sign the affidavit on the return envelope as a witness, indicate on the envelope that the voter voted in the presence of a clerk and ensure that the affidavit on the return envelope is properly completed by the voter. For the 45 days preceding an election, the display or distribution of any advertising material intended to influence a voter's decision regarding a candidate or ballot issue is prohibited within the clerk's office and within 250 feet of the entrance to the clerk's office or on the property on which the clerk's office stands, whichever is less.

Sec. 75. 21-A MRSA §759, first ¶, as amended by PL 1993, c. 447, §17, is further amended to read:

The following counting procedure must be observed at each voting place, ~~except those voting places that use electronic voting systems. Counting procedures for electronic voting systems are described in section 858-A.~~

Sec. 76. 21-A MRSA §759, sub-§1, as repealed and replaced by PL 1991, c. 466, §31, is amended to read:

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope ~~as soon as the polls are closed and the regular ballots removed from the ballot box according to the schedule posted under subsection 7.~~

Sec. 77. 21-A MRSA §759, sub-§2, as repealed and replaced by PL 1985, c. 357, §§16 and 19, is amended to read:

2. Accepted if correct. If the warden finds that the affidavit is properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application where applicable, that the person is registered and enrolled where necessary, the warden shall then examine the incoming voting list to determine whether the voter voted in person at the election. The warden shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk from a political party different from that of the warden mark the letters "AV" beside the name of each absentee voter on the incoming voting lists, the warden shall ~~deposit~~ accept the ballot ~~in the ballot box.~~

Sec. 78. 21-A MRSA §759, sub-§§5 and 6, as enacted by PL 1985, c. 161, §6, are amended to read:

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in ~~a separate lot, an envelope marked "Rejected ballots."~~ He shall not deposit them in the ballot box. Rejected ballots may not be counted.

6. Ballots counted. As soon as the absentee ballots ~~have been~~ are processed, they ~~shall be removed from the ballot box and~~ are counted the same as regular ballots. ~~Rejected ballots shall not be counted.~~

Sec. 79. 21-A MRSA §759, sub-§7, as amended by PL 1993, c. 583, §1, is further amended to read:

7. Processing before close of polls. A notice signed by the municipal officers must be posted at least 7 days before election day in the same manner as posting the warrant, ~~or as part of the warrant,~~ under section 621, stating each specific time that the clerk intends to begin processing absentee ballots on election day. The warden ~~may review~~ shall follow the notes of the clerk on each return envelope and deposit the procedures required by subsections 1 to 6 to process absentee ballots ~~into the ballot box~~ before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in writing, that this procedure is to occur. ~~If the clerk is unable to notify the chair of the municipal political party, the clerk shall notify the chair of the county or state political party. This notice must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk.~~

Sec. 80. 21-A MRSA §759, sub-§8, as amended by PL 1993, c. 583, §2, is further amended to read:

8. Inspection after polls close. If a candidate or that candidate's representative notifies the warden

before 8:00 p.m. that the candidate wishes to inspect absentee ballot applications and envelopes after the polls close, the warden shall allow the candidate to inspect the applications and envelopes of ballots that have not yet been ~~deposited into the ballot box~~ processed for 30 minutes after the polls close.

Sec. 81. 21-A MRSA §760, as amended by PL 1985, c. 313, is repealed.

Sec. 82. 21-A MRSA §760-A is enacted to read:

§760-A. Procedures when clerk processes absentee ballots centrally

The clerk shall use the following procedure when processing the absentee ballots at a central location.

1. Envelope and lists retained. The clerk shall retain possession of return absentee envelopes with the applications attached, where required, and the list required by section 756, subsection 4.

2. Ballot boxes provided. The municipality shall provide an official ballot box to be used by the clerk in all state elections.

3. Incoming voting list to be marked. The clerk shall have the incoming voting list marked to denote absentee voters prior to processing the absentee ballots.

A. The municipal clerk shall use one of the following procedures to mark the incoming voting list for absentee ballots received prior to election day, except that a clerk who is in a contested election for the office of clerk must follow the procedures specified in subparagraph (2) when marking the incoming voting list for absentee ballots received prior to election day.

(1) On the day immediately preceding, the municipal clerk shall mark the incoming voting list with an "AV" beside the name of each voter who has voted by absentee ballot as of that date. The municipal clerk shall keep the marked list and shall send a copy of the marked list to the polls with the incoming voting list; or

(2) On election day, at or prior to the times the municipal clerk has designated under section 759, subsection 7 for processing absentee ballots, the municipal clerk shall make a separate list, by voting place, of all absentee ballots received to date. The clerk shall deliver each list, in duplicate, to the warden at the appropriate voting place. The warden and an election clerk shall compare the list of absentee voters with the

incoming voting list and shall mark the incoming voting list with an "AV" beside the name of each voter who has voted by absentee ballot.

The warden and the election clerk shall then certify on each copy of the absentee voting list that they marked the incoming voting list as described in this paragraph. The warden shall then retain one copy of the absentee voter list with the incoming voting list and deliver the 2nd copy to the municipal clerk. The municipal clerk shall follow this process on election day as often as needed to mark the incoming voting lists to account for all absentee ballots.

B. In a municipality that has an island voting district, the municipal clerk may communicate the information required to process the absentee ballots by telephone to the island warden and notify the island warden of the names of the absentee voters so that the voting list may be marked in accordance with this subchapter.

4. Counting procedure. After the incoming voting list has been marked according to the procedures in subsection 3, the municipal clerk shall then proceed to process the absentee ballots using the procedures set forth in sections 759, 761 and 762 at the next time scheduled under section 759, subsection 7. The ballots must be processed publicly so that all those present may observe the proceedings.

Sec. 83. 21-A MRSA §762, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Witness signatures. The witness or other certifying official's signature, when required.

Sec. 84. 21-A MRSA §808, sub-§§6, 8 and 10, as enacted by PL 1991, c. 347, §5, are amended to read:

6. Electronic tabulating system. "Electronic ~~voting~~ tabulating system" means either a punch card voting system or a mark-sense voting system where the paper ballots or ballot cards are subsequently counted and tabulated by ~~automatic~~ an electronic tabulating equipment device at one or more counting centers. "Electronic ~~voting~~ tabulating system" includes all the software and firmware required to program and control the equipment in the respective ~~systems~~ system.

8. Mark-sense voting system. "Mark-sense voting system" means a system in which votes are recorded on paper ballots by making marks in special voting response locations using a marking device. The votes on the paper ballots are subsequently counted and tabulated by ~~automatic~~ an electronic

tabulating ~~equipment~~ device at one or more counting centers.

10. Voting device. "Voting device" means the voting machine or electronic ~~voting~~ tabulating system apparatus that the voters use to record their votes on paper ballots or on a tabulating card ~~and all the automatic tabulating equipment that is integral to the electronic voting system in use.~~

Sec. 85. 21-A MRSA §809, sub-§§1 and 2, as enacted by PL 1991, c. 347, §5, are amended to read:

1. Rules. The Secretary of State and the Attorney General together may adopt rules governing approval of voting machines under section ~~842~~ 813 and electronic ~~voting~~ tabulating systems under section ~~843~~ 844. The Secretary of State may adopt rules requiring independent testing of voting machines and electronic tabulating systems in use or proposed for use in the State and indicating which approved voting machines and electronic voting tabulating systems are recommended approved for use by municipalities to minimize the cost of producing ballot materials.

2. Use of approved voting machines and systems. Voting ~~devices~~ machines and systems approved and recommended pursuant to rules adopted under subsection 1 may be used by any municipality in a state election. ~~A municipality may use other approved voting devices that are not recommended, however, if the cost of ballot materials for these devices exceeds the Secretary of State's estimated cost of preparing paper ballots for that municipality, the municipality shall reimburse the State for the difference in that cost. Voting machines and electronic tabulating systems that have not been approved for use may not be used by any municipality.~~

Sec. 86. 21-A MRSA §809, sub-§3, as enacted by PL 1991, c. 347, §5, is repealed.

Sec. 87. 21-A MRSA §812, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Form and content of ballot label. The titles of offices may be arranged horizontally with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically with the names of candidates for an office arranged horizontally opposite the title of the office, or the titles of offices and the names of candidates for an office may be arranged in any horizontal and vertical combination as may be ~~deemed~~ determined advisable by the Secretary of State.

The names of candidates must be printed in the order provided by law and, in general elections, the party designation of each candidate, which may be abbreviated, must be printed following the candidate's name.

If there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked that the list of candidates is continued on the following column or page and, so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

Sec. 88. 21-A MRSA §812, sub-§4-A is enacted to read:

4-A. Ballot labels for separate elections. The different parts of the ballot, such as partisan, nonpartisan and measures, must be prominently indicated on the ballot labels and, if practicable, each part must be placed on a separate page or pages. If 2 or more elections are held on the same day, the ballot labels must be clearly marked to indicate the ballot for each election and, if practicable, the ballot labels for each election must be placed upon separate pages and labels of a different color or tint may be used for each election.

Sec. 89. 21-A MRSA §817-A is enacted to read:

§817-A. Test of voting machines

The clerk shall test the voting machines using a sample of the ballot cards furnished by the Secretary of State in the same manner as set forth in section 854 regarding the testing of electronic tabulating equipment.

Sec. 90. 21-A MRSA §821, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Delivery. ~~He~~ The municipal clerk shall have the voting machines delivered to each voting place at least 12 hours before the polls are opened on election day. At the time of delivery, the ballot labels must be in place on each machine.

Sec. 91. 21-A MRSA §822, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

When it is time for the polls to open, the warden shall open the envelope containing the keys to the voting machines in the presence of an election clerk from a political party other than that of the warden. The warden shall ensure that the correct ballot labels were delivered by comparing them with the specimen ballot.

Sec. 92. 21-A MRSA c. 9, sub-c. VI, art. II is amended by repealing the first 2 lines and inserting in their place the following:

Article II

Electronic Tabulating Systems

Sec. 93. 21-A MRSA §842, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

A municipality may obtain and use electronic ~~voting~~ tabulating systems according to the following provisions.

Sec. 94. 21-A MRSA §842, sub-§4, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 95. 21-A MRSA §843, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

~~A voting device~~ An electronic tabulating system purchased or rented by a municipality must meet the following requirements.

Sec. 96. 21-A MRSA §843, sub-§§2 and 6, as enacted by PL 1985, c. 161, §6, are amended to read:

2. Voting limited. It must permit each voter to vote at any election for all persons and offices for whom and for which ~~he the voter~~ is entitled to vote; to vote for as many persons for an office as ~~he the voter~~ is entitled to vote for; to vote for or against any question upon which ~~he the voter~~ is entitled to vote; and the ~~automatic electronic~~ tabulating equipment must reject choices recorded on ~~his the voter's ballot or ballot card,~~ if the number of choices exceeds the number for which ~~he the voter~~ is entitled to vote for the office or on the measure.

6. Change of vote permitted. It must permit a voter to change or retract a vote ~~he the voter~~ has attempted to cast, in accordance with section 693, before ~~his the voter's ballot or ballot card~~ has been deposited in the ~~ballot box~~ electronic tabulating device.

Sec. 97. 21-A MRSA §844, as amended by PL 1991, c. 347, §9, is further amended to read:

§844. Regulations of Secretary of State

The Secretary of State may make reasonable rules governing the use of electronic ~~voting~~ tabulating systems in accordance with the Maine Administrative Procedure Act.

Sec. 98. 21-A MRSA §845, as enacted by PL 1985, c. 161, §6, is amended to read:

§845. Custody

The municipal clerk has custody of voting devices used by the municipality.

1. Storage and maintenance. ~~He~~ The municipal clerk is responsible for the proper storage and maintenance of each device.

A. ~~He~~ The municipal clerk shall ~~have store~~ each device ~~sealed and stored~~ in a safe, dry building.

B. ~~He~~ The municipal clerk shall ~~have keep~~ each device ~~kept~~ in proper operating condition.

Sec. 99. 21-A MRSA §848, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

The Secretary of State shall furnish all ballot materials for all elections, except municipal elections.

Sec. 100. 21-A MRSA §848, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Ballot format. Ballots furnished for elections must have the titles of offices and the names of candidates arranged in vertical columns. The office title with a statement of the number of candidates to be voted for must be printed above the names of the candidates for that office. The names of candidates must be printed in the order provided by law ~~and~~ In all except primary and nonpartisan elections, the party designation of each candidate must be printed following or below ~~his the candidate's~~ name, in bold type. The number of columns and the length of the ballot may be adjusted as is necessary to accommodate all of the offices, candidates and write-in spaces constituting the total slate for that election. The Secretary of State shall determine the colors of paper on which each ballot must be printed. Symbols such as arrows or ovals may be used to indicate the voter's choice of candidate for each office for which the voter must either complete an arrow or completely fill in an oval to indicate the voter's choice.

Sec. 101. 21-A MRSA §848, sub-§§2 and 3, as enacted by PL 1985, c. 161, §6, are repealed.

Sec. 102. 21-A MRSA §851, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Ballots and supplies. ~~He~~ The municipal clerk shall have the ~~voting~~ electronic tabulating devices prepared for the election and shall deliver, ~~to the precinct election officials or to the polling place,~~ voting the tabulating devices, voting booths, ~~tamper-proof~~ ballot boxes, ballots, ~~secrecy~~ ballot ~~cards~~ envelopes, ~~"write-in" ballots,~~ marking devices and other records and supplies as required to conform with the tabulating system in use and applicable laws.

Sec. 103. 21-A MRSA §851, sub-§§2 to 4, as enacted by PL 1985, c. 161, §6, are repealed.

Sec. 104. 21-A MRSA §852, as enacted by PL 1985, c. 161, §6, is amended to read:

§852. Procedure at the polling place

The following ~~regulations govern~~ governs the procedure for the conduct of elections in which an electronic ~~voting tabulating~~ system is used.

1. Preparation for voting. Before the polls are opened, the election officials shall arrive at the polling place and place the voting devices in position for voting. The officials shall ensure that the devices are in proper working order and ~~shall see that the devices have the correct ballot labels by comparing them with the specimen ballots were delivered.~~ They shall open and check the ballots, ~~ballot cards~~, supplies, records and forms and post the specimen ballots and instructions to voters.

2. Instruction of voters. If requested, election officials shall instruct a voter on how to operate the ~~voting device~~ electronic tabulating system before ~~he~~ the voter enters the voting booth. If ~~he~~ the voter needs additional instruction after entering the voting booth, election officials may, if necessary, enter the booth and give ~~him~~ the voter additional instructions in accordance with section 672.

3. Depositing ballots in electronic voting device. After the voter has marked ~~his~~ the ballot ~~card~~, ~~he must~~ the voter may place the ballot ~~card~~ inside the secrecy envelope provided for this purpose to maintain the voter's confidentiality and deposit the envelope with the enclosed ballot card in the ballot box electronic tabulating device. A voter may request the assistance of an election official if the voter has difficulty placing the ballot into the electronic tabulating device.

4. Spoiled ballots. ~~Any If a voter who spoils his a ballot card may return it enclosed in the envelope and obtain a replacement not more than twice, the procedures set forth in section 693 must be followed. The word "Spoiled" must be written across the face of the envelope which shall be placed in the spoiled ballot card container.~~

5. Closing of the polls. As soon as the polls have closed and the last qualified voter has voted, ~~all~~ the warden shall run the official tally tapes off of each electronic tabulating device. One copy of the official tally tape, signed by the warden, must be packed in a tamper-proof ballot box with the other election materials pursuant to section 698, subsection 2-A. All unused ballot cards and records and supplies shall ballots must be placed in a container and sealed for return to the municipal clerk. The ballot box shall electronic voting device must be opened at the polling place and all write-in votes and absentee and other official paper ballots counted and the regular ballot cards separated from the envelopes, regular counted ballots are placed in the tamper-proof ballot boxes and all ballots containing write-in votes or red-lines

requiring hand counting are counted by the election clerks. The separated ballot cards and envelopes, along with absentee, write-in and other official paper ballots, shall then be delivered to the counting center for the official counting and recording of all ballots east. Once all of the hand counting has been completed, the election clerks shall complete the tally sheets and other election forms provided by the Secretary of State and return the ballots and other materials to the clerk packed pursuant to section 698, subsections 2-A and 2-B.

Sec. 105. 21-A MRSA §853, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 106. 21-A MRSA §854, as enacted by PL 1985, c. 161, §6, is amended to read:

§854. Test of electronic tabulating equipment

~~Before counting the ballots, the~~ The clerk must ~~shall~~ have the ~~automatic~~ electronic tabulating equipment tested prior to the polls opening to ascertain that it ~~will~~ accurately count counts the votes cast for all offices and on all measures. The test must be conducted by processing a preaudited group of ballots ~~or ballot cards~~, marked ~~or punched~~ to record a predetermined number of valid votes for each candidate and on each measure. The test must include one or more ballots ~~which~~ that have votes for each office in excess of the number allowed by law in order to test the ability of the automatic electronic tabulating equipment to reject those votes. In this test ~~a different number of~~, valid votes must be assigned to each candidate for an office and for and against each measure. If any error is detected, the cause for the error must be ascertained and corrected and an errorless count must be made and certified ~~to~~ by the clerk before the ~~count is started~~ polls open on election day. The tabulating equipment must pass the same test at the conclusion of the count before the election returns are approved as official. The test ballots and the tapes generated as a result of the tests must be packed and sealed in a container labeled "Test Ballots." The container must remain sealed until at least 60 days after the election, unless needed for recount purposes. The tests provided for in this section must be open to the public.

Sec. 107. 21-A MRSA §855, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 108. 21-A MRSA §855-A is enacted to read:

§855-A. Proceedings after the close of the polls

1. Open to public. The election officials shall run the tapes at the close of the election and hand count the necessary ballots and write-ins under the

observation of the public, but no person except those authorized may touch any ballot.

2. Damaged or defective ballots. If it appears that any ballot is damaged or defective so that it can not be properly counted by the electronic tabulating device, the ballot must be counted manually.

3. Official tape certified by warden and ward clerk. The warden and ward clerk, if applicable, shall sign and date each official tape printed from each electronic tabulating device and certify to its authenticity.

Sec. 109. 21-A MRSA §§856 and 857, as enacted by PL 1985, c. 161, §6, are amended to read:

§856. Official returns

The official return of each voting district consists of the certified return printed by the ~~automatic~~ electronic tabulating equipment and the tallies of all certified absentee, write-in, red-lined and other official paper ballots. ~~The Copies of the official returns shall~~ must be open to the public as soon as the count is completed.

§857. Manual counting authorized

If for any reason it becomes impracticable to count all or a part of the ballots ~~or ballot cards~~ with electronic tabulating equipment, the clerk shall have them counted manually following the provisions governing the counting of paper ballots.

Sec. 110. 21-A MRSA §858-A, as enacted by PL 1993, c. 447, §20, is repealed and the following enacted in its place:

§858-A. Counting procedure for absentee ballots

The procedure for processing absentee ballots for use with electronic voting systems is the same as for processing absentee ballots as provided in section 759.

Sec. 111. 21-A MRSA §859, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 112. 21-A MRSA §860, as amended by PL 1993, c. 473, §40 and affected by §46, is further amended to read:

§860. Violation and penalty

Any person who, before, during or after an election, tampers with or willfully injures any voting device, ballot ~~cards~~ or other records or equipment used in the election, or interferes or attempts to interfere with the correct operation of such a device or equipment or the secrecy of voting, commits a Class C crime.

Sec. 113. 21-A MRSA §862 is enacted to read:

§862. Punch card voting systems

Punch card voting systems are governed by the following provisions:

1. Ballot labels. The Secretary of State shall furnish all ballot materials for all elections except municipal elections.

A. The titles of offices and the names of candidates on ballot labels may be arranged in vertical columns or in a series of separate pages. The title of office with a statement of the number of candidates to be voted for must be printed above or at the side of the names of the candidates for that office. The names of candidates must be printed in the order provided by law and, in general elections, the party designation of each candidate, which may be abbreviated, must be printed following that candidate's name. When there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label must be clearly marked indicating that the list of candidates is continued on the following column or page and, so far as possible, the same number of names must be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each issue to be voted on.

B. The different parts of the ballot, such as partisan, nonpartisan and issues to be voted on, must be prominently indicated on the ballot labels and, if practicable, each part must be placed on a separate page or pages. If 2 or more elections are held on the same day, the ballot labels must be clearly marked to indicate the ballot for each election and, if practicable, the ballot labels for each election must be placed upon separate pages and labels of a different color or tint may be used for each election.

2. Preparation for elections. The municipal clerk shall perform the following duties in preparing for an election.

A. Ballot cards must be of the size, design and stock suitable for processing by automatic data processing machines. In primary elections, the ballot cards of each political party must be distinctly marked or must be a different color or tint so that the ballot cards of each political party are readily distinguishable.

B. A separate write-in ballot must be provided to permit a voter to write in the title of the office and the name of the person or persons for whom that voter wishes to vote.

C. Unless the voting device enables a voter to mark that voter's choices in secret, the clerk must provide a sufficient number of voting booths for each voting district or precinct that allow a voter to mark that voter's ballot in secret.

3. Delivery of ballots or ballot cards to the counting center. The precinct election officials shall prepare a report of the number of voters who have voted as indicated by the incoming voting list and shall place the original copy of this report in the ballot box or ballot card container for delivery to the counting center. The ballot box or ballot card container must be sealed so that no additional ballots or ballot cards may be deposited or removed. The duplicate copy of the report must be returned to the municipal clerk with other records. The clerk shall make arrangements to have the voted ballots or ballot cards of designated polling places picked up at the polling places and delivered to the counting center by authorized election officials or police officers.

4. Proceedings at the counting center. All proceedings at the counting center are under the direction of the municipal clerk and must be conducted in the following manner.

A. The count must be conducted under the observation of the public but no persons except those authorized may touch any ballot or ballot card.

B. All persons who are engaged in processing and counting the ballots must be deputized and take an oath that they will faithfully perform their assigned duties.

C. If it appears that any ballot card is damaged or defective so that it can not properly be counted by the automatic tabulating equipment, a true duplicate copy must be made and substituted for the damaged ballot card or the card may be tabulated manually. All duplicate ballot cards must be clearly labeled "duplicate" and must bear a serial number that must be recorded on the damaged or defective ballot card.

D. When the count is completed, the programs, test materials, ballots and ballot cards must be sealed and retained as provided in section 23.

Other provisions of law under this article that are not inconsistent with the use of punch card voting systems apply to all elections in which a punch card voting system is used.

Sec. 114. 21-A MRSA §906, sub-§1, as amended by PL 1993, c. 473, §41 and affected by §46, is further amended to read:

1. Referendum questions on separate ballot. Referendum questions must be printed on a ballot separate from the general election ballots, except for municipalities using electronic ~~scanning devices~~ tabulating equipment. There must be a place on the ballot for the voter to designate the voter's choice.

See title page for effective date.

CHAPTER 460

S.P. 570 - L.D. 1544

An Act to Streamline Permit Procedures for Freshwater Wetlands in the State

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

Sec. 1. 38 MRSA §480-B, sub-§4, as amended by PL 1989, c. 430, §3, is further amended to read:

4. Freshwater wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas ~~which~~ that are:

~~A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;~~

B. Inundated or saturated by surface or ~~ground water~~ groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

C. Not considered part of a great pond, coastal wetland, river, stream or brook.

~~These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.~~

Sec. 2. 38 MRSA §480-B, sub-§9, as repealed and replaced by PL 1995, c. 92, §2, is amended to read:

9. River, stream or brook. "River, stream or brook" means a channel between defined banks ~~and associated flood plain wetlands~~. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if

that is not available, a 15-minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"River, stream or brook" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

Sec. 3. 38 MRSA §480-B, sub-§10, as amended by PL 1993, c. 296, §1, is further amended to read:

10. Significant wildlife habitat. "Significant wildlife habitat" means the following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; ~~and~~ shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified by the Department of Inland Fisheries and Wildlife. For purposes of this subsection, "identified" means identified in a specific location by the Department of Inland Fisheries and Wildlife.

Sec. 4. 38 MRSA §480-C, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §70, is repealed and the following enacted in its place:

1. Prohibition. A person may not perform or cause to be performed any activity listed in subsection

2 without first obtaining a permit from the department if the activity is located in, on or over any protected natural resource or is located adjacent to and operated in such a manner that material or soil may be washed into any of the following:

A. A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or

B. Freshwater wetlands consisting of or containing:

(1) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or

(2) Peatlands dominated by shrubs, sedges and sphagnum moss.

A person may not perform or cause to be performed any activity in violation of the terms or conditions of a permit.

Sec. 5. 38 MRSA §480-Q, sub-§6, as enacted by PL 1987, c. 889, §2, is amended to read:

6. Agricultural activities. ~~Draining Subject to other provisions of this article that govern other protected natural resources, altering a freshwater wetland for the purpose of growing agricultural products is exempt from the provisions of this article. This exemption applies only as long as the land is being used for growing agricultural products normal farming activities such as clearing of vegetation for agricultural purposes if the land topography is not altered, plowing, seeding, cultivating, minor drainage and harvesting, construction or maintenance of farm or livestock ponds or irrigation ditches, maintenance of drainage ditches and construction or maintenance of farm roads;~~

Sec. 6. 38 MRSA §480-Q, sub-§§17 and 18 are enacted to read:

17. Minor alterations in freshwater wetlands. Activities that alter less than 4,300 square feet of freshwater wetlands and that do not occur in, on or over another protected natural resource, except that any activity occurring within a shoreland zone regulated by a municipality pursuant to chapter 3, subchapter I, article 2-B is not exempt. An activity qualifies for exemption under this section only if the entire activity qualifies, including all phases of a multiphased project taken as a whole. Activities authorized or legally conducted prior to the effective date of this subsection are not considered in calculating the size of the alteration.

18. Service drops for telephone or electrical service. Vegetative clearing of a freshwater wetland for the installation of telephone or electrical service, if:

A. The line extension does not cross or run beneath a coastal wetland, river, stream or brook;

B. The placement of wires or installation of utility poles is located entirely upon the premises of the customer requesting service, upon a roadway right-of-way or, in the case of telephone service, on existing utility poles; and

C. The total length of the extension is less than 1,000 feet.

Sec. 7. 38 MRSA §480-X is enacted to read:

§480-X. Alterations of freshwater wetlands

An application for a permit to undertake activities altering freshwater wetlands must be processed by the department using the review process described in this section.

1. Application. This section does not apply to activities otherwise qualifying for reduced review procedures, such as permits by rule or general permits; activities exempt from review under another section of this article; or activities involving protected natural resources other than freshwater wetlands, such as great ponds, coastal wetlands and rivers, streams or brooks.

2. Three-tiered review process; tiers defined. Except as provided in subsection 1, an application for a permit to undertake activities altering freshwater wetlands must be reviewed in accordance with the following.

A. A Tier 1 review process applies to any activity that involves a freshwater wetland alteration up to 15,000 square feet and does not involve the alteration of freshwater wetlands listed in subsection 4.

B. A Tier 2 review process applies to any activity that involves a freshwater wetland alteration of 15,000 square feet up to one acre and does not involve the alteration of freshwater wetlands listed in subsection 4 or 5.

C. A Tier 3 review process applies to any activity that involves a freshwater wetland alteration of one acre or more or an alteration of a freshwater wetland listed in subsection 4 or 5.

If the project as a whole requires Tier 2 or Tier 3 review, then any activity that is part of the overall project and involves a regulated freshwater wetland alteration also requires the same higher level of

review, unless otherwise authorized by the department.

In determining the amount of freshwater wetland to be altered, all components of a project, including all phases of a multiphased project, are treated together as constituting one single and complete project. Activity authorized or legally conducted prior to the effective date of this section is not included.

The standards of section 480-D do not apply to projects that qualify for Tier 1 or Tier 2 review, except that water quality standards under section 480-D, subsection 5 apply to those projects. Projects that meet the eligibility requirements for Tier 1 or Tier 2 review and that satisfy the permitting requirements set forth in subsection 3, 6 or 7, as applicable, are presumed not to have significant environmental impact.

3. General requirements. A person undertaking an activity for which a permit is processed pursuant to this section must satisfy the requirements of this subsection.

A. An applicant for Tier 1 or Tier 2 review must meet the following requirements.

(1) Alteration of freshwater wetland areas on the property must be avoided to the extent feasible considering cost, existing technology and logistics based on the overall purpose of the project.

(2) The area of the freshwater wetland to be altered must be limited to the minimum amount necessary to complete the project.

(3) Erosion control measures must be used to prevent sedimentation of protected natural resources. A 25-foot buffer strip must be maintained between the activity and any river, stream or brook.

(4) The activity must comply with applicable water quality standards pursuant to section 480-D, subsection 5.

B. An applicant for Tier 1, Tier 2 or Tier 3 review for projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters, must comply with the water quality classification standards contained in section 465.

4. Projects not eligible for Tier 1 or Tier 2 review. The following activities are not eligible for Tier 1 or Tier 2 review unless the department determines that the activity will not negatively affect the freshwater wetlands and other protected natural resources present:

A. Activities located within 250 feet of:

(1) A coastal wetland; or

(2) The normal high-water line, and within the same watershed, of any lake or pond classified as GPA under section 465-A;

B. Activities occurring in freshwater wetlands, other than artificial ponds or impoundments, containing under normal circumstances at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water;

C. Activities occurring in freshwater wetlands that are inundated with floodwater during a 100-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency or other site-specific information;

D. Activities occurring in freshwater wetlands containing significant wildlife habitat that has been mapped, identified or defined, as required pursuant to section 480-B, subsection 10, at the time of the filing by the applicant;

E. Activities occurring in peatlands dominated by shrubs, sedges and sphagnum moss, except that applications proposing work in previously mined peatlands may be considered by the department for Tier 1 or Tier 2 review, as applicable; or

F. Activities occurring within 25 feet of a river, stream or brook.

The department shall inform the applicant in writing within the review period specified in subsection 6 or 7 if the proposed project does not qualify for Tier 1 or Tier 2 review processing and shall explain permitting options if the applicant wishes to pursue the project. The department is responsible for providing information necessary to establish whether the types of wetlands described in paragraphs D and E will be affected by the proposed activity. Unless the applicant knowingly or willfully provided incomplete or false information to the department, if the department does not notify the applicant that the proposed project does not qualify for Tier 1 or Tier 2 review, the project is deemed to be qualified for Tier 1 or Tier 2 review, as applicable.

5. Additional projects not eligible for Tier 2 review. An activity in freshwater wetlands containing a natural community that is imperiled (S1) or critically imperiled (S2), as defined by the Natural Areas Program pursuant to Title 5, section 13076 is not eligible for Tier 2 review unless the department determines that the activity will not negatively affect the freshwater wetlands and other protected natural resources present.

6. Application process for Tier 1 review activities. Applications for Tier 1 review are governed by this subsection.

A. The application must be sent by certified mail or hand-delivered to the department. The application must include:

(1) The application fee;

(2) The project location on a United States Geological Survey map;

(3) A description of the project, including a drawing showing the area of freshwater wetland to be filled or otherwise altered and areas of any marsh or open water within the freshwater wetland; and

(4) A signed statement averring that all of the requirements of subsection 3 will be met, that the activity will not occur in a wetland area described in subsection 4 and that a copy of the application has been submitted by the applicant for public display to the municipal office of the municipality in which the project will be located.

B. Work may not occur until 30 days after the department receives a complete application, unless written approval is issued sooner by the department. The department shall notify the applicant in writing no later than 30 days after the department receives a complete application if the applicable requirements of this section have not been met. If the department has not notified the applicant within the 30-day review period, a permit is deemed to be granted.

C. Fees for Tier 1 review may not exceed the following:

(1) For projects up to 5,000 square feet, \$35;

(2) For projects from 5,000 square feet up to 10,000 square feet, \$75; and

(3) For projects from 10,000 square feet up to 15,000 square feet, \$150.

7. Application process for Tier 2 review. Applications for Tier 2 review are governed by this subsection.

A. An application form must be submitted, with the application fee, to the department and include the following information:

(1) Documentation that public notice has been provided of the proposed project in accordance with department rules;

(2) A United States Geological Survey map showing the project location;

(3) Written certification by a knowledgeable professional experienced in wetland science that the project will not alter, or cause to be altered, a wetland described in subsection 4 or 5;

(4) A top view drawing of the entire project, including existing and proposed fill, excavation, roads and structures; cross-sectional drawings of any fill or excavated areas; delineation of the wetland boundaries and calculated area of freshwater wetlands affected; description of existing vegetation on the project site; identification of any surface water bodies within 100 feet of the proposed alteration; and a drawing of the 25-foot buffer strip between the project and any river, stream or brook;

(5) A soil erosion and sedimentation control plan;

(6) For work in previously mined peatlands, information on the past mining activity, including the approximate dates of the mining activity, the area and depth to which peat has been excavated from the site, any restoration work on the site and the current condition of the site;

(7) A statement describing why the project can not be located completely in upland areas and any alternatives that exist for the project that would either avoid or minimize the amount of proposed freshwater wetland alteration; and

(8) A plan for compensating for lost functions and values of the freshwater wetland when required by, and in accordance with, rules adopted by the department.

B. Work may not occur until 60 days after the department has received a complete application for processing, unless written approval is issued sooner by the department. The department shall notify the applicant in writing within 60 days of the department's receipt of a complete application whether the applicable requirements of this section have been met. If the department has not notified the applicant within the 60-day review period, a permit is deemed to be granted.

C. Fees for Tier 2 review must be set in accordance with the department's fee schedule for freshwater wetland alterations under the natural resources protection laws.

8. Application process for Tier 3 review.

Applications for Tier 3 review are governed by this subsection.

A. An application form must be submitted to the department that contains all the information required for Tier 2 review, in addition to any information determined by the department to be necessary to meet the requirements of section 480-D and rules adopted by the department.

B. Written approval from the department is required before work may begin.

C. Fees for Tier 3 review are set in accordance with the department's fee schedule for freshwater wetland alterations under the natural resources protection laws.

Sec. 8. 38 MRSA §490-D, sub-§5-A, as enacted by PL 1995, c. 287, §11, is amended to read:

5-A. Protected natural resources. A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, ~~freshwater wetland~~ or coastal wetland as defined in section 480-B. A natural buffer strip must also be maintained between the working edge of an excavation and certain freshwater wetlands as defined in section 480-B and having the characteristics listed in paragraph B. Any excavation activities conducted within 100 feet of a protected natural resource requires a must comply with the applicable permit requirement under article 5-A. The width requirements for natural buffer strips are as follows.

A. A natural buffer strip at least 100 feet wide must be maintained between the working edge of the excavation and the normal high water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA.

B. A natural buffer strip at least 75 feet wide must be maintained between the working edge of the excavation and any other water body, stream, brook or ~~Class I or Class II wetland, as defined in 06-096-CMR 310.~~ coastal wetland, significant wildlife habitat contained within a freshwater wetland or a freshwater wetland consisting of or containing:

(1) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or

(2) Peatlands dominated by shrubs, sedges and sphagnum moss.

~~C. A natural buffer strip at least 25 feet wide must be maintained between the working edge of the excavation and a Class III wetland, as defined in 06-096 CMR 310.~~

For purposes of this subsection, the width of a natural buffer strip is measured from the upland edge of floodplain wetlands; if no floodplain wetlands are present, the width of the natural buffer strip is measured from the normal high water mark of a great pond, river, stream, brook or upland edge of a wetland.

Sec. 9. Allocation. The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Maine Environmental Protection Fund		
All Other	\$13,037	\$17,383
Allocates funds to cover the increased costs of administering changes in the wetlands permitting process.		

Sec. 10. Evaluation period. From the effective date of this Act to October 1, 1997, the Department of Environmental Protection shall monitor the effectiveness of the regulatory program established in the Maine Revised Statutes, Title 38, section 480-X. The department shall provide an interim report by February 1, 1997 and a final report by January 1, 1998 to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The reports must include information on the number of applications submitted for review, the average amount of time required to process each application, the amount and type of freshwater wetlands altered, the extent of compliance with permit standards and an assessment of the overall effectiveness of the program in terms of increased efficiency, equivalent or enhanced protection of freshwater wetlands, increased cost-effectiveness and opportunity for public involvement in the regulatory process, as well as whether the program is simpler and more easily understood than wetlands regulation was before the program was put in place. The reports must include recommendations on any changes needed to the program, including any resource needs or new application review periods based on this information.

In addition, the Department of Environmental Protection, in conjunction with the State Planning

Office, shall coordinate with the United States Army Corps of Engineers and state and federal resource agencies, including the United States Fish and Wildlife Service, to develop procedures and schedules that will expedite Tier 3 review to the extent practicable and to develop a streamlined cranberry cultivation general permit. A report of the department's coordination efforts must be submitted to the Legislature with the evaluation reports.

By January 1, 1996, the Department of Environmental Protection shall supply to the joint standing committee of the Legislature having jurisdiction over natural resource matters copies of all rules adopted or proposed to be adopted pursuant to this Act, including all rules concerning mitigation.

By February 1, 1996, the Department of Environmental Protection shall provide to the joint standing committee of the Legislature having jurisdiction over natural resource matters a report that discusses the effects the tier thresholds established under the Maine Revised Statutes, Title 38, section 480-X on the structure of any programmatic general permit issued by the United States Army Corps of Engineers and whether greater streamlining of the permitting process could be obtained through changes in the tier thresholds. The report must also include a thorough critique of this entire Act, including identification of any provisions that need further clarification or otherwise require amendment in order to achieve a fully streamlined process. The report must include draft legislation to achieve any recommended changes.

Sec. 11. Committee authorized to report out legislation. The joint standing committee of the Legislature having jurisdiction over natural resource matters may report out legislation concerning wetlands regulation to the Second Regular Session of the 117th Legislature or the First Regular Session of the 118th Legislature.

Sec. 12. Application. This Act:

1. Does not apply to an activity that occurred prior to the effective date of this Act and for which a permit was required under the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 5-A prior to the effective date of this Act;

2. Does not apply to an activity for which a permit was not required under the Maine Revised States, Title 38, chapter 3, subchapter I, article 5-A prior to the effective date of this Act, but is required under this Act if the activity began prior to the effective date of this Act; and

3. With the exception of those sections of this Act that amend the Maine Revised Statutes, Title 38, section 480-Q, subsection 6 and enact Title 38, section

480-Q, subsection 17, does not apply to an activity performed or caused to be performed on or after the effective date of this Act if the person performing the activity, or causing the activity to be performed, was in possession of applicable federal, state or local licenses prior to the effective date of this Act.

See title page for effective date.

CHAPTER 461

H.P. 1095 - L.D. 1539

An Act to Permit a One-time Transfer of Retained Funds for Community Corrections Programs

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

Whereas, the counties have not been fully reimbursed for the costs of care of state prisoners in county jails; and

Whereas, without full reimbursement, the counties are burdened by the continuing costs of jail operations incurred by housing state prisoners; and

Whereas, a one-time proportionate transfer of retained funds for community corrections programs to offset some of these county jail costs would greatly aid certain counties; 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. 34-A MRSA §1210, sub-§4, as amended by PL 1989, c. 127, §1, is further amended to read:

4. Verification of commitment; actual days served. As a condition of reimbursement, the department shall require the county to submit appropriate documentation verifying the court commitment and the actual number of days served for each prisoner for which reimbursement is requested. Documentation ~~shall~~ must include, but is not ~~be~~ limited to:

A. An invoice provided by the Department of Corrections, completed by the county, listing all

prisoners for which reimbursement is requested for the quarter;

B. One copy of the actual Court Judgment and Commitment Order, including class of crime, for each prisoner listed in the invoice submitted;

C. One copy of each Release Date Computation Sheet showing the actual number of days served by each prisoner included in the invoice submitted; and

D. By February 1st of each calendar year, ~~the county shall provide,~~ in a format provided by the ~~Department of Corrections~~ department, a copy of actual expenditures for the support of prisoners for the previous calendar year. The Department of Audit shall establish, in consultation with the counties and the ~~Department of Corrections~~ department, a uniform system of accounting for the support of prisoners for the counties pursuant to its authority in Title 5, section 243 and consistent with the requirements of this section. No county may be reimbursed after July 1, 1987, until it has implemented the uniform accounting system for the expenditure for support of prisoners.

In any fiscal year in which the actual amount appropriated for reimbursement to counties is less than the reimbursable costs the department projects, the department, notwithstanding the other provisions of this subsection, may reimburse counties prior to receiving the documentation required quarterly under this subsection.

Sec. 2. 34-A MRSA §1210, sub-§6-A, as amended by PL 1993, c. 517, §1, is further amended to read:

6-A. Funds to be used for community corrections programs. Thirty percent of all funds claimed by each county for reimbursement under this section must be retained by the department until the county demonstrates that the retained funds will be used for community corrections programs, as described in subsection 1, paragraph B, that are developed as part of a comprehensive local plan approved by the commissioner. One half of the retained funds must be retained until the county demonstrates that the funds will be used for adult programs, and 1/2 of the retained funds must be retained until the county demonstrates that the funds will be used for juvenile programs. All funds retained by the department under this subsection not released by the end of the year may not lapse, but must be carried forward into subsequent years, with each county's funds carried over for that county. A county may shift funds from the funds retained and available for adult programs pursuant to this subsection to juvenile diversion programs. All funds not committed by any county after 3 years from the date the county's

claim is approved by the department must be placed by the department in a pool from which supplementary funds periodically must be made available to all counties on a competitive basis. Annually, by September 1st, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over corrections matters a report of the activity in the prior fiscal year of the funds retained under this subsection, including the following:

- A. The amount retained from each county;
- B. The amount of any funds that have been carried over from previous fiscal years for each county;
- C. The amount released to each county; and
- D. The specific programs for which funds were released for each county, including an indication of whether each program serves juveniles or adults.

During fiscal year 1995-96, the department shall distribute to the counties all retained funds that are committed or uncommitted by June 30, 1995 under this subsection. The amount each county receives is its proportionate share based on the amount owed to that county as compared to the total amount owed to all counties.

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

Effective July 3, 1995.

CHAPTER 462

S.P. 251 - L.D. 648

An Act to Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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. 2 MRSA §6, sub-§5, as repealed and replaced by PL 1993, c. 410, Pt. L, §1, is amended to read:

5. Range 86. The salaries of the following state officials and employees are within salary range 86:

Director of Labor Standards;

Deputy Chief of the State Police;

State Archivist;

Director of Maine Geological Survey;

Executive Director, Maine Land Use Regulation Commission;

Chair, Maine Unemployment Insurance Commission;

Child Welfare Services Ombudsman; and

Director of the Maine Drug Enforcement Agency; and

~~Executive Director, Maine Science and Technology Commission.~~

Sec. A-2. 2 MRSA §7, as amended by PL 1991, c. 885, Pt. A, §2 and affected by §§9 to 11, is repealed.

Sec. A-3. 4 MRSA §164, sub-§1-A, as amended by PL 1993, c. 675, Pt. B, §5 and c. 680, Pt. A, §1, is repealed and the following enacted in its place:

1-A. Appoint bail commissioners. Appoint bail commissioners pursuant to Title 15, section 1023, for any district;

Sec. A-4. 4 MRSA §164, sub-§15, ¶¶A and D, as amended by PL 1993, c. 680, Pt. A, §4, are further amended to read:

A. A fisheries and wildlife offense means any violation of any provision of Title 12, Part 10; any provision of law enumerated in Title 12, section 7053; or any rule adopted by the Com-

missioner of Inland Fisheries and Wildlife pursuant to ~~the rules~~ these provisions.

D. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous fisheries and wildlife offenses subject to this subsection within a 12-month period may not ~~permitted to~~ appear before the violations clerk unless the court, by order, permits that appearance. Each waiver of hearing filed under this subsection must recite on the oath or affirmation of the offender whether or not the offender has been previously found guilty of, or to have committed, or has previously signed a plea of guilty to, admitting or admitting with an explanation to, one or more fisheries and wildlife offenses within a 12-month period. Any person swearing falsely to such a statement, upon conviction, is subject to a fine of not more than \$50.

Sec. A-5. 5 MRSA c. 12, as amended, is repealed.

Sec. A-6. 5 MRSA §937, sub-§1, as amended by PL 1993, c. 684, §1 and c. 708, Pt. J, §2, is repealed and the following enacted in its place:

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

A. Deputy Commissioner;

B. Deputy Commissioner;

F. Director, Planning and Management Information;

G. Federal and State Education Program Coordinator;

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

I. Director, Office of Rehabilitation Services.

Sec. A-7. 5 MRSA §4612, sub-§6, as enacted by PL 1993, c. 327, §2, is amended to read:

6. Right to sue. If, within 180 days of a complaint being filed ~~by~~ with the commission, the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case, the complainant may request a right-to-sue letter,

and, if a letter is given, the commission shall end its investigation.

Sec. A-8. 5 MRSA c. 353, first 2 lines, as repealed and replaced by PL 1993, c. 680, Pt. A, §14 and c. 728, §1, are repealed and the following enacted in their place:

CHAPTER 353

LAND FOR MAINE'S FUTURE

Sec. A-9. 5 MRSA §12004-I, sub-§47-A, as enacted by PL 1993, c. 381, §7 and c. 410, Pt. DD, §1, is repealed and the following enacted in its place:

47-A.	<u>Protection</u>	<u>Not</u>	<u>5</u>
<u>Human</u>	<u>and Advo-</u>	<u>Autho-</u>	<u>MRSA</u>
<u>Services</u>	<u>cacy</u>	<u>rized</u>	<u>§19504.</u>
	<u>Agency.</u>		<u>sub-§2</u>
	<u>Advisory</u>		
	<u>Council</u>		

Sec. A-10. 5 MRSA §12004-I, sub-§47-C is enacted to read:

47-C.	<u>Maine Public</u>	<u>Expenses</u>	<u>22</u>
<u>Human</u>	<u>Drinking</u>	<u>Only</u>	<u>MRSA</u>
<u>Services:</u>	<u>Water</u>		<u>§2660-C</u>
<u>Public Health</u>	<u>Commission</u>		

Sec. A-11. 5 MRSA §13058, sub-§10, ¶B, as enacted by PL 1987, c. 769, §19, is repealed.

Sec. A-12. 5 MRSA §13080-M, as enacted by PL 1993, c. 729, §9, is amended to read:

§13080-M. Relationship to other laws

The activities of the authority must be conducted in accordance with the terms and conditions of the Federal Surplus Property Act, 50 Appendix United States Code, Section 1622 et seq.; the federal Airport and Airway Improvement Act of 1982, 49 United States Code App. Section 2201 et seq.; and Federal Aviation Administration Order 5190.6A. If a conflict exists between this article and those federal laws and rules, the federal requirements control.

Sec. A-13. 5 MRSA §17001, sub-§13, ¶B, as amended by PL 1993, c. 410, Pt. L, §12, is further amended to read:

B. "Earnable compensation" does not include:

- (1) For any member who has 10 years of creditable service by July 1, 1993 or who has reached 60 years of age and has been in service for a minimum of one year immediately before that date, payment for more than 30 days of unused accumulated or accrued sick leave, payment for more than 30

days of unused vacation leave or payment for more than 30 days of a combination of both;

(2) For any member who is not covered by ~~subsection 4~~ subparagraph (1), payment for any unused accumulated or accrued sick leave or payment for any unused vacation leave;

(3) Any other payment that is not compensation for actual services rendered or that is not paid at the time the actual services are rendered; or

(4) Teacher recognition grants paid pursuant to Title 20-A, section 13503-A.

A payment for unused sick leave or unused vacation leave may not be included as part of earnable compensation unless it is paid upon the member's last termination before the member applies for retirement benefits.

Sec. A-14. 5 MRSA §17154, sub-§10, as amended by PL 1993, c. 580, §2 and affected by §3, is further amended to read:

10. Payment of additional actuarial costs incurred by the retirement system due to early retirement incentives. Notwithstanding the other provisions of this section, additional actuarial and reasonable administrative costs that result from the early retirement of a member offered a retirement incentive by an employer must be paid by the employer that offered and provided the incentive in a manner prescribed in rules adopted by the board. "Early retirement" means retirement before normal retirement age with a reduced retirement benefit as provided by section 17852, subsection 3 or 3-A, subsection 4, paragraph C or C-1 or subsection 10, paragraph C or C-1; section 17857, subsection 3-A; section 18452, subsection 3; or section 18462, subsection 3. For purposes of this ~~paragraph~~ subsection, "employer" means, in the case of a member who is a state employee, the department of State Government by which the member was last employed prior to retirement; in the case of a member who is a teacher, the local school administrative unit by which the member was last employed prior to retirement; and in the case of a member who is an employee of a participating local district, the district by which the member was last employed prior to retirement. An early retirement incentive that is part of a collective bargaining agreement executed or ratified in its final form by final vote of one party to the agreement prior to July 1, 1993 is not subject to this subsection for the initial term of that agreement.

Sec. A-15. 5 MRSA §18605, sub-§3, as enacted by PL 1993, c. 595, §14, is amended to read:

3. Cost-of-living adjustments. Benefits under this article are subject to adjustment as provided in section ~~47806~~ 18407.

Sec. A-16. 10 MRSA §973, as amended by PL 1993, c. 359, Pt. C, §5 and c. 460, §3 and affected by §9, is repealed and the following enacted in its place:

§973. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the authority, each member of the Maine Education Assistance Board and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose, except that the chief executive officer in addition is deemed an "executive employee" for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives.

Sec. A-17. 10 MRSA §1013, sub-§10, as amended by PL 1991, c. 824, Pt. A, §12, is further amended to read:

10. Student financial assistance counseling and outreach program. The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B; and

Sec. A-18. 10 MRSA §1013, sub-§12, as amended by PL 1991, c. 612, §1, is repealed.

Sec. A-19. 10 MRSA §1100-T, sub-§3, as amended by PL 1991, c. 854, Pt. A, §11, is further amended to read:

3. Priority. The authority may reserve \$500,000 in tax credit authorization for "natural resource enterprises," as defined in section 963-A, subsection 41, ~~and may reserve an additional \$500,000 in tax credit authorization for eligible investments in businesses located in job opportunity zones designated pursuant to Title 5, chapter 403 or in contiguous communities designated by the Commissioner of Economic and Community Development as being entitled to zone benefits due to special circumstances.~~

Sec. A-20. 10 MRSA c. 202-B, first 2 lines, as enacted by PL 1991, c. 535, are repealed and the following enacted in their place:

CHAPTER 202-C

COMMERCIAL LOAN AGREEMENTS

Sec. A-21. 10 MRSA c. 208-A, as enacted by PL 1993, c. 683, Pt. B, §1, is repealed.

Sec. A-22. 10 MRSA c. 208-B is enacted to read:

CHAPTER 208-B

FARM MACHINERY DEALERSHIPS

§1285. Definitions

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

1. Current net price. "Current net price" means the price listed in the supplier's price list or catalog in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

2. Dealer. "Dealer" means a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. "Dealer" does not include a person, corporation or partnership primarily engaged in the business of retail sales of heavy construction, industrial and utility equipment, attachments, accessories and repair parts.

3. Dealer agreement. "Dealer agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer or distributor by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype or advertising or other commercial symbol.

4. Inventory. "Inventory" means farm, utility or industrial equipment, implements, machinery, yard and garden equipment, attachments or repair parts. These terms do not include heavy construction equipment.

5. Net cost. "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

6. Supplier. "Supplier" means a wholesaler, manufacturer or distributor of inventory as defined in this chapter who enters into a dealer agreement with a dealer.

7. Termination. "Termination" of a dealer agreement means the cancellation, nonrenewal or noncontinuance of the agreement.

§1286. Usage of trade

The terms "utility" and "industrial," when used to refer to equipment, machinery, attachments, yard and

garden equipment or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as usage of trade in accordance with Title 11, section 1-205, subsection 2.

§1287. Notice of termination of dealer agreements

1. Notice of termination. Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination. The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events:

A. The filing of a petition for bankruptcy or for receivership either by or against the dealer;

B. The making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;

C. Any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;

D. Discontinuance by the dealer of more than 50% of the dealer's business related to the handling of goods provided by the supplier;

E. The commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;

F. A change in location of the dealer's principal place of business as provided in the agreement without the prior written approval of the supplier;

G. Withdrawal of an individual proprietor, partner, major shareholder or the involuntary termination of the manager of the dealership or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier; or

H. Breach by the dealer of a written obligation contained in the agreement.

2. Time of notice. Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 90 days prior to the effective date of the termination.

3. Notice in writing. Notification required by this section must be in writing and be made by certified mail or by personal delivery and must contain:

A. A statement of intention to terminate the dealer agreement;

B. A statement of the reasons for the termination; and

C. The date on which the termination is effective.

§1288. Supplier's duty to repurchase

1. Repurchase. Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory, and the agreement is terminated by either party as provided in this chapter, the supplier, upon written request of the dealer filed within 30 days of the effective date of the termination, shall repurchase the dealer's inventory as provided in this chapter. There is no requirement for the supplier to repurchase inventory pursuant to this section if:

A. The supplier and dealer have made a written agreement with respect to repurchase;

B. The dealer has made an intentional and material misrepresentation as to the dealer's financial status;

C. The dealer has defaulted under a chattel mortgage or other security agreement between the dealer and supplier; or

D. The dealer has filed a voluntary petition in bankruptcy.

2. Death of dealer. Whenever a dealer enters into a dealer agreement in which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement had been terminated. The heir, personal representative, guardian or succeeding stockholder has one year from the date of the death of the dealer or majority stockholder to exercise the option under this chapter.

§1289. Repurchase terms

1. Examination of records. Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 1288 may examine any books or records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer all inventory previously purchased from the supplier in the possession of the dealer on the date of termination of the dealer agreement.

2. Payment terms. The supplier shall pay the dealer:

A. One hundred percent of the net cost of all new and undamaged and complete farm, utility and industrial equipment, implements, machinery, yard and garden equipment and attachments, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

B. Ninety percent of the current net prices of all new and undamaged repair parts; and

C. Eighty-five percent of the current net prices of all new and undamaged superseded repair parts.

3. Return costs. The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing and loading of the inventory.

4. Payment date. Payment to the dealer required under this section must be made by the supplier not later than 60 days after receipt of the inventory by the supplier. The supplier is entitled to apply any payment required under this section to be made to the dealer, as a setoff against any amount owed by the dealer to the supplier.

§1290. Exceptions to repurchase requirement

1. Exceptions. The provisions of this chapter do not require the repurchase from a dealer of:

A. A repair part with a limited storage life or otherwise subject to physical or structural deterioration including, but not limited to, gaskets or batteries, but excluding industrial "press on" or industrial pneumatic tires;

B. A single repair part normally priced and sold in a set of 2 or more items;

C. A repair part that, because of its condition, can not be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer;

D. An item of inventory for which the dealer does not have title free of all claims, liens and encumbrances other than those of the supplier;

E. Any inventory that the dealer elects to retain;

F. Any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier;

G. Any inventory that was acquired by the dealer from a source other than the supplier; or

H. Any farm, utility or industrial equipment, implements, machinery, yard and garden equip-

ment or attachments that were purchased by the dealer more than 30 months prior to the termination of the dealer agreement.

§1291. Transfer of business

1. Transfer. A supplier may not unreasonably withhold or delay consent to any transfer of the dealer's business or transfer of the stock or other interest in the dealership, whenever the dealer to be substituted meets the material and reasonable qualifications and standards required of its dealers. If a supplier determines that a proposed transferee does not meet its qualifications and standards, it shall give the dealer written notice thereof, stating the specific reasons for withholding consent. A prospective transferee may not be disqualified from being a dealer because it is a publicly held corporation. A supplier has 45 days to consider a dealer's request to make a transfer under this subsection.

2. Withhold consent. Notwithstanding subsection 1, no supplier may withhold consent to, or in any manner retain a right of prior approval of, the transfer of the dealer's business to a member or members of the family of the dealer or the principal owner of the dealer. As used in this subsection, "family" means and includes the spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption of the dealer or principal owner of the dealer.

3. Assume obligations. Whenever a transfer of a dealer's business occurs, the transferee shall assume all the obligations imposed on and succeed to all the rights held by the selling dealer by virtue of any agreement, consistent with this chapter, entered into prior to the transfer between the selling dealer and one or more suppliers.

4. Burden of proof. In any dispute as to whether a supplier has denied consent in violation of this section, the supplier has the burden of proving a substantial and reasonable justification for the denial of consent.

§1292. Uniform commercial practice

1. Security interest. Nothing contained in this chapter may be construed to release or terminate a perfected security interest of the supplier in the inventory of the dealer.

§1293. Warranty obligations

1. Payment of warranty claim. Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made by the dealer for warranty parts or service within 30 days after its receipt and approval. The supplier shall approve or disapprove a

warranty claim within 30 days after its receipt. If a claim is not specifically disapproved in writing within 30 days after its receipt, it is deemed to be approved and payment must be made by the supplier within 30 days.

2. Indemnity. Whenever a supplier and a dealer enter into a dealer agreement, the supplier shall indemnify and hold harmless the dealer against any judgment for damages arising from breach of warranty or rescission of the sale by the supplier.

§1294. Remedies

1. Jurisdiction. Concurrent jurisdiction under this chapter is in the District Court or Superior Court of the city or county where the dealer has its principal place of business. The court may grant equitable relief as is necessary to remedy the effects of conduct that it finds to exist and is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.

2. Recovery. In addition to any other remedies available at law or in equity, if a supplier has attempted or accomplished an annulment, cancellation or termination, or refused to continue or renew an agreement without good cause or withheld or delayed consent in violation of section 1287 or 1291, then the dealer is entitled to recover losses and damages, together with the cost of the action and reasonable legal fees. These damages include compensation for the value of the agreement and the good will of the dealer's business.

3. Arbitration. Nothing contained in this section may bar the right of an agreement to provide for binding arbitration of disputes. Any arbitration must be consistent with the provisions of this chapter and Title 14, chapter 706, and the place of any arbitration must be in the city or county in which the dealer maintains the dealer's principal place of business in the State.

4. Renewal of agreement. No supplier may cancel, terminate or refuse to continue to renew an agreement during the 90-day period set forth in section 1287 or during the pendency of litigation or arbitration, except under the conditions set forth in section 1287, subsection 1.

§1295. Management

A supplier may not require or prohibit any change in management or personnel of any dealer unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the supplier for its dealers.

§1296. Waiver of chapter void

The provisions of this chapter are deemed to be incorporated in every agreement and supersede and control all other provisions of the agreement. A supplier may not require any dealer to waive compliance with any provision of this chapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this chapter may be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

§1297. Applicability

This chapter applies to agreements in effect as of October 1, 1989. In addition, this chapter applies to any agreements entered into after October 1, 1989. The provisions of this chapter are also applicable to any renewal or amendment of the agreements.

§1298. Reasonableness and good faith

1. Good faith. Every agreement entered into under this chapter imposes on the parties the obligation to act in good faith.

2. Reasonableness. This chapter imposes on every term and provision of any agreement a requirement of reasonableness. Every term or provision of any agreement must be interpreted so that the requirements or obligations imposed are reasonable.

Sec. A-23. Retroactivity. Those sections of this Act that repeal the Maine Revised Statutes, Title 10, chapter 208-A and enact chapter 208-B take effect retroactively to January 1, 1995.

Sec. A-24. 10 MRSA §1522, sub-§1, ¶G, as amended by PL 1993, c. 616, §1 and c. 718, Pt. B, §2, is repealed and the following enacted in its place:

G. Consists of or comprises a corporate, limited liability company or limited partnership name, unless the corporation, limited liability company or limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the corporation, limited liability company or limited partnership name by the applicant seeking to use the mark;

Sec. A-25. 10 MRSA §3411, as amended by PL 1983, c. 824, Pt. X, §1, is further amended to read:

§3411. Lien

Every individual, partnership, firm, association, corporation, institution or any governmental unit or combination or parts thereof of a partnership, firm, association, corporation, institution or governmental unit maintaining and operating a hospital licensed in the State shall be entitled to a lien for the reasonable

charges for hospital care, treatment and maintenance of an injured person upon any and all causes of action, suits, claims, ~~counter-claims~~ counterclaims or demands accruing to the person to whom such care, treatment or maintenance was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, treatment and maintenance, except that no entitlement to such a lien may exist against the principal residence of any person in any 12-month period or periods during which that person is eligible for financial assistance under the catastrophic illness program, Title 22, section 3185. Such lien shall may not be applied or considered valid against anyone coming under the former Workers' Compensation Act in this State or the Maine Workers' Compensation Act of 1992, and nothing enacted by this chapter shall may be construed so as to give such lien precedence over the claim or contract of an attorney for legal services rendered with respect to the claim of the injured party nor shall may this lien be applicable to any accident or health insurance policy, or the proceeds from the same, owned by or running to the benefit of the injured person.

Sec. A-26. 10 MRSA §9003, sub-§2, as amended by PL 1993, c. 600, Pt. A, §13 and c. 642, §10, is repealed and the following enacted in its place:

2. Composition of board; terms of members.
The members of the board must include:

A. One member who is a manufactured housing owner and whose manufactured housing unit is not located in a mobile home park or similar rental community;

B. Two members who are manufactured housing owners and the manufactured housing units in which the owners live are located on lots, within mobile home parks or similar rental communities, that the manufactured housing owners do not own;

C. One member who is a professional engineer with demonstrated experience in construction and building technology;

D. One member who is a dealer;

E. One member who is an owner or operator of a mobile home park with 15 or fewer lots;

F. One member who is an owner or operator of a mobile home park with more than 15 lots;

G. One member who is a builder of manufactured housing; and

H. One member with a minimum of 2 years of practical experience in building code administra-

tion and enforcement and with current employment as a code enforcement officer.

The term of office of the members is 4 years. Appointment of a member must comply with Title 32, section 60. A member of the board may be removed for cause by the Governor.

Sec. A-27. 10 MRSA §9003, sub-§3, as repealed by PL 1993, c. 600, Pt. A, §14 and amended by c. 642, §10, is repealed.

Sec. A-28. 11 MRSA §9-402, sub-§(1), as amended by PL 1977, c. 696, §144, is further amended to read:

(1) A financing statement is sufficient, if it gives the names of the debtors and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral; ~~provided except that, for purposes of this section, if the collateral is a mobile home as defined in Title 10, section 1402, subsection 2, the description of collateral shall must~~ include the location designated by the debtor in the security agreement as the place at which the mobile home is, or is to be, located. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut ~~or covers~~ minerals or the like, including oil and gas, or accounts subject to section 9-103, subsection (5); ~~or covers~~ crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313; and the collateral is goods ~~which that~~ are or are to become fixtures, the statement must comply with subsection (5). A copy of the security agreement is sufficient as a financing statement, if it contains the above information and is signed by the debtor. A legible carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

Sec. A-29. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 11, section 9-402, subsection (1), applies retroactively to April 8, 1994.

Sec. A-30. 12 MRSA §685-A, sub-§8, as amended by PL 1977, c. 694, §227-B, is repealed and the following enacted in its place:

8. Amendments to district boundaries and standards. The commission, of its own accord, may initiate, and any state or federal agency or any property owner or lessee, may petition for a change in

the boundary of any land use district or for amendments to any land use standard.

The commission shall, within 45 days of receipt of the petition, either approve the proposed amendment, deny the proposed amendment or schedule a public hearing on the proposed amendment in the manner provided in subsection 7. The notification procedures set forth in Title 5, section 8053 are not required prior to the commission's action upon a petition by a landowner for revision to the district boundaries within the landowner's ownership unless the commission determines to hold a hearing prior to acting upon the petition. Notice of the hearing must be given to all abutting landowners.

No change in a district boundary may be approved, unless there is substantial evidence that:

A. The change is consistent with the standards for district boundaries in effect at the time; the comprehensive land use plan; and the purpose, intent and provisions of this chapter; and

B. The change in districting satisfies demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

No amendment to land use standards may be approved unless there is substantial evidence that the change would better serve the purpose, intent and provisions of this chapter and would be consistent with the comprehensive land use plan.

Amendments to land use standards so adopted are effective immediately but must be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, those standards continue in full force and effect.

Sec. A-31. 12 MRSA §4807-G, as repealed and replaced by PL 1977, c. 300, §7, is amended to read:

§4807-G. Violations

Each day of violation of any provision of this chapter or the ~~regulations rules~~ enacted ~~hereunder~~ shall be under this chapter is considered a separate offense. Alternatively, and in addition ~~thereto to being an offense~~, any use of land in violation of this chapter ~~shall be deemed~~ is considered to be a nuisance and the ~~board~~ Department of Human Services may seek an injunction to prevent or abate a violation of this chapter or ~~regulations promulgated thereunder~~ rules adopted under this chapter.

Sec. A-32. 12 MRSA §6749-Q, as enacted by PL 1993, c. 740, §3, is amended to read:

§6749-Q. License surcharges

The following surcharges are assessed on licenses sold for calendar years 1995, 1996 and 1997:

1. Hand fishing sea urchin license. One hundred and sixty dollars on a sea urchin hand harvesting license;

2. Sea urchin dragging license. One hundred and sixty dollars on a sea urchin dragging license;

3. Sea urchin boat tender's license. Thirty-five dollars on a sea urchin boat tender's license;

4. Wholesale seafood license with a sea urchin buyer's permit. Five hundred dollars on a wholesale seafood license with a sea urchin buyer's permit; and

5. Wholesale seafood license with a sea urchin processor's permit. Two thousand five hundred dollars on a wholesale seafood license with a sea urchin processor's permit.

~~The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.~~

The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R.

Sec. A-33. 12 MRSA §7076, sub-§1, as amended by PL 1993, c. 24, §1 and c. 574, §7, is repealed and the following enacted in its place:

1. Residents over 70 years of age. A complimentary license to hunt, trap or fish, including an archery license under section 7102-A, a pheasant hunting permit under section 7106-B and a muzzle-loading hunting license under section 7107-A, must be issued to any resident of Maine who is 70 years of age or older upon application to the commissioner. These complimentary licenses, upon issuance, remain valid for the remainder of the life of the license holder, provided the license holder continues to satisfy the residency requirements set out in section 7001, subsection 32 and provided the license is not revoked or suspended. Residents who apply for these complimentary licenses at any time during the calendar year of their 70th birthday must be issued a license upon application, regardless of the actual date during that calendar year in which they attain age 70. A guide license may be renewed without charge for any resident of Maine who is 70 years of age or older upon application to the commissioner. The application must be accompanied by a birth certificate or other certified evidence of the applicant's date of birth and residency. When the holder of a license issued under

this subsection no longer satisfies the residency requirements set out in section 7001, subsection 32, the license is no longer valid and further use of the license for purposes of hunting, fishing or trapping constitutes a license violation under section 7371, subsection 3.

Sec. A-34. 12 MRSA §7106-A, as repealed and replaced by PL 1993, c. 438, §5, is repealed.

Sec. A-35. 12 MRSA §7106-B is enacted to read:

§7106-B. Pheasant hunting permit

1. Issuance. The commissioner or the commissioner's authorized agent may issue a pheasant hunting permit in the form of a stamp to applicants 16 years of age or older permitting them to hunt or possess pheasants in Cumberland County and York County. A person under 16 years of age may hunt or possess pheasants in accordance with chapters 701 to 721, except that a person under 16 years of age is not required to purchase or carry a pheasant hunting permit in order to hunt or possess pheasants.

2. Fee. The fee for a pheasant hunting permit is \$16, \$1 of which is retained by the commissioner's authorized agent.

3. Validation. A pheasant hunting permit is validated by the permittee writing the permittee's signature across the face of the stamp in ink.

4. Restrictions. The following restrictions apply to the hunting or possession of any pheasant in Cumberland County and York County.

A. A person must carry an unexpired validated pheasant hunting permit at all times when hunting or possessing a pheasant.

B. A pheasant hunting permit must be exhibited to a warden or employee of the department upon request.

5. Pheasant Fund; agreements. Revenues generated from the sale of pheasant hunting permits must be deposited into a separate account within the department, to be known as the Pheasant Fund and referred to in this section as the "fund." The fund is nonlapsing. The fund may be used only for costs directly related to the administration of the pheasant program, including grants to a qualified rod and gun club or qualified hunting-oriented organization to help defray the costs of purchasing and raising pheasants in accordance with an agreement with the commissioner. The commissioner may enter into an agreement with any qualified rod and gun club or qualified hunting-oriented organization to allow the club or organization to purchase and raise pheasants. An agreement

entered into pursuant to this subsection may provide for the use of department facilities for raising pheasants by a qualified rod and gun club or qualified hunting-oriented organization. For purposes of this subsection, "qualified rod and gun club or qualified hunting-oriented organization" means a rod and gun club or a hunting-oriented organization that has demonstrated involvement in raising and releasing pheasants in the year prior to entering into an agreement with the commissioner to purchase and raise pheasants.

6. Department participation. The department may not purchase or raise pheasants.

7. Release of birds. All pheasants purchased and raised under an agreement with the commissioner pursuant to subsection 5 must be released under the direction of department officials in areas open to hunting for the general public.

8. Rules. The commissioner may adopt rules necessary for the proper administration, enforcement and interpretation of this section.

Sec. A-36. 13-B MRSA §201, sub-§3, ¶G, as enacted by PL 1985, c. 737, Pt. A, §35, is amended to read:

G. Volunteer fire associations, as that term is used in Title ~~30~~ 30-A, chapter ~~228~~ 153.

Sec. A-37. 17 MRSA §331, sub-§7, as repealed and replaced by PL 1989, c. 254, §1, is amended to read:

7. Special exempt raffles; prizes more than \$10,000 but not more than \$25,000. The following rules apply to special exempt raffles licensed under this subsection.

A. Except as provided in subsection 8, the Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$25,000. Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special exempt raffle license shall be purchased from a licensed distributor or licensed printer. Tickets shall be

sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

Sec. A-38. 17 MRSA §331, sub-§8-A, as enacted by PL 1991, c. 796, §3, is amended to read:

8-A. Special exempt raffles; prizes more than \$10,000 but not more than \$75,000. The following rules apply to special exempt raffles licensed under this subsection.

A. The Chief of the State Police may issue one special exempt raffle license per year to any organization, department or class eligible to hold a raffle under subsection 6 without obtaining a license. The special exempt raffle license entitles the licensee to hold one raffle in which the holder of a winning chance receives something of value worth more than \$10,000 but not more than \$75,000. Section 341 does not apply to raffles licensed under this section.

B. The Chief of the State Police may not issue a license under this subsection to hold a raffle in which the holder of a winning chance receives a cash prize worth more than \$10,000.

C. All tickets sold pursuant to a special exempt raffle license must be purchased from a licensed distributor or licensed printer. Tickets must be sequentially numbered and have printed on their faces the following information: the name of the special exempt raffle licensee; a description of the prize or prizes; the price of the ticket; and the date, time and place of the drawing. Any organization, department or class listed in subsection 6 that conducts a raffle under section 331-A shall retain all unsold raffle tickets for 6 months after the raffle drawing and make those tickets available for inspection at the request of the Chief of the State Police.

D. The Chief of the State Police may issue only one special exempt raffle license per year, either under this subsection or subsection 7, to the same organization, department or class listed in subsection 6.

Sec. A-39. 18-A MRSA §5-419, sub-§(a), as amended by PL 1991, c. 641, §4, is further amended to read:

(a) Every conservator must account to the court for the administration of the trust as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule and upon resignation or removal. On termination of the protected person's minority or disability, a conservator may account to the court or may account to the former protected person or that person's personal representative. Prior to the termination of the protected person's minority ~~and the termination of any extension ordered pursuant to section 5-408, paragraph (6),~~ the conservator must account to the court and the protected person.

Sec. A-40. 20-A MRSA c. 701, first 2 lines, as enacted by PL 1993, c. 708, Pt. A, §1, are repealed and the following enacted in their place:

PART 8

REHABILITATION SERVICES

CHAPTER 701

REHABILITATION ACT

Sec. A-41. 22 MRSA §309, sub-§1, ¶D, as amended by PL 1993, c. 477, Pt. D, §4 and affected by Pt. F, §1, is further amended to read:

D. That the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State, that the citizens of the State have the ability to underwrite the additional costs of the proposed services and that the proposed services are in accordance with standards, criteria or plans adopted and approved pursuant to the state health plan developed by the department and the findings of the Maine Health Care Finance Commission under section ~~396-J~~ 396-K with respect to the ability of the citizens of the State to pay for the proposed services.

Sec. A-42. 22 MRSA §2660-C, first ¶, as enacted by PL 1993, c. 410, Pt. DD, §4, is amended to read:

The Maine Public Drinking Water Commission as established by Title 5, section 12004-I, subsection ~~47-A~~ 47-C, is created within the department.

Sec. A-43. 22 MRSA §3187, first ¶, as enacted by PL 1987, c. 402, Pt. A, §141, is amended to read:

The department shall meet annually with providers of community based intermediate care facilities for the mentally retarded to review current principles of reimbursement ~~for United States Code~~ under the federal Social Security Act, Title XIX, 42

United States Code, chapter 7, and discuss necessary and appropriate changes.

Sec. A-44. 22 MRSA §4318, 2nd ¶, as enacted by PL 1991, c. 622, Pt. M, §27, is amended to read:

Notwithstanding any other provision of law, municipalities have a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the former Workers' Compensation Act, the Maine Workers' Compensation Act of 1992 or similar law of any other state.

Sec. A-45. 22 MRSA §5001, sub-§9, as repealed by PL 1989, c. 400, §6 and amended by PL 1989, c. 410, §23, is repealed.

Sec. A-46. 24-A MRSA §1519, sub-§2, as amended by PL 1993, c. 637, §19, is repealed and the following enacted in its place:

2. As to applicants not licensed under this Title or licensed as insurance agent, broker or adjuster in this State under laws now in force, the superintendent shall secure, as soon as is reasonably possible after filing of the application, a credit or investigation report relative to the applicant from a recognized and established independent investigation and reporting agency. The cost, if any, of such report, in a reasonable uniform flat amount as from time to time fixed by the superintendent, must be paid by or on behalf of the applicant, and must be deposited with the superintendent at the time of filing the application. The superintendent shall promptly deposit the payment with the Treasurer of State to the credit of the Insurance Regulatory Fund. The superintendent shall keep confidential the contents of any such report and shall destroy the report after the application has been approved.

Sec. A-47. 24-A MRSA c. 79, first 2 lines, as enacted by PL 1993, c. 688, §1, are repealed and the following enacted in their place:

CHAPTER 81

MULTIPLE-EMPLOYER WELFARE ARRANGEMENTS

Sec. A-48. 25 MRSA §2359, as amended by PL 1987, c. 35, §2 and c. 192, §5, is repealed and the following enacted in its place:

§2359. Refusing admission to inspector

An owner or occupant of a building, who refuses to permit an inspector of buildings to enter the buildings or willfully obstructs the inspector in the inspection of such building as required by chapters

313 to 321, must be penalized in accordance with Title 30-A, section 4452.

Sec. A-49. 25 MRSA §2806, sub-§2, ¶A, as amended by PL 1993, c. 551, §4 and c. 744, §14, is repealed and the following enacted in its place:

A. For subsection 1, paragraph A and subsection 1, paragraph B, subparagraph (2), (4), (5) or (6):

(1) In accordance with Title 5, chapter 375, subchapter IV; or

(2) Upon notice, through conducting an informal conference with the officer. If the board finds the factual basis of the complaint is true and that further action is warranted, it may enter into a consent agreement with the officer, which may contain provisions including voluntary surrender of the certificate and terms and conditions of recertification;

Sec. A-50. 30-A MRSA §66, sub-§2, ¶A, as amended by PL 1993, c. 554, §1, is further amended to read:

A. Commissioner District Number 1 consists of the municipalities of Amity, Ashland, Bancroft, Blaine, Bridgewater, Cary Plantation, Crystal, Dyer Brook, Easton, Fort Fairfield, Garfield Plantation, Glenwood Plantation, Hammond, Haynesville, Hersey, Hodgdon, Houlton, Island Falls, Linneus, Littleton, Ludlow, Macwahoc Plantation, Mars Hill, Masardis, Merrill, Monticello, Moro Plantation, Nashville Plantation, New Limerick, Oakfield, Orient, Oxbow Plantation, Reed Plantation, Sherman, Smyrna, Westfield, Weston and the unorganized territories of Central Aroostook and South Aroostook and ~~that portion~~ those portions of the unorganized territory formerly known as Benedicta and E Plantation. The term of office of the county commissioner from this district expires in 1994 and every 4 years thereafter.

Sec. A-51. 30-A MRSA §899-A is enacted to read:

§899-A. Review

The joint standing committee of the Legislature having jurisdiction over county government matters may review the operation of the budget committee before February 1, 1997 and, if it determines necessary, introduce legislation to amend or repeal this article. If the committee fails to act, this article continues in effect.

Sec. A-52. 30-A MRSA §900, as enacted by PL 1993, c. 582, §1, is repealed.

Sec. A-53. 30-A MRSA §5263, sub-§10, as enacted by PL 1993, c. 671, §2, is amended to read:

10. Pulp and paper industry. "Pulp and paper industry" means any industrial activity currently described by the United States Office of Management and Budget under Standard Industrial Classification 261, 262 or 263 or those activities classified under classification 2679 that press or mold wood pulp or recycled fiber to make products, including, without limitation, any activity regarding the treatment, recycling or disposal of wastewater, air emissions, solid residues or other related manufacturing by-products. This term does not include activity relating to, associated with or otherwise involving the growth, harvesting, transportation or preparation of timber, pulpwood or other wood products prior to the manufacture of pulp, paper or paperboard.

Sec. A-54. 30-A MRSA §5703, sub-§1, as enacted by PL 1989, c. 381, is amended to read:

1. Limitations on municipal debt. The limitations on municipal debt in section 5702 shall not be construed as applying to any funds received in trust by any municipality, any loan which has been funded or refunded, notes issued in anticipation of federal or state aid or revenue sharing money, tax anticipation loans, notes maturing in the current municipal year, indebtedness of entities other than municipalities, indebtedness of any municipality to the Maine School Building Authority, debt issued under chapter ~~235~~ 213 and Title 10, chapter 110, subchapter IV, obligations payable from revenues of the current municipal year or from other revenues previously appropriated by or committed to the municipality, and the state reimbursable portion of school debt. The limitations on municipal debt set forth in section 5702 do not apply to obligations incurred by one or more municipalities pursuant to Title 38, section 1304-B, with respect to solid waste facilities, which obligations are regulated in the manner set forth in Title 38, section 1304-B.

Sec. A-55. 32 MRSA §1075, last ¶, as amended by PL 1993, c. 600, Pt. A, §61 and c. 659, Pt. B, §4, is repealed and the following enacted in its place:

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by law to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-56. 32 MRSA §2153-A, sub-§11, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

11. Budget. 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 revision or change, unless alterations are mutually agreed upon by the department 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 subchapter;

Sec. A-57. 32 MRSA §2153-A, last ¶, as enacted by PL 1993, c. 600, Pt. A, §123, is amended to read:

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner does not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-58. 32 MRSA §2418, last ¶, as amended by PL 1993, c. 600, Pt. A, §147 and c. 659, Pt. B, §10, is repealed and the following enacted in its place:

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. A-59. 32 MRSA §2418-A, as amended by PL 1993, c. 600, Pt. A, §148 and c. 659, Pt. B, §11, is repealed and the following enacted in its place:

§2418-A. Budget

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

Sec. A-60. 32 MRSA §3271, sub-§2, as amended by PL 1993, c. 600, Pt. A, §208 and c. 659, Pt. B, §16, is repealed and the following enacted in its place:

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 must have satisfactorily completed at least 24 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an accredited medical school prior to January 1, 1970, must have satisfactorily completed at least 12 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an unaccredited medical school must have satisfactorily completed at least 36 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Royal Colleges of Physicians of England, Ireland or Scotland. Notwithstanding this subsection, an applicant who is board certified in family practice and who graduated prior to July 1, 1974, is board certifiable, board certified or board eligible in emergency medicine and who graduated prior to July 1, 1982, is deemed to meet the post-graduate training requirements of this subsection.

Sec. A-61. 32 MRSA §3280, as amended by PL 1993, c. 600, Pt. A, §216, is repealed.

Sec. A-62. 32 MRSA §3604, as amended by PL 1993, c. 600, Pt. A, §237 and c. 659, Pt. B, §17, is repealed and the following enacted in its place:

§3604. Reports; liaison; limitations

On or before August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with comments and recommendations the board determines essential.

The commissioner shall act as a liaison between the board and the Governor.

The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by law to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the

board is operating administratively within the requirements of this chapter.

Sec. A-63. 34-A MRSA §1001, sub-§6, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

6. Correctional facility. "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include a county jail, holding facility, short-term detention area or a detention facility.

Sec. A-64. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 34-A, section 1001, subsection 6 applies retroactively to October 9, 1991.

Sec. A-65. 35-A MRSA §4403, as enacted by PL 1993, c. 662, §1, is amended to read:

§4403. Surplus energy pool established

The commission shall, within 90 days of the effective date of this section, estimate the total amount of surplus electricity that is likely to be available to each eligible electric utility and the period during which that surplus will be available. The commission shall calculate the total surplus as the amount of electricity not required to meet the utility's projected load at any time during the period of surplus and not needed to satisfy the requirements of the utility's participation in the New England power pool as defined in section 4103. The energy pool available to be auctioned under this chapter may be no more than 80% of the total surplus electricity estimated by the commission. The commission may further restrict the size of the pool to the extent the commission determines necessary to protect the interests of ratepayers. This ~~subsection~~ section does not preclude an eligible electric utility from marketing surplus energy under any other applicable tariff or special contract filed with the commission.

Sec. A-66. 35-A MRSA §7302, sub-§1, as amended by PL 1993, c. 589, §13 and c. 708, Pt. J, §10, is repealed and the following enacted in its place:

1. Rate reduction. The commission shall establish a 70% rate reduction for intrastate toll calls made on lines, or via credit cards assigned to lines, used for making calls from certified deaf, hard-of-hearing or speech-impaired persons who must rely on teletypewriters for residential telephone communications. In addition, the 70% rate reduction must apply to all calls using the state telecommunications relay service. Upon request, this discount must be provided to any noncertified user making calls to a certified user, provided the noncertified user informs the local exchange carrier or toll provider of the relevant billed calls made during each billing period. This reduction

must also apply to intrastate toll calls made by agencies certified by the Division of Deafness in the Department of Education as eligible to receive a discount, while providing vocal relay services to deaf, hard-of-hearing or speech-impaired persons, as well as to community service centers serving deaf, hard-of-hearing or speech-impaired persons certified by the Division of Deafness of the Department of Education as eligible to receive a discount. The costs incurred by a telephone company under this subsection are just and reasonable expenses for rate-making purposes.

Sec. A-67. 36 MRSA §305, sub-§1, as amended by PL 1993, c. 696, §4, is further amended to read:

1. Just value. Certify to the Secretary of State before the first day of February the equalized just value of all real and personal property in each municipality and unorganized place that is subject to taxation under the laws of this State, except that percentage of captured assessed value located within a tax increment financing district that is used to finance that district's development plan and the valuation amount by which the current assessed value of commercial and industrial property within a municipal incentive development zone, as determined in Title 30-A, section 5284, exceeds the assessed value of commercial and industrial property within the zone as of the date the zone is approved by the Commissioner of Economic and Community Development, known in this subsection as the "sheltered value," up to the amount invested by a municipality in infrastructure improvements under an infrastructure improvement plan adopted pursuant to Title 30-A, section 5283. The equalized just value must be uniformly assessed in each municipality and unorganized place and be based on 100% of the current market value. It must separately show for each municipality and unorganized place the actual or estimated value of all real estate that is exempt from property taxation by law or is the captured value within a tax increment financing district that is used to finance that district's development plan, as reported on the municipal valuation return filed pursuant to section 383, or that is the sheltered value of a municipal incentive development zone. The valuation as filed remains in effect until the next valuation is filed and is the basis for the computation and apportionment of the state and county taxes;

Sec. A-68. 36 MRSA §653, sub-§1, ¶E, as amended by PL 1993, c. 680, Pt. A, §29 and repealed and replaced by c. 739, §3, is repealed and the following enacted in its place:

E. The word "veteran" as used in this subsection means any person, male or female, who was in active service in the Armed Forces of the United States and who, if discharged, retired or separated from the Armed Forces, was discharged,

retired or separated under other than dishonorable conditions.

Sec. A-69. 36 MRSA §4641-C, sub-§16, as amended by PL 1993, c. 647, §3 and c. 718, Pt. B, §11, is repealed and the following enacted in its place:

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;

Sec. A-70. 36 MRSA §4641-C, sub-§17, as enacted by PL 1993, c. 647, §4 and c. 718, Pt. B, §12, is repealed and the following enacted in its place:

17. Deeds to charitable conservation organizations. Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds; and

Sec. A-71. 36 MRSA §4641-C, sub-§18 is enacted to read:

18. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed.

Sec. A-72. 37-B MRSA §823, as enacted by PL 1983, c. 460, §3, is amended to read:

§823. Compensation for injuries received in line of duty

All members of the civil emergency preparedness forces ~~shall be~~ are deemed to be employees of the State while on, or training for, civil emergency preparedness duty. They ~~shall~~ have all the rights given to state employees under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. All claims ~~shall~~ must be filed, prosecuted and determined in accordance with the procedure set forth in the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992.

1. Average weekly wage. In computing the average weekly wage of any claimant under this section, the average weekly wage ~~shall~~ must be taken to be the earning capacity of the injured person in the occupation in which ~~he~~ the injured person is regularly engaged.

2. Setoff. Any sums payable under any act of Congress or other federal program as compensation for death, disability or injury of civil emergency preparedness workers ~~shall~~ must be considered with the determination and settlement of any claim brought under this section. When payments received from the Federal Government are less than an injured member would have been entitled to receive under this section, ~~he shall be~~ the injured member is entitled to receive all the benefits to which ~~he~~ the injured member would have been entitled under this section, less the benefits actually received from the Federal Government.

Sec. A-73. 38 MRSA §352, sub-§5-B, as amended by PL 1993, c. 632, §2 and affected by §3, and repealed by c. 735, §5, is repealed.

Sec. A-74. 38 MRSA §353, sub-§3, as amended by PL 1993, c. 410, Pt. G, §4, is further amended to read:

3. License fee. The license fee assessed in section 352, subsection 5 must be paid at the time of filing the application. Failure to pay the license fee at the time of filing results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection ~~5-B~~ 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant. Notwithstanding the provisions of this subsection, the license fee for a subdivision must be paid prior to the issuance of the license.

The license fees for nonferrous metal mining must be paid annually on the anniversary date of the license for the life of the project, up to and including the period of closure and reclamation.

Sec. A-75. 38 MRSA §488, sub-§14, as enacted by PL 1993, c. 721, Pt. C, §2 and affected by Pt. H, §1, is amended to read:

14. Developments within designated growth areas. The following provisions apply to developments within a designated growth area.

A. A development is exempt from review under traffic movement, flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

(1) A municipality that has adopted a local growth management program that the Department of Economic and Community Development has certified under Title 30-A, section 4348; and

(2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the Department of Economic and Community Development affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

B. The commissioner may require application of the traffic movement, noise, flood plain or infrastructure standards to a proposed development if the commissioner determines, after receipt of a petition under subparagraph (1) or on the commissioner's own initiative under subparagraph (2), that a reasonable likelihood exists that the development will have a significant and unreasonable impact on traffic movement, flood plains, infrastructure or noise beyond the boundaries of the municipality within which the development is to be located.

(1) Within 15 working days after the publication of the notice required under paragraph A, municipal officers or residents of the municipality in which the development

is proposed to occur or municipal officers or residents of an abutting municipality may petition the commissioner to apply one or more of the standards for which an exemption is claimed under this subsection. A petition must be signed either by the municipal officers of the petitioning municipality or by 10% of that number of registered voters of the petitioning municipality casting ballots in the most recent gubernatorial election or 150 registered voters of the petitioning municipality, whichever is less. The petition must include the name and legal address of each signatory and must designate one signatory as the contact person. The commissioner shall notify the contact person and the applicant of the commissioner's decision within 10 working days after receipt of a petition meeting the requirements of this subsection. A decision by the commissioner under this subparagraph is appealable to the board.

(2) A decision to require the application of one or more standards made on the commissioner's own initiative must be made within 15 working days after the application is filed with the department.

~~Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in stormwater runoff caused by the development.~~

Nothing in this subsection may be construed to exempt a proposed development from review for flooding potential due to increases in stormwater runoff caused by the development.

Sec. A-76. 38 MRSA §1303-C, sub-§39, as amended by PL 1993, c. 424, §2 and affected by §3, is repealed and the following enacted in its place:

39. Treatment. "Treatment" means any process, including but not limited to incineration, designed to change the character or composition of any hazardous waste, waste oil or biomedical waste so as to render the waste less hazardous or infectious.

Sec. A-77. 38 MRSA §1310-F, sub-§2, as amended by PL 1993, c. 621, §6 and repealed and replaced by c. 732, Pt. C, §15, is repealed and the following enacted in its place:

2. Eligibility. A municipality that owns, rents or leases a solid waste landfill for which obligations are required or permitted by this chapter or rules adopted under this chapter is eligible for cost-sharing grants or reimbursement payments. In order to receive reimbursement pursuant to this section, the

municipality must, at a minimum, provide such reasonable proof of municipal expenditures as the department may require, as well as certification signed by the municipal officers that, to the best of their knowledge and the knowledge of all the pertinent municipal officials, the closure activities were performed in accordance with the applicable standards established by section 1310-E-1. A municipality that has spent funds to close its solid waste landfill or to remedy environmental and public health hazards posed by the landfill prior to the adoption of a closure or remediation plan under this subchapter or that closed a landfill or remediated environmental or public health hazards posed by a landfill is also eligible for reimbursement of closure or remediation costs incurred after February 1, 1976, as long as the closure or remediation actions were in conformance with all applicable laws or rules in effect at the time. Costs incurred by closure or remediation actions taken after the adoption of a closure or remediation plan under this subchapter are eligible for reimbursement only if those actions conform to that plan. Grant or reimbursement payments may not be made to a municipality for a portion of payments to settle civil or criminal judgments against that municipality for damages or injuries caused by the landfill. In addition, for landfills in operation prior to January 1, 1993, grant payments may not be made to a municipality for remediation to mitigate a threat posed by that landfill to structures built after January 1, 1994 by that municipality, the county in which that municipality is located, a school administrative unit as defined in Title 20-A, section 1, a quasi-municipal corporation as defined in Title 30-A, section 2351 or a special district as defined in Title 30-A, section 5704 that includes any portion of the municipality unless the commissioner determines that the municipality could not have reasonably anticipated the threat. Any interest paid by a municipality prior to reimbursement on a municipal bond or commercial bank note issued to raise funds for remediation and closure activities is a cost eligible for reimbursement under this section. Unless otherwise directed by the terms of a bond issue approved by the voters, the commissioner shall use at least 1/3 of the funds approved by the voters for municipalities eligible for reimbursement of closure and remediation costs eligible under this subsection until all those municipalities have been reimbursed. The remainder of the available funds must be allocated in an equitable manner so that, at a minimum, an adequate cap is constructed over all identified high-risk landfills subject to closure. The department shall issue, upon the request of a municipality, a notice in writing that projects to a date certain the availability of cost-sharing funds for which the municipality is eligible. The inability or failure of the department to issue a written projection to a date certain means that the cost-sharing funds are not available for the foreseeable future. A landfill that is

privately owned and operated is not eligible for reimbursement under this subchapter.

A. The commissioner may act to abate public health, safety and environmental threats at sites identified as uncontrolled hazardous substance sites under section 1362, subsection 3 or at federally declared Superfund sites. Notwithstanding any other provision of this article, the commissioner shall determine the amount of funds expended at those sites.

B. The commissioner may enter into contracts with the Maine Municipal Bond Bank to manage bonds issued under this article, as long as the management fee structure does not allow dilution of the bond principal.

C. In a circumstance where the department finds that further closure or remediation activities are required for a landfill because the landfill was not closed in accordance with the standards of closure that the municipal officers certified to the department pursuant to this subsection and further finds that the certification was a negligent misrepresentation of a material fact results in the ineligibility of the municipality for cost sharing for the additional activities that may be required as a result of the nonperformance of the previously certified activities.

D. A municipality that is eligible or authorized by the department to use the closing procedure established in section 1310-E-1, subsection 1, 2 or 3 is not eligible for reimbursement of costs associated with closing activities that are more stringent than the minimum required by that section unless those additional activities are approved in writing by the department.

Sec. A-78. 38 MRSA §1364, sub-§5, ¶¶A and B, as enacted by PL 1993, c. 621, §7, are amended to read:

A. Neither the commissioner nor any responsible party is obligated under this ~~subchapter~~ chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and

B. The obligation of the commissioner or any responsible party under this ~~subchapter~~ chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well is installed in an area other than one described in paragraph A. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, in-

cluding the cost of any pump or piping installed with the well.

Sec. A-79. 38 MRSA §1367-C, sub-§§1 and 2, as enacted by PL 1993, c. 621, §8, are amended to read:

1. Delineated contaminated area. Neither the commissioner nor any responsible party is obligated under this ~~subchapter~~ chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and

2. Areas not delineated. The obligation of the commissioner or any responsible party under this ~~subchapter~~ chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well was installed in an area other than one described in subsection 1. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, including the cost of any pump or piping installed with the well.

Sec. A-80. 39-A MRSA §602, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§602. Application

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of employment and resulting from an occupational disease must be treated as the happening of a personal injury arising out of and in the course of the employment, within the meaning of the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992, and all the provisions of ~~that the applicable Act apply to such that~~ that the applicable Act apply to such that occupational ~~diseases~~ disease. This chapter applies only to cases in which the last exposure to an occupational disease in an occupation subject to the hazards of ~~such that~~ that disease occurred in the State and after January 1, 1946.

Sec. A-81. 39-A MRSA §606, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§606. Date from which compensation is computed; employer liable

The date when an employee becomes incapacitated by an occupational disease from performing the employee's work in the last occupation in which the employee was injuriously exposed to the hazards of the occupational disease is the date of the injury equivalent to the date of injury under the former Workers' Compensation Act or the Maine Workers'

Compensation Act of 1992. ~~Where~~ When compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease and the insurance carrier, if any, on the risk when the employee was last exposed under that employer, are liable. The amount of the compensation must be based on the average wages of the employee when last exposed under that employer and notice of injury and claim for compensation must be given to that employer. The only employer and insurance carrier liable are the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of 60 days or more and the insurance carrier, if any, on the risk when the employee was last so exposed, under that employer.

Sec. A-82. PL 1991, c. 314, §5 is repealed.

Sec. A-83. Retroactivity. That section of this Act that repeals Public Law 1991, chapter 314, section 5 applies retroactively to October 9, 1991.

Sec. A-84. PL 1993, c. 413, §4, amending clause is amended to read:

Sec. 4. PL 1991, c. 780, Pt. KKK, §7, under the caption "ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF," in that part relating to Departments and Agencies - Statewide, 2nd line, as amended by PL 1993, c. 70, §8, is repealed and the following enacted in its place:

Sec. A-85. PL 1993, c. 415, Pt. L, §3 is amended to read:

Sec. L-3. PL 1993, c. 159, §2, as amended by PL 1993, c. 410, Pt. XXX, §1, is repealed.

Sec. A-86. PL 1993, c. 582, §1, amending clause is amended to read:

Sec. 1. 30-A MRSA c. 3, sub-c. I, art. 12 is enacted to read:

Sec. A-87. PL 1993, c. 642, §40 is repealed.

Sec. A-88. Retroactivity. That section of this Act that repeals Public Law 1993, chapter 642, section 40, applies retroactively to April 8, 1994.

Sec. A-89. PL 1993, c. 659, Pt. B, §§8 and 9 are repealed.

Sec. A-90. PL 1993, c. 732, Pt. A, §8 is repealed.

Sec. A-91. PL 1995, c. 1, §1, amending clause is amended to read:

Sec. 1. PL 1993, c. 684, §5 §4, sub-§5 is amended to read:

Sec. A-92. Retroactivity. That section of this Part that enacts Title 12, section 7106-B applies retroactively to June 30, 1993.

PART B

Sec. B-1. 5 MRSA §943, sub-§1, ¶A, as enacted by PL 1983, c. 729, §4, is repealed.

Sec. B-2. 5 MRSA §1543, 3rd ¶, as amended by PL 1969, c. 186, §1, is further amended to read:

Notwithstanding the foregoing paragraph, the ~~Chairman of the Maine Employment Security Commission~~ Commissioner of Labor is authorized to prepare and sign warrants for the payment of benefits to eligible unemployed persons and allowances to persons eligible ~~therefor~~ under federally sponsored human resources development programs ~~which that~~ authorize the Maine Employment Security Commission ~~Department of Labor~~ to designate the recipients of ~~such~~ allowances from federal funds granted or allocated to the ~~commission~~ department under ~~such~~ these programs, which warrants ~~shall~~, upon being ~~countersigned by the remaining 2 members of the commission and~~ delivered to the payee, become a check against a designated bank or trust company acting as a depository of the State Government. The authority of the ~~chairman~~ commissioner to prepare and sign ~~such~~ the warrants is limited solely to the payment of benefits to eligible unemployed persons and to allowances to persons eligible ~~therefor~~ under ~~the aforesaid~~ these federal programs. The facsimile ~~signatures~~ signature of the ~~chairman of the commission and the remaining 2 members of the commission~~ commissioner who ~~are~~ is leaving office ~~shall be~~ is valid until a new signature ~~plates~~ plate for the ~~signatures~~ signature authorized ~~have~~ has been obtained for ~~their successors~~ the commissioner's successor.

Sec. B-3. 17 MRSA §331, sub-§6, as enacted by PL 1987, c. 190, §3, is amended to read:

6. Raffles with prizes of \$10,000 or less. Notwithstanding subsection 1, ~~no~~ a license to conduct or operate a raffle as defined in section 330, subsection 5, in which the holder of the winning chance does not receive something of value worth more than \$10,000, is not required of the following:

A. Any agricultural society eligible for the state stipend under Title 7, section 62, or any bona fide, nonprofit organization ~~which that~~ is either charitable, educational, political, civic, recreational, fraternal, patriotic or religious or any auxiliary of such organization;

B. Any volunteer police force, fire department or ambulance corps; or

C. Any class or organization of an elementary, secondary or post-secondary educational institution operated or accredited by the State.

Any exempt organization, department or class or combination listed in paragraph A, B or C may sponsor, operate and conduct a raffle without a license only for the exclusive benefit of that organization, department or class or combination ~~thereof~~ and that raffle ~~shall~~ must be conducted only by duly authorized members of the sponsoring organization, department or class or combination ~~thereof~~.

Sec. B-4. 23 MRSA §3031, sub-§3, as enacted by PL 1987, c. 385, §2, is amended to read:

3. Shorter duration of public and private rights; rights of lesser extent. Notwithstanding subsections 1 and 2, the developer or other person recording a subdivision plan in the registry of deeds may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The developer or other person recording the subdivision plan shall cause the shorter duration to be noted on the face of the subdivision plan.

Pursuant to a subdivision review under Title ~~30~~ 30-A, ~~section 4956~~ chapter 187, subchapter IV, the municipal reviewing authority may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The municipal reviewing authority shall cause the shorter duration to be noted on the face of the subdivision plan.

Nothing in this section may be construed to prohibit the developer or other person recording a subdivision plan in the registry of deeds from granting rights of lesser extent than those established in subsections 1 and 2. If rights of lesser extent are granted, the person recording the subdivision plan shall cause the extent of those rights to be described on the face of the subdivision plan and in any conveyance of land shown on the plan.

Sec. B-5. 24-A MRSA §2384-B, sub-§10, as amended by PL 1993, c. 610, §1, is further amended to read:

10. Claims covered. This section applies to all claims occurring on or after January 1, 1989 and prior to January 1, 1993 and to all death, permanent total and major permanent partial claims occurring between January 1, 1987 and December 31, 1988; and to a reasonable sample, as approved by the superintendent, of all other indemnity claims occurring between January 1, 1987 and December 31, 1988. The super-

intendent may suspend the reporting requirements of specific items for periods when information that is to be obtained from the ~~Workers' Compensation Commission or Workers' Compensation Board~~ is temporarily unavailable ~~from those entities~~.

Sec. B-6. 32 MRSA §3269, sub-§13, as amended by PL 1993, c. 600, Pt. A, §202 and c. 659, Pt. B, §14, is repealed.

Sec. B-7. 32 MRSA §3269, sub-§14, as amended by PL 1993, c. 600, Pt. A, §202 and c. 659, Pt. B, §15, is repealed and the following enacted in its place:

14. Budget. The duty to 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 revision, alteration or change, unless alterations are mutually agreed upon by the department and the board or the board's designee;

Sec. B-8. 32 MRSA §3269, as amended by PL 1993, c. 659, Pt. B, §§14 and 15, is further amended by adding at the end 2 new paragraphs to read:

The Commissioner of Professional and Financial Regulation acts as a liaison between the board and the Governor.

The Commissioner of Professional and Financial Regulation does not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. B-9. 36 MRSA §1760, sub-§64, as amended by PL 1993, c. 670, §5, is further amended to read:

64. Schools and school-sponsored organizations. Sales of tangible personal property and taxable services by public and private elementary and secondary schools that otherwise qualify as schools under subsection 16, and by student organizations sponsored by those schools, including booster clubs and student or parent-teacher organizations, as long as the profits from such sales are used to benefit those schools or student organizations or are used for a charitable purpose.

PART C

Sec. C-1. 14 MRSA §8112, sub-§9, as repealed by PL 1993, c. 707, Pt. G, §9, is reenacted to read:

9. Certain suits arising out of use of motor vehicles. A governmental entity is not required to assume the defense of or to indemnify an employee of that governmental entity who uses a privately owned vehicle, while acting in the course and scope of employment, to the extent that applicable liability insurance coverage exists other than that of the governmental entity. In such cases, the employee of the governmental entity and the owner of the privately owned vehicle may be held liable for the negligent operation or use of the vehicle but only to the extent of any applicable liability insurance, which constitutes the primary coverage of any liability of the employee and owner and of the governmental entity. To the extent that liability insurance other than that of the governmental entity does not provide coverage up to the limit contained in section 8105, the governmental entity remains responsible for any liability up to that limit.

Sec. C-2. PL 1995, c. 352, §1 is repealed.

Sec. C-3. Retroactivity. This Part applies retroactively to June 30, 1995.

PART D

Sec. D-1. 5 MRSA §6207, sub-§2, ¶¶A and C, as enacted by PL 1987, c. 506, §§1 and 4, are amended to read:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section.

Sec. D-2. 22 MRSA §14, sub-§2-I, ¶A, as amended by PL 1993, c. 707, Pt. I, §1, is further amended to read:

A. The department has a claim against the estate of a Medicaid recipient when, after the death of the recipient:

(1) Property or other assets are discovered that existed and were owned by the recipient during the period when Medicaid benefits were paid for the recipient and disclosure of the property or assets at the

time benefits were being paid would have rendered the recipient ineligible to receive the benefits;

(2) It is determined that the recipient was 55 years of age or older when that person received Medicaid assistance; or

(3) It is determined that the recipient has received or is entitled to receive benefits under a long-term care insurance policy in connection with which assets or resources ~~that~~ are disregarded and medical assistance was paid on behalf of the recipient for nursing facility or other long-term care services.

Sec. D-3. 22 MRSA §14, sub-§2-I, ¶B, as amended by PL 1993, c. 707, Pt. I, §1, is repealed and the following enacted in its place:

B. The amount of Medicaid benefits paid and recoverable under this subsection is a claim against the estate of the deceased recipient.

(1) As to assets of the recipient included in the probated estate, this claim may be enforced pursuant to Title 18-A, Article III, Part 8.

(2) As to assets of the recipient not included in the probated estate, this claim may be enforced by filing a claim in any court of competent jurisdiction.

Sec. D-4. 28-A MRSA §161-B, sub-§§1, 4 and 5, as enacted by PL 1995, c. 140, §3, are amended to read:

1. Application to local authorities. Prior to registration with the ~~commission~~ bureau under section 161, an owner or operator of a bottle club must apply to the municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, for permission to operate the bottle club or for transfer of location of an existing bottle club. The ~~commission~~ bureau shall prepare and supply application forms.

4. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the ~~commission~~ bureau. The ~~commission~~ bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the ~~commission~~ bureau may consider all of the requirements referred to in subsection 3.

A. If the decision appealed is approval of the application, the ~~commission~~ bureau may reverse

the decision if it was arbitrary or based on an erroneous finding.

B. If the decision appealed is denial of the application, the ~~commission~~ bureau may reverse the decision and register the bottle club under section 161 only if it finds by clear and convincing evidence that the decision was without justifiable cause.

5. Appeal to Superior Court. Any person or governmental entity aggrieved by a ~~commission~~ bureau decision under this section may appeal the decision to the Superior Court.

Sec. D-5. 30-A MRSA §1561, sub-§2, as repealed and replaced by PL 1995, c. 201, §1, is amended to read:

2. Civil action for recovery of expenses. Notwithstanding the other provisions of this section, ~~the State~~ a county may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by ~~the State~~ a county on behalf of a prisoner incarcerated in a facility. The following assets are not subject to judgment under this subsection:

A. Joint ownership, if any, that the prisoner may have in real property;

B. Joint ownership, if any, that the prisoner may have in any assets, earnings or other sources of income; and

C. The income, assets, earnings or other property, both real and personal, owned by the prisoner's spouse or family.

Sec. D-6. 34-A MRSA §3031, sub-§2, ¶A, as repealed and replaced by PL 1995, c. 201, §2, is amended to read:

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

(1) Receives treatment initiated by facility staff;

(2) Is a juvenile;

(3) Is pregnant;

(4) Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so

impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;

(5) Is an inpatient at a state-funded mental health or mental retardation facility;

(6) Is undergoing follow-up treatment;

(7) Receives emergency treatment as determined by the facility's medical or dental staff; ~~and or~~

(8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

Sec. D-7. PL 1991, c. 415, §1, first 3 lines are repealed and the following enacted in its place:

Sec. 1. 7 MRSA §18, as enacted by PL 1989, c. 869, Pt. C, §1, is repealed and the following enacted in its place:

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

Effective July 3, 1995, unless otherwise indicated.

CHAPTER 463

H.P. 806 - L.D. 1123

An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation

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

Sec. 1. 5 MRSA §8052, sub-§1, as amended by PL 1977, c. 694, §34-A, is further amended to read:

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, provided that a public hearing ~~shall be~~ is held if otherwise required by statute or requested by any 5 interested persons.

A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public

hearing and is subject to all the provisions of this subchapter regarding public hearings. This paragraph does not require compliance with this subchapter when an agency holds an informal meeting for the purpose of gathering public input prior to developing or deciding whether to proceed with development of a proposed rule.

Sec. 2. 5 MRSA c. 375, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

RULEMAKING PROCEDURES GOVERNING RULES AUTHORIZED AND ADOPTED AFTER JANUARY 1, 1996

§8071. Legislative review of certain agency rules

Except as otherwise provided in this subchapter, rules adopted pursuant to rule-making authorization delegated to an agency after January 1, 1996 are subject to the procedures of this subchapter and subchapter II.

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that are enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

2. Categories of rules. There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute.

B. Major substantive rules are rules that, in the judgment of the Legislature:

(1) Require the exercise of significant agency discretion or interpretation in drafting; or

(2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government.

3. Levels of rule-making process. In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements.

A. Routine technical rules are subject to the rule-making requirements of subchapter II only.

B. Major substantive rules are subject to the requirements of section 8072. After January 1, 1996, any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules as provided in section 8072.

The establishment or amendment of an agency fee by rulemaking is a major substantive rule, except for the establishment or amendment of a fee that falls under a cap or within a range set in statute, which is a routine technical rule.

§8072. Legislative review of major substantive rules

As provided in section 8071, major substantive rules are subject to an increased level of rule-making requirements. The rule-making requirements of subchapter II for routine technical rules apply to the adoption of major substantive rules, except that the 120-day period for adoption and the 150-day period for approval as to form and legality under section 8052, subsection 7, paragraphs A and B apply to provisional adoption of major substantive rules, not final adoption. In addition to the other rule-making requirements, every major substantive rule is also subject to legislative review as provided in this section.

1. Preliminary adoption of major substantive rules. An agency proposing a major substantive rule other than an emergency rule, after filing the notice of proposed rulemaking required by section 8052, shall

proceed with rule-making procedures to the point of, but not including, final adoption. At that point, known in this section as "provisional adoption," the agency shall submit the rule to the Legislature for review and authorization for final adoption as provided in this section. The rule has legal effect only after review by the Legislature followed by final adoption by the agency.

2. Submission of materials. At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;

B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal;

C. A statement of the circumstances that require the rule;

D. A statement of the economic impact of the rule on the State and its residents; and

E. Any other information required by law.

3. Assignment to committee of jurisdiction.

Upon receipt of the required copies of the provisionally adopted rule and related information, the Executive Director of the Legislative Council shall determine the joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall send the information to each member of that committee. Each rule submitted for legislative review must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

4. Committee review. The committee shall review each provisionally adopted rule and, in its discretion, may hold public hearings on that rule. A public hearing under this subsection must be advertised in the same manner as required by legislative rules then in effect for advertisement of public hearings on proposed legislation. The committee's review must include, but is not limited to, a determination of:

A. Whether the agency has exceeded the scope of its statutory authority in approving the provisionally adopted rule;

B. Whether the provisionally adopted rule is in conformity with the legislative intent of the statute the rule is intended to implement, extend, apply, interpret or make specific;

C. Whether the provisionally adopted rule conflicts with any other provision of law or with any other rule adopted by the same or a different agency;

D. Whether the provisionally adopted rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed;

E. Whether the provisionally adopted rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

F. Whether the provisionally adopted rule could be made less complex or more readily understandable for the general public; and

G. Whether the provisionally adopted rule was proposed in compliance with the requirements of this chapter and with requirements imposed by any other provision of law.

5. Committee recommendation. After reviewing the rule, the committee shall recommend:

A. That the Legislature authorize the final adoption of the rule;

B. That the Legislature authorize the final adoption of a specified part of the rule;

C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or

D. That the final adoption of the rule be disapproved by the Legislature.

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.

6. Draft legislation. When the committee recommends that a rule be authorized in whole or in part by the Legislature, the committee shall instruct its nonpartisan staff to draft a bill authorizing the adoption of all or part of the rule and incorporating any amendments the committee desires.

7. Consideration by the Legislature. No later than 30 days before statutory adjournment of the Legislature as provided in Title 3, section 2, each joint standing committee of the Legislature shall submit to the Secretary of the Senate and the Clerk of the House

of Representatives the committee's report on agency rules the committee has reviewed as provided in this section. The report must include a copy of the rule or rules reviewed, the committee's recommendation concerning final adoption of the rule or rules, a statement of the reasons for a recommendation to withdraw or modify the rule or rules and draft legislation for introduction in that session that is necessary to implement the committee's recommendation. A committee may decline to include in its report recommendations covering any rules submitted to it later than 45 days before statutory adjournment. If, before adjournment of the session at which a rule is reviewed, the Legislature fails to act on all or part of any rule submitted to it for review in accordance with this section, an agency may proceed with final adoption and implementation of the rule or part of the rule that was not acted on.

8. Final adoption; effective date. Unless otherwise provided by law, final adoption of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or of the adjournment of the session at which that rule is reviewed if no legislation is enacted. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be published as provided in section 8056, subsection 1, paragraph D. An agency rule authorized by the Legislature becomes effective 30 days after filing with the Secretary of State or at a later date specified by the agency.

9. Consideration at special session. If appropriate, the committee recommendation regarding an agency rule or rules may be submitted to and considered by a special session of the Legislature.

§8073. Emergency major substantive rules

Major substantive rules are subject to the emergency rule-making procedures required under subchapter II, except that a major substantive rule adopted on an emergency basis after the deadline for submission to the Legislature for review under section 8072 may be effective for up to 12 months or until the Legislature has completed review as provided in that section. After the expiration of the emergency period, an emergency rule may not be adopted except in the manner provided by section 8072.

§8074. Federally mandated rules

Major substantive rules that must be adopted to comply with federal law or regulations or to qualify for federal funds and over the adoption of which the agency exercises no option or discretion are not subject to the legislative review requirement of this subchapter unless they impose requirements or conditions that exceed the federal requirements. An agency must file notice of the adoption of major

substantive rules that are required by federal law and that do not exceed federal requirements with the Legislature in the same manner as it files notice of proposed rules under section 8053-A.

Sec. 3. Administrative rules inventory; report. Upon completion of the inventory of agency administrative rules provided in Executive Order 6 FY 94/95, the Governor shall submit a report on the results of that inventory, including recommended actions to ensure that rules are updated periodically and that rules comply with legislative intent, and on efforts to codify rules in a standard format and to provide electronic access to those rules. The Governor shall submit the report to the Joint Standing Committee on State and Local Government by January 31, 1996.

See title page for effective date.

CHAPTER 464

H.P. 268 - L.D. 370

An Act to Strengthen the General Fund's Unappropriated Surplus

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

Whereas, current law allows numerous transfers from the General Fund's unappropriated surplus or other available balances to certain reserve, contingency and special expenditure accounts; and

Whereas, many of these transfers were funded at the end of fiscal year 1993-94 only due to receivables "booked" in June 1994; and

Whereas, this practice erodes the General Fund's cash flow position; and

Whereas, the General Fund's unappropriated surplus, approximately \$163,100,000 at the end of fiscal year 1988-89, was only \$3,800,000 at the end of fiscal year 1993-94; and

Whereas, without instituting changes, these year-end transfers will take place at the end of this fiscal year; 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. 5 MRSA §1507, next to the last ¶, as amended by PL 1993, c. 410, Pt. QQQ, §4, is repealed.

Sec. 2. 5 MRSA §1507, as amended by PL 1993, c. 410, Pt. QQQ, §§1 to 4, is further amended by adding at the end a new paragraph to read:

After the close of each fiscal year, the Governor may request a General Fund appropriation from the next session of the Legislature in an amount as may be available to bring the total available in the State Contingent Account to a maximum of \$2,350,000 for the current fiscal year.

Sec. 3. 5 MRSA §1511, as amended by PL 1993, c. 707, Pt. G, §2, is further amended to read:

§1511. Reserve for General Fund operating capital

The State Controller may, at the close of each fiscal year, transfer from the Unappropriated Surplus of the General Fund to the Reserve for General Fund Operating Capital such amounts as may be available from time to time up to an amount of \$1,000,000 a year, ~~except for fiscal year 1993-94 when an amount up to \$2,500,000 may be transferred,~~ until a maximum of ~~\$25,000,000~~ \$50,000,000 is achieved. The State Controller is further authorized, at the close of each fiscal year, to transfer from the Unappropriated Surplus of the General Fund to the Loan Insurance Reserve amounts as may be available from time to time, up to an amount of \$1,000,000 per year. The balance of this reserve must be paid to the Finance Authority of Maine if such payment does not cause the balance in the reserve fund maintained by the authority, when added to amounts held in the Finance Authority of Maine Mortgage Insurance Fund that are not committed or encumbered for another purpose, to exceed ~~\$10,000,000~~ \$20,000,000. Any balance in the Loan Insurance Reserve is appropriated for this purpose. ~~The State Controller on or before June 30, 1993 must transfer the balance in the Reserve for General Fund Operating Capital to the unappropriated surplus of the General Fund.~~

Sec. 4. 5 MRSA §1517 is enacted to read:

§1517. Transfer to Retirement Allowance Fund

At the close of each fiscal year, the State Controller shall transfer from the unappropriated surplus of the General Fund to the Retirement Allowance Fund established in section 17251 an amount equal to 1/2 of the balance remaining after all other required transfers from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions

of appropriations, financial commitments, designated funds, transfers from the unappropriated surplus of the General Fund or transfers from the available balance remaining in the General Fund have been made.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Retirement Allowance Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Retirement Allowance Fund.

Sec. 5. 5 MRSA §1589, first ¶, as enacted by PL 1993, c. 476, §2, is amended to read:

At the end of each fiscal year, unencumbered appropriation and allocation balances lapse into the appropriate fund ~~or account balance~~ and are not available unless authorized by law, ~~or as provided for in subsections 1 to 5.~~ Encumbered balances may not be carried forward more than once at the end of a fiscal year.

Sec. 6. 5 MRSA §1589, sub-§1, as repealed and replaced by PL 1993, c. 707, Pt. BB, §2, is repealed.

Sec. 7. 5 MRSA §1589, sub-§1-A is enacted to read:

1-A. Total quality management efforts. Notwithstanding any other provision of law, upon the approval of the department or agency head, non-General Fund and non-Highway Fund accounts may contribute resources on an allocated basis to an administrative account for the support of department or agency total quality management efforts except that the provisions of section 1585 and Public Law 1993, chapter 410, Part A, section 25 or its successor apply.

Sec. 8. 5 MRSA §1589, sub-§2, as enacted by PL 1993, c. 476, §2, is repealed and the following enacted in its place:

2. General Fund Total Quality Management accounts; Highway Fund Total Quality Management accounts. After the close of each fiscal year, the Governor may request a General Fund appropriation, Highway Fund allocation or allocation from other available resources to a specific department, agency or to a statewide Total Quality Management account to carry out total quality management efforts in accordance with subsection 3.

Sec. 9. 5 MRSA §1589, sub-§§2-A and 2-B, as enacted by PL 1993, c. 707, Pt. BB, §3, are repealed.

Sec. 10. 5 MRSA §1589, sub-§3, as amended by PL 1993, c. 707, Pt. BB, §4, is further amended to read:

3. Total quality management initiatives. ~~Except as provided in subsection 3 C, available balances transferred into~~ Amounts appropriated or allocated to each departmentwide and statewide account in accordance with subsection 2 must be used for the payment of nonrecurring expenditures representing total quality management initiatives in the same department or agency or on a statewide basis, respectively.

Sec. 11. 5 MRSA §1589, sub-§3-A, as enacted by PL 1993, c. 707, Pt. BB, §5, is amended to read:

3-A. Office of State Quality Management General Fund account established. There is established in the Executive Department a General Fund account entitled Office of State Quality Management to receive and expend funds in accordance with ~~subsection 3 C and~~ chapter 523.

Sec. 12. 5 MRSA §1589, sub-§3-C, as enacted by PL 1993, c. 707, Pt. BB, §5, is amended to read:

3-C. Funding; general. ~~Notwithstanding any other provision of law, funds~~ Appropriations or allocations may be transferred requested by the Governor in each fiscal year from the Statewide Total Quality Management General Fund account in the Department of Administrative and Financial Services to for the Office of State Quality Management General Fund account in the Executive Department established in subsection 3-A and section 20094 and the Human Resources General Fund account in the Department of Administrative and Financial Services to be allotted by financial order upon the approval of the Governor for the personal services, all other and capital expenditures requirements for 2 positions in the Office of State Quality Management authorized by section 20094 and 2 training positions in the Bureau of Human Resources to be established for total quality management training and coordination.

Sec. 13. 5 MRSA §1589, sub-§§4 and 6, as enacted by PL 1993, c. 476, §2, are amended to read:

4. Copies of proposals to Bureau of the Budget and Office of Fiscal and Program Review. Copies of each approved proposal for the expenditure of funds ~~transferred into~~ available in each departmentwide and statewide account in accordance with

subsection 2 must be submitted from each department's or agency's quality management council and the Maine Quality Management Council, respectively, to the Bureau of the Budget and the Office of Fiscal and Program Review.

6. Report required. The Department of Administrative and Financial Services and the Maine Quality Management Council shall report to the joint standing ~~committee~~ committees of the Legislature having jurisdiction over state and local government matters and appropriations and financial affairs annually no later than February 1st, the following:

A. The total amount ~~authorized for transfer appropriated or allocated~~, by department, under ~~subsection 1~~ this section;

B. A description of initiatives submitted under subsection 4; and

C. A recommendation from the Maine Quality Management Council and the Department of Administrative and Financial Services on any changes ~~in the transfer amount authorized under subsections 1 and 2~~ needed to further total quality management efforts in State Government.

Sec. 14. 5 MRSA §1666, as amended by PL 1993, c. 707, Pt. R, §1, is further amended by adding at the end a new paragraph to read:

A biennial budget bill transmitted by the Governor or Governor-elect must include a part that asks the Legislature whether it wishes to continue funding each individual tax expenditure, as defined in section 1664, provided in the statutes. The part must include for each tax expenditure a statutory section reference, a brief description of each tax expenditure and the loss of revenue estimated to be incurred by funding source and fiscal year. This paragraph applies with respect to the preparation of the budget document and biennial budget bills for the 1998-1999 biennium and thereafter.

Sec. 15. 5 MRSA §17253, sub-§3 is enacted to read:

3. Components of unfunded liability contribution. The annual valuation report prepared by the actuary in accordance with section 17107 must include identification of the impact on the employer contribution rate of any excess General Fund revenues transferred to the Retirement Allowance Fund pursuant to section 1517.

Sec. 16. 30-A MRSA §5683, sub-§3, as amended by PL 1993, c. 707, Pt. N, §1, is further amended to read:

3. Property Tax Relief Fund established.

There is established the Property Tax Relief Fund for the purpose of distributing unanticipated surplus revenues accruing in the General Fund to municipalities experiencing high rates of population growth. The purpose of the fund is to assist municipalities in meeting their infrastructure needs.

~~The State Controller shall at~~ After the close of each fiscal year transfer from the unappropriated surplus of, the Governor may request a General Fund appropriation to the Property Tax Relief Fund from the next session of the Legislature in an amount not to exceed 1/2 of the balance remaining after all other required transfers or appropriations from the excess of total General Fund revenues received over accepted estimates in that fiscal year and all required deductions of appropriations, financial commitments, designated funds, transfers from the unappropriated surplus of the General Fund or transfers from the available balance remaining in the General Fund have been made.

General Fund revenue estimates may be made once during the First Regular Session of the Legislature and adjustments to these accepted revenue estimates may be made once during the Second Regular Session of the Legislature without mandatory transfer of funds to the Property Tax Relief Fund. If adjustments are made to those initial estimates presented to each regular session of the Legislature, an amount ~~equal to~~ not to exceed 1/2 of the excess of the estimated revenue over the amounts required by law to be set aside for other purposes must be appropriated to the Property Tax Relief Fund.

The ~~fund~~ appropriation may not exceed \$25,000,000 and may not lapse, but must remain a continuing carrying account to carry out the purpose of this section.

Sec. 17. 30-A MRSA §5683, sub-§6, as enacted by PL 1989, c. 534, Pt. F, is amended to read:

6. Treasurer of State. The Treasurer of State shall distribute the appropriation balance in the Property Tax Relief Fund ~~as of July 1, 1989, on or before September 15, 1989, and thereafter the balance in the fund on July 1st of each year shall be distributed on or before September 15th of each following year~~ no later than 30 days after the legislation appropriating funds for this purpose has been enacted by the Legislature and signed into law by the Governor.

Sec. 18. Effective date. Those sections of this Act that repeal or enact paragraphs of the Maine Revised Statutes, Title 5, section 1507 take effect July 1, 1997.

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

Effective July 3, 1995, unless otherwise indicated.

CHAPTER 465

H.P. 181 - L.D. 229

An Act to Abolish the Maine Waste Management Agency

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

Whereas, this legislation proposes to abolish the Maine Waste Management Agency and to transfer certain of its functions to other state agencies; and

Whereas, the Governor's budget plan for fiscal year 1995-96 provides no funding for continued activities of the Maine Waste Management Agency; 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. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1993, c. 349, §1, is amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor;

Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;

Associate Commissioner of Administration, Department of Mental Health and Mental Retardation;

Associate Commissioner for Institutional Management; and

~~Executive Director, Maine Waste Management Agency; and~~

Deputy Commissioner, Department of Administrative and Financial Services.

Sec. A-2. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director of the Bureau of Parks and Recreation;

Director of Public Lands;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Administration; and

~~Director, Office of Planning;~~

~~Director, Office of Waste Reduction and Recycling;~~

~~Director, Office of Siting and Disposal Operations; and~~

Executive Director, Board of Environmental Protection.

Sec. A-3. 3 MRSA §927, sub-§9, ¶B, as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;

- (7) Board of Occupational Therapy Practice;
- (8) Board of Respiratory Care Practitioners;
- (9) Radiologic Technology Board of Examiners;
- (10) Maine Library Commission; and
- ~~(11) Maine Waste Management Agency; and~~
- (12) Maine Court Facilities Authority.

Sec. A-4. 5 MRSA §931, sub-§1, ¶K, as amended by PL 1993, c. 349, §6, is further amended to read:

K. All major policy-influencing positions listed in sections 932 to ~~953-A~~ 952;

Sec. A-5. 5 MRSA §953-A, as enacted by PL 1989, c. 585, Pt. A, §4, is repealed.

Sec. A-6. 5 MRSA §12004-I, sub-§22, as repealed and replaced by PL 1989, c. 585, Pt. A, §6, is repealed.

Sec. A-7. 32 MRSA §1723, sub-§2, as enacted by PL 1991, c. 718, §1, is amended to read:

2. Alternative labels. The ~~Maine Waste Management Agency~~ State Planning Office may approve use of other nationally or internationally recognized label coding systems for special purpose plastic bottles or rigid plastic containers.

Sec. A-8. 32 MRSA §1726, as enacted by PL 1989, c. 585, Pt. C, §16, is amended to read:

§1726. Rules and enforcement

The ~~Maine Waste Management Agency, Office of Waste Reduction and Recycling~~ State Planning Office shall adopt and enforce rules implementing the provisions of this chapter including, but not limited to, criteria for labeling containers made of more than one plastic resin. In adopting rules, the office shall consult with ~~the Waste Management Advisory Council~~, the Department of Agriculture, Food and Rural Resources, plastic container manufacturers and distributors, and the recycling industry. Rules ~~shall~~ must be adopted in accordance with the provisions of Title 5, chapter 375.

Sec. A-9. 32 MRSA §1732, sub-§1, as enacted by PL 1989, c. 849, §1, is amended to read:

1. Agency. "Agency" means the ~~Maine Waste Management Agency~~ State Planning Office.

Sec. A-10. 32 MRSA §1866-A, sub-§3, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

3. Over-redemption of beverage container deposits. When a deposit initiator pays out more in refund values than it collects in deposits during the course of a calendar year, the deposit initiator may apply to the Treasurer of State for a reimbursement from the Maine Solid Waste Management Fund equal to 50% of the amount of over-redeemed minimum deposits. The Treasurer of State shall reimburse documented claims of over-redeemed minimum deposits.

Sec. A-11. 38 MRSA §343-D, sub-§1, as amended by PL 1993, c. 500, §2 and affected by §5, is further amended to read:

1. Appointment; composition. The committee consists of 16 voting members.

A. The Governor shall appoint 2 representatives from the business community, 2 elected or appointed municipal officials who are not owners or representatives of owners of small business stationary sources, and 2 representatives of organized labor.

B. The President of the Senate shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

C. The Speaker of the House of Representatives shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

D. The commissioner shall appoint a designee to represent the department.

E. The Senate Minority Leader and the House Minority Leader shall each appoint one member who is an owner or represents an owner of a small business stationary source.

F. The Director of the Bureau of Air Quality Control shall appoint a designee to represent the bureau.

The Commissioner of Labor, the Director of the Maine Emergency Management Agency and the ~~Executive Director of the Maine Waste Management Agency~~ State Planning Office serve as ex officio members and do not vote on committee matters.

As used in this subsection, unless the context otherwise indicates, a "small business stationary source" means a source that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.

Sec. A-12. 38 MRSA §1303-C, sub-§35, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

35. State waste management and recycling plan. "State waste management and recycling plan" means the plan adopted by the ~~agency~~ former Maine Waste Management Agency pursuant to chapter 24, subchapter II; and subsequent plans developed by the State Planning Office pursuant to Title 5, section 3305, subsection 1, paragraph L and may also be referred to as "state plan."

Sec. A-13. 38 MRSA §1310-N, sub-§1, ~~¶B~~, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is amended to read:

B. In the case of a disposal facility other than a facility owned by the State, the facility provides a substantial public benefit, determined in accordance with subsection 3-A; and

Sec. A-14. 38 MRSA §1310-N, sub-§3, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

Sec. A-15. 38 MRSA §1310-N, sub-§3-A is enacted to read:

3-A. Public benefit determination. Public benefit determination is made in the following manner.

A. For the following facilities, the department determines public benefit and shall employ a rebuttable presumption of public benefit:

(1) Solid waste disposal facilities less than 6 acres in size that accept only inert fill, construction and demolition debris, debris from land clearing and wood wastes; and

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, waste not generated by the owner provided that the amount so accepted does not exceed 15% of all solid waste accepted on an annual average.

B. For all other facilities, the commissioner shall make the determination of public benefit in accordance with section 1310-AA, and the commissioner's determination under that section is not subject to review by the department or the

board as part of the licensing process under this section.

Sec. A-16. 38 MRSA §1310-N, sub-§9 is enacted to read:

9. Host community agreements. The following provisions apply to an application for a license for a commercial solid waste disposal facility.

A. The department may not issue a license for a commercial solid waste disposal facility unless the applicant has demonstrated that it has:

(1) Complied with municipal ordinances requiring host community benefits;

(2) Negotiated in good faith with the municipality in which the facility is proposed to be located to formulate a host community agreement;

(3) Developed and will implement a host community agreement; or

(4) Renegotiated, if appropriate, the terms of an existing host community agreement.

B. Based upon the nature, size and projected impacts of the proposed facility, host community agreements must, when applicable, include provisions regarding:

(1) Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility and of other infrastructural elements directly affected by the facility;

(2) Development and maintenance of adequate local emergency response capacity to accommodate the facility;

(3) Financial support for personnel or other means to provide technical assistance to the municipality in interpreting data and to advise the municipality on other technical issues concerning the facility; and

(4) Other issues determined on a case-specific basis by the applicant and municipality to be appropriate given the nature of the proposed facility.

The department shall adopt rules concerning the expenditure of funds made available to a municipality under the provisions of subparagraph (3) to ensure that funds are used to provide direct technical support to the municipality necessary for the conduct of municipal planning and decision making.

Sec. A-17. 38 MRSA §1310-R, sub-§3, ~~¶C~~, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §247, is repealed.

Sec. A-18. 38 MRSA §1310-R, sub-§4, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §248, is repealed.

Sec. A-19. 38 MRSA §1310-S, sub-§4, as amended by PL 1991, c. 794, §1, is further amended to read:

4. Financial assistance. The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under subsection 3, not to exceed \$50,000. The board shall adopt rules governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, waste generation and recycling studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not eligible for reimbursement under this subsection. Expenses otherwise eligible under this section that are incurred by the municipality after notification pursuant to subsection 1; are eligible for reimbursement under this subsection only if a completed application is accepted by the department. The commissioner may make an additional assistance grant not to exceed \$50,000 to any party granted intervenor status under subsection 3 on an application for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling when the intervenor demonstrates to the commissioner that the size, nature, location, geological setting or other relevant factors warrant additional expenditures for technical assistance. The board shall also establish rules governing:

A. The process by which an intervenor under subsection 3 may gain entry to the proposed facility site for purposes of reasonable inspection and site investigations under the auspices of the department; and

B. The reduction in the maximum level of reimbursable costs to the extent the municipality establishes by local ordinance any substantially similar financial requirements of the applicant.

Sec. A-20. 38 MRSA §1310-X, sub-§2, as amended by PL 1993, c. 355, §52, is further amended to read:

2. Relicense or transfer of license. The department may relicense or approve a transfer of license for a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989, if the facility had been previously licensed by the department as a commercial solid waste disposal or biomedical waste disposal or treatment facility prior to October 6, 1989, and all other provisions of law have been satisfied.

Sec. A-21. 38 MRSA §1310-X, sub-§3, ~~¶C~~, as repealed and replaced by PL 1991, c. 297, §1, is amended to read:

C. For a commercial solid waste disposal facility ~~and prior to the adoption of the state plan and siting criteria under chapter 24, the department determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A 1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met~~ the commissioner or the department determines as provided in section 1310-N, subsection 3-A that the facility provides a substantial public benefit.

Sec. A-22. 38 MRSA §1310-AA is enacted to read:

§1310-AA. Public benefit determination

1. Application for public benefit determination. Prior to submitting an application under section 1310-N for a license for a new or expanded solid waste disposal facility, a person must apply to the commissioner for a determination of whether the proposed facility provides a substantial public benefit.

2. Process. Determinations by the commissioner under this section are not subject to Title 5, chapter 375, subchapter IV. The commissioner shall provide public notice of the filing of an application under this section and shall accept written public comment on the application for 20 days after the date of the notice. In making the determination of whether the facility provides a substantial public benefit, the commissioner shall consider the state plan, written information submitted in support of the application and any other written information the commissioner considers relevant. The commissioner may hold a public meeting in the vicinity of the proposed facility to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 60 days of receipt of the application. The commissioner's decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

3. Standards for determination. The commissioner shall find that the proposed facility provides a substantial public benefit if the applicant demonstrates to the commissioner that the proposed facility:

A. Meets immediate, short-term or long-term capacity needs of the State;

B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan; and

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal.

4. Application. This section does not apply to facilities described in section 1310-N, subsection 3-A, paragraph A or to facilities owned by the State.

Sec. A-23. 38 MRSA §1316-C, last ¶, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

Funds recovered under this section must be deposited into the ~~Maine Solid Waste Tire~~ Management Fund.

Sec. A-24. 38 MRSA §1316-F is enacted to read:

§1316-F. Tire Management Fund

The Tire Management Fund is created within the department as a nonlapsing dedicated fund to pay the costs of tire stockpile abatement, remediation and cleanup. All funds appropriated or allocated to the fund must be deposited in the fund and the fund may accept grants, bequests, gifts or contributions from any person, corporation or governmental entity. The fund must be used for the purposes set forth in section 1316-B. Permissible uses include providing financial incentives to tire processors to make the processing of tires economically feasible. The department shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by March 1, 1996 on how the funds have been spent.

Sec. A-25. 38 MRSA §1382, first ¶, as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

Members of the board of trustees are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature. The board of trustees consists of 8 members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; one member from the ~~Maine Waste~~

~~Management Agency~~ State Planning Office; one member from an environmental interest group; one member from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

Sec. A-26. 38 MRSA c. 24 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 24

SOLID WASTE MANAGEMENT AND RECYCLING

Sec. A-27. 38 MRSA c. 24, sub-c. I is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER I

GENERAL PROVISIONS

Sec. A-28. 38 MRSA §2101-A is enacted to read:

§2101-A. Definitions

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

1. Agency. "Agency" means the State Planning Office.

2. Office. "Office" means the State Planning Office.

Sec. A-29. 38 MRSA §2102, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-30. 38 MRSA §2103, as amended by PL 1991, c. 517, Pt. B, §§5 and 6, is repealed.

Sec. A-31. 38 MRSA §§2104 to 2110, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

Sec. A-32. 38 MRSA c. 24, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

SOLID WASTE PLANNING

Sec. A-33. 38 MRSA §2121, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-34. 38 MRSA §2122, as amended by PL 1991, c. 591, Pt. E, §40, is repealed and the following enacted in its place:

§2122. State waste management and recycling plan

The office shall prepare an analysis of, and a plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local levels.

1. Consultation. In developing the state plan, the office shall consult with the department. The office shall solicit public input and may hold hearings in different regions of the State.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

Sec. A-35. 38 MRSA §2123, as amended by PL 1993, c. 310, Pt. A, §3, is repealed.

Sec. A-36. 38 MRSA §2123-A is enacted to read:

§2123-A. State plan contents

The state plan includes the following elements.

1. Waste characterization. The state plan must be based on a comprehensive analysis of solid waste generated, recycled and disposed of in the State. Data collected must include, but not be limited to, the source, type and amount of waste currently generated; and the costs and types of waste management employed including recycling, composting, land-spreading, incineration or landfilling.

2. Waste reduction and recycling assessment. The state plan must include an assessment of the extent to which waste generation could be reduced at the source and the extent to which recycling can be increased.

3. Determination of existing and potential disposal capacity. The state plan must identify existing solid waste disposal and management capacity within the State and the potential for expansion of that capacity.

4. Projected demand for capacity. The state plan must identify the need in the State for current and future solid waste disposal capacity by type of solid

waste, including identification of need over the next 5-year, 10-year and 20-year periods.

Sec. A-37. 38 MRSA §2124, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2124. Reports

The ~~agency~~ office shall submit the ~~adopted~~ plan and subsequent revisions to the Governor, the department and the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. A-38. 38 MRSA §2125, as corrected by RR 1993, c. 1, §136, is amended to read:

§2125. Evaluation of municipal implementation of solid waste management hierarchy

The ~~agency~~ office shall ~~adopt, by rule,~~ develop a system for acknowledging implementation by municipalities of the solid waste management hierarchy set forth in section 2101 and the goals for solid waste management adopted in the waste management and recycling plan. The system must include the following elements.

1. Evaluation. Municipalities shall report annually, except as provided by the ~~agency~~ office, on their solid waste management practices. The annual report must include provisions for designating how much of each type of solid waste is generated and how that solid waste is managed. The ~~agency~~ office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

2. Progress report. The ~~agency~~ office shall use the municipal annual reports and other appropriate information to prepare an annual report to the Governor and the Legislature on the progress made by municipalities toward implementing the solid waste management hierarchy.

Sec. A-39. 38 MRSA c. 24, sub-c. III is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

WASTE REDUCTION AND RECYCLING

Sec. A-40. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-41. 38 MRSA §2132, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. State recycling goal. It is the policy of the State to recycle or compost, by January 1, ~~1994~~ 1998, 50% of the municipal solid waste generated each year. ~~The Legislature establishes an interim goal of recycling, by January 1, 1992, 25% of the municipal solid waste generated each year.~~

Sec. A-42. 38 MRSA §2132, sub-§2, as amended by PL 1991, c. 517, Pt. B, §7, is further amended to read:

2. Goal revision. The agency office shall recommend revisions, if appropriate, to the state recycling goal established in this section and shall establish a waste reduction goal. The agency office shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters ~~by January 1, 1993.~~

Sec. A-43. 38 MRSA §2133, sub-§1, as amended by PL 1991, c. 517, Pt. B, §§8 and 9, is repealed.

Sec. A-44. 38 MRSA §2133, sub-§1-A is enacted to read:

1-A. Recycling progress. Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The office shall determine reasonable progress.

Sec. A-45. 38 MRSA §2133, sub-§2, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-46. 38 MRSA §2133, sub-§§2-A and 2-B are enacted to read:

2-A. Technical and financial assistance program. A program of technical and financial assistance for waste reduction and recycling is established in the office to assist municipalities with managing solid waste. The director shall administer the program in accordance with the waste management hierarchy in section 2101.

2-B. Household hazardous waste collection. The office may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for household hazardous waste collection and disposal programs. In implementing this program, the office shall attempt to:

A. Coordinate the household hazardous waste collection programs with overall recycling and waste management;

B. Encourage regional economies of scale;

C. Coordinate programs between private and public institutions; and

D. Maximize opportunities for federal grants and pilot programs.

Sec. A-47. 38 MRSA §2133, sub-§3, as amended by PL 1991, c. 517, Pt. B, §10, is further amended to read:

3. Recycling capital investment grants. The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office may establish requirements for local cost sharing of up to 25% of the total grant amount. ~~The office shall give preference to recycling programs that require the participation of the waste generators served.~~

Sec. A-48. 38 MRSA §2133, sub-§4, ¶B, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-49. 38 MRSA §2133, sub-§5, as repealed and replaced by PL 1991, c. 517, Pt. B, §11, is repealed.

Sec. A-50. 38 MRSA §2133, sub-§6 is enacted to read:

6. Recycling demonstration grants. The office may make demonstration grants to eligible municipalities, regional associations or other public organizations to pilot waste reduction, recycling and composting programs and to test their effectiveness and feasibility.

Sec. A-51. 38 MRSA §2134, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2134. Market development and assistance

The office shall ~~design and implement a~~ market development strategy and marketing assistance programs, consistent with the recycling component of the state plan, which ~~shall~~ must include, without limitation, the following elements:

1. Collection. ~~Methods of collecting and marketing recyclable materials that achieve necessary economies of scale and product quality specifications. The strategy shall include a model plan for source separation of materials to be recycled at the household, municipal, regional or state level, as appropriate;~~

2. Incentive program. ~~An incentive program to encourage end users of materials to be recycled to locate or expand their operations within the State. The office shall consult with the Finance Authority of~~

~~Maine and the Department of Economic and Community Development in developing this element;~~

3. Information clearinghouse. An information clearinghouse on recycling markets to improve the marketing of materials to be recycled. The office shall maintain a current list of recycling programs, together with a description of the recyclable materials available through the programs. The office shall also maintain listings of brokers, handlers, processors, transporters and other persons providing services and potential markets for recyclable materials. The office shall actively promote the services of the clearinghouse and shall seek to match programs with appropriate recycling businesses. The office shall make its information on recycling services available to private solid waste generators seeking markets or services for recyclable materials. The office shall make its technical reports and planning documents available to municipalities and regional associations on a timely basis;

4. Brokering service. ~~Direct Provision for~~ marketing and brokering services for materials ~~included in the state marketing plan~~ when municipal and regional association efforts to market the material and the information clearinghouse are inadequate; and

5. Marketing development plan. ~~Based on the state plan, a market development and marketing plan by January 1, 1990, which includes:~~

A. ~~Potential opportunities to increase demand for and use of materials generated by recycling programs;~~

B. ~~Market opportunities in Canada and other export markets;~~

C. ~~Recommendations for specific actions to increase and stabilize the demand for materials generated by recycling programs, including, but not limited to, proposed legislation, if necessary; and~~

D. ~~Specific recommendations on markets for recycled materials from the various areas of the State; and~~

6. Reuse of waste. ~~Assisting Assistance to~~ industries in promoting the reuse of industrial and commercial wastes that are suitable raw materials for other processes. ~~The office shall coordinate those efforts with waste exchanges in the northeastern United States.~~

Sec. A-52. 38 MRSA §2135, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-53. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A, §3, is repealed.

Sec. A-54. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-55. 38 MRSA §2137, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2137. State Government recycling and waste reduction

The office, in cooperation with the Department of ~~Administration~~ Administrative and Financial Services, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State. ~~The programs shall include, without limitation, recycling of office papers, cardboard, used motor oil, yard waste and other materials produced by the State for which recycling markets exist or may be developed.~~

1. Waste reduction and recycling plan. ~~Each state agency shall prepare a waste reduction and recycling plan addressing the requirements of subsections 3 and 4. The plan shall be submitted to the Office of Waste Reduction and Recycling on or before July 1, 1990, for approval as consistent with the goals and guidelines of this section and with the state waste management and recycling plan. The plan shall be updated on a biennial basis to increase the amount of material recycled by taking advantage of any changed circumstances. Each department shall complete an analysis of additional materials to determine recycling potential, and shall incorporate these materials into plan updates. Updated plans shall be submitted to the office for approval prior to adoption.~~

2. Capitol complex recycling program. ~~The State House and the State Office Building shall constitute the Capitol complex recycling demonstration area. The House of Representatives, the Senate, the office of the Governor, and each department that occupies space in the State House or the State Office Building shall, by July 1, 1990, institute a recycling program for its respective offices in these buildings. The program shall include, at a minimum, office paper, corrugated cardboard and containers subject to the returnable container law, Title 32, chapter 28, which are sold in the Capitol complex. The program shall include procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers.~~

3. Recycling. ~~By January 1, 1991, each~~ Each state agency ~~outside the Capitol complex~~ shall establish and implement a source separation and collection program for recyclable materials produced as a result of agency operations, including, at a minimum, high grade paper and corrugated paper.

The source separation and collection program shall must include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers. Each agency shall appoint a recycling coordinator for every 50 employees at a minimum and shall conduct educational programs for its employees on the recycling program.

4. Waste reduction. ~~By January 1, 1991, each~~ Each state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program ~~shall must~~ be designed and implemented to achieve the maximum feasible reduction of waste generated as a result of agency operations.

5. University of Maine System. The following provisions ~~shall~~ apply to the University of Maine System.

~~A. Each campus of the University of Maine System shall prepare a waste reduction, recycling and composting plan addressing the requirements of paragraphs B to D. The plan shall be submitted to the Office of Waste Reduction and Recycling on or before July 1, 1990, for approval as consistent with the goals and guidelines of this chapter and with the state waste management and recycling plan. Each campus shall complete an analysis of additional materials to determine recycling potential, and shall incorporate these materials into annual plan updates.~~

~~Updated plans shall be submitted to the office for approval prior to adoption.~~

~~B. By January 1, 1991, each~~ Each campus of the University of Maine System shall establish and implement a source separation and collection program for recyclable materials, including at a minimum, high grade paper, corrugated paper and glass. The source separation and collection program ~~shall must~~ include procedures for collecting and storing recyclable materials, bins or containers for storing materials and contractual and other arrangements with buyers. Each campus shall appoint a recycling coordinator and shall conduct educational programs for students and employees on the recycling program.

~~C. By January 1, 1991, each~~ Each campus of the University of Maine System shall establish and implement a waste reduction program for materials used in the course of its operations. The program ~~shall must~~ be designed and implemented to achieve the maximum feasible reduction of waste.

~~D. By January 1, 1991, each~~ Each campus of the University of Maine System shall establish a leaf composting program.

E. Each campus of the University of Maine System shall assess the status of its recycling efforts, evaluate existing programs and, within available resources, develop necessary new programs for recycling to reduce the generation of solid waste by the campus.

Sec. A-56. 38 MRSA §2138, as amended by PL 1991, c. 492, §4, is further amended to read:

§2138. Office paper recycling program

1. Office paper recycling mandated. Any person employing 15 or more people at a site within the State shall implement an office paper and corrugated cardboard recycling program ~~according to the following schedule:~~

~~A. By July 1, 1991, when employing 200 or more persons at a site;~~

~~B. By July 1, 1992, when employing 50 or more persons at a site; and~~

~~C. By July 1, 1993, when employing 15 or more persons at a site.~~

The office shall provide technical and ~~market development~~ marketing assistance and direction to entities within the State to assist ~~in~~ with meeting this ~~schedule~~ requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

2. Office paper. For the purposes of this section, "office paper" includes, but is not limited to, ledger, computer and bond paper.

3. Certification of tax credit. The office, in cooperation with the State Tax Assessor, shall assist in the administration of tax credits for the purchase of machinery and equipment used by businesses in new or expanded waste reduction, reuse or recycling programs pursuant to Title 36, section 5219-C by certifying that the machinery and equipment are eligible for the credit.

~~**4. Technical and financial assistance programs.** The office shall administer other financial assistance programs for projects that reduce the waste stream or increase recycling that the agency determines appropriate, including technology transfer to businesses and assisting the Finance Authority of Maine in determining eligible projects for low interest loans.~~

~~**5. Industrial waste reduction.** The office shall consult with the Maine Sludge and Residuals Utiliza-~~

tion Research Foundation and the private sector to identify and examine solutions to the problems of reducing the volume and toxicity of industrial waste.

~~6. Beneficial use of office paper. Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.~~

Sec. A-57. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt. A, §170, is further amended to read:

§2139. Public education

The office shall design a program of public education in support of the state recycling goals to promote waste reduction, source separation and recycling and composting efforts at the individual, local, regional and state levels.

1. Public education. The office shall develop and disseminate educational material designed to establish broad public understanding and compliance with the State's recycling and waste reduction goals.

2. Kindergarten to grade 12 curriculum. In cooperation with the Department of Education, the office shall develop a curriculum suitable for use in programs from kindergarten through high school and provide assistance to educators in using the curriculum.

Sec. A-58. 38 MRSA c. 24, sub-c. IV is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER IV

FACILITY SITING AND DEVELOPMENT

Sec. A-59. 38 MRSA §2151, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. A-60. 38 MRSA §2151-A is enacted to read:

§2151-A. Indemnification

The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility Siting Board against expenses actually and necessarily incurred by the person in connection with the defense of any action or proceeding in which the person is made party by reason of

past or present association with the office with regard to the powers and duties set forth in this article.

Sec. A-61. 38 MRSA §2152, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. Board established. The Facility Siting Board, as established in Title 5, section 12004-D, subsection 4, is created to conduct a site screening and selection process for disposal facilities owned, operated or controlled by the ~~agency~~ office. The board shall undertake this process in a manner consistent with the state waste management and recycling plan and provisions of section 2154 and shall make all final decisions on the choice of specific sites for solid waste disposal facilities under the jurisdiction of the ~~agency~~ office. The office shall provide staff support to the Facility Siting Board.

Sec. A-62. 38 MRSA §2153, as amended by PL 1991, c. 794, §2, is further amended to read:

§2153. Siting criteria

1. Siting criteria. ~~By September 1, 1992, the Facility Siting Board shall amend its~~ With regard to state-owned facilities, the office shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations, for siting criteria for solid waste disposal facilities. The office may revise rules as necessary based on the following factors.

A. A site may be located anywhere within the State and need not be in proximity to the site of waste generation.

A-1. ~~Agency-owned sites~~ Sites for the disposal of special waste may not be located within a 5-mile radius of an existing commercial special waste landfill or a commercial incineration facility.

B. To the extent possible, a site must be located in proximity to the transportation systems, including existing or potential railroad systems, that are used to convey waste to the site or to convey residuals and materials to be recycled from the site.

C. The capacity or size of a site must be consistent with the projected demand as determined in the state plan.

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

E. The projected price for site development, construction and operation must be fair and reasonable.

F. A site must meet preliminary environmental standards developed jointly by the department and the Maine Land Use Regulation Commission, including ground water standards, geological standards and standards to protect public drinking water supplies.

G. Existing uses on adjacent properties, including public or private schools, may not be in significant conflict with or significantly jeopardized by the use of a site.

Sec. A-63. 38 MRSA §2154, sub-§1, as amended by PL 1991, c. 794, §3, is further amended to read:

1. Initial site screening. The Facility Siting Board shall conduct a site screening and selection process to identify solid waste disposal capacity sufficient to meet the projected needs identified in the state planning process under section ~~2423~~ 2123-A, subsection ~~6~~ 4. The Facility Siting Board shall consider the need for geographic distribution of facilities to adequately serve all regions of the State. The Facility Siting Board also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to recommending a site, the Facility Siting Board shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated township, the Facility Siting Board shall hold a public hearing within the vicinity of the proposed site. Prior to submitting a recommended site to the department for review, the Facility Siting Board ~~shall~~ **must** find that the recommended site meets the standards adopted under section 2153.

Sec. A-64. 38 MRSA §2156, sub-§1, as amended by PL 1991, c. 794, §5, is further amended to read:

1. State facility required. The office shall develop facilities sufficient to meet the projected needs for municipal solid waste identified in the analysis conducted under section ~~2423~~ 2123-A, subsection ~~6~~ 4 and to serve all geographic areas of the State. The office may develop facilities sufficient to meet the projected needs for special waste identified in the analysis conducted under section ~~2423~~ 2123-A, subsection ~~6~~ 4 and to serve all geographic areas of the State.

Sec. A-65. 38 MRSA §2156, sub-§3, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

3. Office ownership. The ~~agency~~ **office** shall maintain ownership of any solid waste disposal facility it develops and shall maintain full control over the use of the facility or facilities.

Sec. A-66. 38 MRSA §2157, as amended by PL 1993, c. 732, Pt. B, §3, is repealed.

Sec. A-67. 38 MRSA §2158, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §290, is repealed.

Sec. A-68. 38 MRSA §2163, as enacted by PL 1991, c. 585, Pt. A, §7, is repealed.

Sec. A-69. 38 MRSA §2164, as amended by PL 1991, c. 808, §1, is repealed.

Sec. A-70. 38 MRSA §2175-B is enacted to read:

§2175-B. Payment in lieu of taxes

The office shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility owned or operated by the office not paid to that municipality during the previous calendar year. In the case of an unorganized territory, the office shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the office disagrees with the amount determined to be due in lieu of taxes under this section, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

Sec. A-71. 38 MRSA §2176, first ¶, as amended by PL 1993, c. 310, Pt. B, §10, is further amended to read:

In addition to payment in lieu of taxes provided in section ~~2405~~ 2175-B, the ~~agency~~ **office** shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The agency shall base its impact payments on measurable criteria including, without limitation:

Sec. A-72. 38 MRSA §2201, first ¶, as repealed and replaced by PL 1991, c. 824, Pt. A, §88, is amended to read:

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs adminis-

tered by the ~~Maine Waste Management Agency State Planning Office~~ and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

Sec. A-73. 38 MRSA §2202, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. Fees established. The agency department shall establish procedures to charge fees specified in this article and pursuant to the requirements of this article. All fees collected by the agency ~~shall~~ department under this article must be deposited into the Maine Solid Waste Management Fund.

Sec. A-74. 38 MRSA §2203, sub-§3, as enacted by PL 1991, c. 517, Pt. B, §16, is amended to read:

3. Imported special waste. In addition to any other fee assessed under this section and to support those regulatory and administrative costs associated with imported special wastes, an administrative fee of \$2 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is imposed on special waste brought into the State for disposal, except that an administrative fee of \$2 per cubic yard is imposed on asbestos brought into the State for disposal. The fee must be assessed at the first point of disposal, processing or treatment within the State.

Sec. A-75. 38 MRSA §2204, sub-§2, as amended by PL 1993, c. 85, §2, is repealed.

Sec. A-76. 38 MRSA §2204, sub-§3, as amended by PL 1993, c. 310, Pt. C, §3, is further amended to read:

3. Imported municipal solid waste. To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of \$4 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the agency office or a regional association for disposal.

Sec. A-77. 38 MRSA §§2205 and 2206, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

§2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee ~~shall~~ must be paid to the agency department on or before the 20th day of April, July, October and January for the 3 months ending the last day of March, June, September and December.

1. Quarterly reports. Each fee payment ~~shall~~ must be accompanied by a form prepared and furnished by the agency department and completed by the operator. The form ~~shall~~ must state the total weight or volume of solid waste disposed of at the facility during the payment period and provide any other aggregate information ~~deemed~~ determined necessary by the agency department to carry out the purposes of this chapter. The form ~~shall~~ must be signed by the operator.

2. Timeliness of payment. The operator ~~shall~~ be is deemed to have made a timely payment of the fee if the operator complies with all of the following:

A. The enclosed payment is for the full amount owed pursuant to this section and no further agency department action is required for collection;

B. The payment is accompanied by the required form and the form is complete and accurate; and

C. The letter transmitting the payment that is received by the agency department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

3. Discount. Any operator that makes a timely payment of the fee as provided in this section ~~shall be~~ is entitled to apply against the fee payable a discount of 1% of the amount of the fee collected.

4. Refunds. Any operator who believes the fee was overpaid by the operator may file a petition for refund to the agency department. If the agency department determines that the operator has overpaid the fee, the agency department shall refund to the operator the amount due the operator, together with interest at a rate established by the agency department.

5. Alternative proof of payment. For purposes of this section, presentation of a receipt indicating that the payment was mailed by registered or certified mail on or before the due date ~~shall be~~ is evidence of timely payment.

6. Interest. If an operator fails to make a timely payment of the fee, the operator shall pay interest on the unpaid amount due at the rate established by the agency, department from the last day for timely payment to the date paid.

7. Additional penalty. In addition to the interest provided in subsection 6, if an operator fails to make timely payment of the fee, 5% of the amount of the fee ~~shall~~ must be added to the amount actually due if the failure to file a timely payment is for not more than one month, with an additional 5% for each additional month, or fraction of a month, during which the failure continues, not exceeding 25% in the aggregate.

8. Assessment notice. If the agency department determines that any operator has not made a timely payment of the fee, the ~~agency will~~ department shall send the operator a written notice of the amount of the deficiency, within 30 days of determining the deficiency. When the operator has not provided a complete and accurate statement of the weight or volume of waste received at the facility for the payment period, the agency department may estimate the weight or volume in the notice.

The operator charged with the deficiency ~~shall have~~ has 30 days to pay the deficiency in full or, if the operator wishes to contest the deficiency, forward the amount of the deficiency to the agency department for placement in an escrow account with the Treasurer of State or any bank in the State, or post an appeal bond in the amount of the deficiency. The bond ~~shall~~ must be executed by a surety licensed to do business in the State and be satisfactory to the agency department. Failure to forward the money or appeal bond to the agency department within 30 days ~~shall result~~ results in a waiver of all legal rights to contest the deficiency.

If, through the administrative or judicial review of the deficiency, it is determined that the amount of deficiency ~~shall~~ must be reduced, the agency department shall within 30 days remit the appropriate amount to the operator, with any interest accumulated by the escrow deposit.

The amount determined after administrative hearing or after waiver of administrative hearing ~~shall be~~ is payable to the agency department and ~~shall be~~ is collectible.

If any amount due under this subsection remains unpaid 30 days after receipt of notice of the deficiency, the agency department may order the operator of the facility to cease receiving any solid waste until the amount of the deficiency is completely paid.

9. Filing of appeals. Notwithstanding any other provision of law, all appeals of final agency depart-

ment actions concerning the fee ~~shall~~ must be filed with the agency department pursuant to section 2206.

§2206. Hearings and appeals

The agency department shall establish rules governing procedures for hearings and appeals under this article consistent with Title 5, chapter 375.

Sec. A-78. 38 MRSA §2213, sub-§1, ¶A, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

A. The project has been determined to be consistent with the state plan pursuant to section ~~2457~~ 1310-AA, if applicable, and the necessary permits have been obtained from the department;

PART B

Sec. B-1. 5 MRSA §3305, sub-§1, ¶H, as amended by PL 1991, c. 780, Pt. DDD, §21, is further amended to read:

H. Compile, analyze and maintain information useful to the development of industry in the State concerning resources, sites, space, equipment, adequate housing, contracts, materials, transportation, markets, labor supply, population trends and other economic considerations and shall measure and monitor economic distress and poverty in the State on an on-going basis. The State Planning Office, in conjunction with the Department of Economic and Community Development, shall study problems peculiar to the industry and economy of this State with a view toward the broader utilization of our natural resources, which studies ~~shall~~ must be advanced by coordination of research with existing private and governmental agencies and educational institutions, and may be advanced by contractual relations with persons or organizations equipped to conduct the needed research. The State Planning Office shall, upon request from the Governor or any state department, assist in the preparation of reports regarding the responsibilities and duties provided by this subsection, including regular analysis of poverty and economic distress. The State Planning Office shall coordinate its activities pursuant to this paragraph with the Bureau of Child and Family Services to meet the annual reporting needs of the bureau; ~~and~~

Sec. B-2. 5 MRSA §3305, sub-§1, ¶K, as enacted by PL 1989, c. 501, Pt. DD, §12, is amended to read:

K. Coordinate the development of energy policy, including:

(1) Collecting and analyzing energy data from all available energy sources in the State. The director shall afford confidential treatment to information, documents and data dealing with sales of individual companies that are engaged in the wholesale and retail trade of petroleum products in the State, upon request of the individual companies;

(2) Preparation of an energy resources plan to be submitted to the Governor and the Legislature every 2 years that includes a description of historical energy demand by end-use sector and energy resources used to meet that demand and a forecast of energy demand by end-use sector for the next 5 years, 10 years and 20 years, which ~~shall~~ must include an electric and gas forecast;

(3) Encouragement and direction or sponsorship of research, experiments and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources that rely on renewable natural resources of the State, such as solar energy, water of tides and rivers, forests, winds and other sources which to date have not been fully explored or utilized; and

(4) Provision of conservation alternatives to proposed new electric power generating plants and assessment of the long-term and short-term energy savings realized by the conservation alternatives;

Sec. B-3. 5 MRSA §3305, sub-§1, ¶¶ L and M are enacted to read:

L. Coordinate the development of solid waste management policy including:

(1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;

(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature every 2 years; and

(3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and

M. Own, design, develop or operate, or contract with private parties to operate, a solid waste disposal facility, as provided in Title 38, chapter 24, subchapter IV.

Sec. B-4. 5 MRSA §3305-A is enacted to read:

§3305-A. Authority to own and operate solid waste disposal facility

The office has all necessary power and authority to own, design, develop and operate a solid waste disposal facility or facilities as provided in Title 38, chapter 24, subchapter IV, including:

1. Title to property. Authority to take and hold title to the facility;

2. Contracts. Authority to assume all rights and obligations under existing agreements related to the facility and to enter into contracts and agreements on behalf of the State as the office may consider necessary or appropriate in connection with the facility; and

3. Rules. Authority to adopt and amend rules in accordance with chapter 375, subchapter II.

Sec. B-5. 10 MRSA §1055 is enacted to read:

§1055. Revenue obligation securities for waste facilities, waste disposal services or recycling projects

In addition to any other powers and for the purposes of this chapter and Title 38, chapter 24, the authority may exercise powers and authority previously granted to the former Maine Waste Management Agency in Title 38, sections 2211 to 2222.

Sec. B-6. 38 MRSA §2211, sub-§1-A is enacted to read:

1-A. Agency. "Agency" means the Finance Authority of Maine.

Sec. B-7. Report; task force. The State Planning Office shall convene a task force to develop recommendations for a state policy regarding the potential development and operation of the state-owned solid waste disposal facility at Carpenter Ridge. The State Planning Office shall include on the task force legislators who are members of the Joint Standing Committee on Natural Resources. The State Planning Office shall submit a report to the Joint Standing Committee on Natural Resources by February 1, 1996 describing the status of the application for a license for the Carpenter Ridge waste facility and setting forth any recommendations the task force has developed for operation of the facility, including recommendations as to when and how the facility might be developed and operated, what changes in state law would be advisable to allow for operation of the facility and any other issues the task force considers appropriate.

The task force shall also examine state policy regarding the ban on development of new commercial solid waste disposal facilities and shall submit any recommendations regarding that policy in the report required in this section. The report must also include information on the importation of out-of-state waste into Maine and the export of Maine waste and recent congressional action on legislation relating to state authority to regulate the importation of waste.

PART C

Sec. C-1. Transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the former Maine Waste Management Agency.

1. Except as otherwise provided in this section, the Director of the State Planning Office shall assume all remaining duties and responsibilities of the former Maine Waste Management Agency, its officers and its executive director, including administration of any rules adopted by that agency relating to these remaining duties. By December 1, 1995, the director shall submit legislation to the Second Regular Session of the 117th Legislature to revise all remaining references to the Maine Waste Management Agency in the Maine Revised Statutes to conform to the intent of this Act.

2. All rules and procedures in effect, in operation or adopted on the effective date of this Act in or by the former Maine Waste Management Agency or any of its administrative units or officers remain in effect until rescinded, revised or amended by the proper authority.

3. Six authorized positions and incumbent personnel in the Maine Waste Management Agency are transferred to the State Planning Office. Those employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.

4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the former Maine Waste Management Agency must be transferred to the proper account by the State Controller upon the request of the State Budget Officer and with the approval of the Governor. Notwithstanding any other provision of law, the Department of Administrative and Financial Services is authorized to allot funds through a financial order, upon approval of the State Budget Officer and the Governor, in order to meet all outstanding obligations of the former Maine Waste Management Agency that are not specifically transferred to any other unit of State Government.

5. The Department of Administrative and Financial Services shall serve as the fiscal agent for the former Maine Waste Management Agency for the purpose of effecting the repeal of that agency. The duties of the Department of Administrative and Financial Services are limited to those required to close out the agency and include functions such as processing payment vouchers, preparing budget documents, processing contract documents, preparing human resource documents, preparing the final personnel payrolls and other related administrative activities required. Except for records transferred to the State Planning Office or the Department of Environmental Protection as necessary to enable those agencies to continue functions previously performed by the Maine Waste Management Agency, essential records related to the agency must be transferred to the Department of Administrative and Financial Services to be maintained and stored pursuant to standard procedure. This subsection is effective retroactively to May 1, 1995.

6. All personal property and equipment previously belonging to or allocated for the use of the former Maine Waste Management Agency must be transferred to the State Planning Office.

7. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Maine Waste Management Agency may be used by the State Planning Office and the Department of Environmental Protection until existing supplies of those items are exhausted.

8. All real estate held by the former Maine Waste Management Agency is transferred to the State Planning Office.

Sec. C-2. Effective date. Notwithstanding the emergency nature of this Act, the transfer of responsibilities and authorities described in this Act takes effect July 1, 1995.

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

Effective July 3, 1995, unless otherwise indicated.

CHAPTER 466

S.P. 473 - L.D. 1269

An Act to Provide Retirement Benefit Options for Game Wardens and Marine Patrol Officers

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

PART A

Sec. A-1. 5 MRSA §17709, as amended by PL 1987, c. 739, §§21 and 48, is repealed and the following enacted in its place:

§17709. Inland Fisheries and Wildlife officers

1. Before September 1, 1984. A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity before September 1, 1984 shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the officer has completed 20 years of creditable service, as required under section 17851, subsection 5, paragraph A; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of the officer's employment in that capacity.

2. After August 31, 1984; option. A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 5-A shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 5-A.

Sec. A-2. 5 MRSA §17851, sub-§5-A is enacted to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984; option. A law enforcement officer in the Department of Inland Fisheries and Wildlife who was first employed in that capacity after August 31, 1984 qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 5-A.

Sec. A-3. 5 MRSA §17852, sub-§5-A is enacted to read:

5-A. Inland Fisheries and Wildlife officers after August 31, 1984; option. The retirement benefit of a person who qualifies under section 17851, subsection 5-A and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife on or after November 1,

1995, elects the option provided in section 17851, subsection 5-A and pays to the retirement system an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or

B. The person was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife before November 1, 1995, elects the option provided in section 17851, subsection 5-A and pays to the retirement system single or periodic payment of a lump sum or by a combination of single and periodic payments of the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 5-A and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 5-A at any time after the date on which the person is first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer in the Department of Inland Fisheries and Wildlife on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than November 1, 1996.

PART B

Sec. B-1. 5 MRSA §17710, sub-§1, as amended by PL 1987, c. 739, §§22 and 48, is repealed and the following enacted in its place:

1. Before September 1, 1984. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity before September 1, 1984 shall contribute to the retirement system or have pick-up contributions made by the employer as follows:

A. At a rate of 7.5% of earnable compensation until the officer has completed 20 years of creditable service, as required under section 17851, subsection 6; and

B. After completing the service described in paragraph A, at a rate of 6.5% of earnable compensation for the remainder of the officer's employment in that capacity.

Sec. B-2. 5 MRSA §17710, sub-§1-A is enacted to read:

1-A. After August 31, 1984; option. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 6-A shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 6-A.

Sec. B-3. 5 MRSA §17851, sub-§6-A is enacted to read:

6-A. Marine resources officers after August 31, 1984; option. A law enforcement officer in the Department of Marine Resources who was first employed in that capacity after August 31, 1984 qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 6-A.

Sec. B-4. 5 MRSA §17852, sub-§6-A is enacted to read:

6-A. Marine resources officers after August 31, 1984; option. The retirement benefit of a person qualifying under section 17851, subsection 6-A who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer in the Department of Marine Resources on or after November 1, 1995, elects

the option provided in section 17851, subsection 6-A and pays to the retirement system an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or

B. The person was first employed in that capacity before November 1, 1995, elects the option provided in section 17851, subsection 6-A and pays to the retirement system by single or periodic payment of a lump sum or by a combination of single and periodic payments the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution.

For the purpose of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or does result from retirement under the option provided in section 17851, subsection 6-A and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 6-A at any time after the date on which the person is first employed as a law enforcement officer in the Department of Marine Resources must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer in the Department of Marine Resources on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than November 1, 1996.

PART C

Sec. C-1. 5 MRSA §17714 is enacted to read:

§17714. Baxter State Park Authority rangers

A law enforcement officer in the employment of the Baxter State Park Authority who elects the retirement option provided in section 17851, subsection 12 shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 11.

Sec. C-2. 5 MRSA §17851, sub-§12 is enacted to read:

12. Baxter State Park Authority rangers; option. A law enforcement officer in the employment of the Baxter State Park Authority qualifies for a service retirement benefit upon reaching 55 years of age after completing at least 25 years of creditable service in that capacity if notice of election of the option and payment of employee contributions and actuarial costs are made as provided in section 17852, subsection 11.

Sec. C-3. 5 MRSA §17852, sub-§11 is enacted to read:

11. Baxter State Park Authority rangers; option. The retirement benefit of a person who qualifies under section 17851, subsection 12 and who retires upon or after reaching 55 years of age is computed in accordance with subsection 1 if:

A. The person was first employed as a law enforcement officer at the Baxter State Park Authority on or after November 1, 1995, elects the option provided in section 17851, subsection 12 and pays to the retirement system an increased employee payroll contribution in an amount that equals the full actuarial cost of electing that option; or

B. The person was first employed as a law enforcement officer at the Baxter State Park Authority before November 1, 1995, elects the option provided in section 17851, subsection 12 and pays to the retirement system single or periodic payment of a lump sum or by a combination of single and periodic payments of the amount that equals the full actuarial cost of electing that option for service before that date. A person who requests calculation of the full actuarial cost, regardless of whether the person elects the option, must pay to the retirement system by single lump sum payment the reasonable administrative costs of determining the full actuarial costs. Payment of the full actuarial cost related to service on or after November 1, 1995 is made as part of the employee payroll contribution.

For the purposes of this subsection, "full actuarial cost" means that the person's payment or payments must fully offset any unfunded liability that would or

does result from retirement under the option provided in section 17851, subsection 12 and must fully fund the cost of the person's retirement prior to normal retirement age so that an additional employer contribution is not required.

A person who makes the election provided in section 17851, subsection 12 at any time after the date on which the person is first employed as a law enforcement officer at the Baxter State Park Authority must include interest at a rate to be set by the board not to exceed regular interest by 5 or more percentage points, applied as of the date on which the person was first employed in that capacity to the contributions the person would have paid or had picked up by the employer had the person elected that option at the date of first employment.

This subsection is effective November 1, 1995. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a law enforcement officer at the Baxter State Park Authority on or after November 1, 1995 must make the election no later than 90 days after the date of first employment. A person who was first employed in that capacity before November 1, 1995 must make the election no later than November 1, 1996.

PART D

Sec. D-1. Maine State Retirement System methodology. The Maine State Retirement System shall develop a methodology for calculating the full actuarial cost, reasonable administrative cost, and interest, if applicable, to be applied when a person elects to retire under the Maine Revised Statutes, Title 5, section 17581, subsections 5-A, 6-A or 12. The retirement system shall also establish the procedure for election under those subsections.

See title page for effective date.

CHAPTER 467**H.P. 604 - L.D. 814****An Act to Clarify the Registration of Snowmobiles by Nonresidents**

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

Whereas, this legislation changes the fees for certain snowmobile registrations; and

Whereas, annual snowmobile registrations run from July 1st to June 30th; 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. 12 MRSA §7824, sub-§1, as enacted by PL 1979, c. 420, §1, is amended to read:

1. Application and issuance. The commissioner, ~~or an agent designated by him, or the commissioner's designee~~ may register and assign a registration number to all snowmobiles upon application and payment of ~~an annual~~ a registration fee by the owner. ~~A registration shall be valid for one year commencing July 1st of each year.~~

Sec. 2. 12 MRSA §7824, sub-§1-B, ¶B, as repealed and replaced by PL 1989, c. 493, §56, is amended to read:

B. For the purpose of issuing snowmobile registrations, agents other than municipal agents ~~shall~~ be appointed or reappointed as follows.

(1) The commissioner ~~shall~~ may designate as an agent, for the purpose of issuing snowmobile registrations, any person who is licensed as a snowmobile dealer in accordance with section 7825, submits a complete application, is credit worthy and has not violated any provision of this subchapter. The commissioner may designate as an agent for the purpose of selling non-resident snowmobile registrations any business that submits a complete application, is determined by the commissioner to be credit worthy and has not violated any provision of this subchapter.

(2) A business, the agency of which is revoked for a violation of this subchapter, may reapply for an agency for the 2nd year following the last year it held an agency.

Sec. 3. 12 MRSA §7824, sub-§2, as amended by PL 1991, c. 477, §1, is further amended to read:

2. Fee. The annual snowmobile registration fee is ~~\$20~~, as follows:

A. For residents, \$20. The registration for a snowmobile owned by a resident is valid for one year, commencing on July 1st of each year; and

B. For nonresidents:

(1) Thirty-five dollars for a 3-consecutive day registration. A person may purchase more than one 3-day registration in any season;

(2) Fifty dollars for a 10-consecutive day registration. A person may purchase more than one 10-day registration in any season; and

(3) Sixty dollars for a seasonal registration.

The registration for a snowmobile owned by a nonresident must specify the dates for which the registration is valid.

Sec. 4. 12 MRSA §7824, sub-§3, ¶B, as amended by PL 1991, c. 477, §3, is further amended to read:

B. The registration fee for nonresidents is credited as follows:

(1) ~~\$10.75~~ Fifteen dollars of each fee is credited to the General Fund as undedicated revenue; ~~and,~~

(2) ~~\$9.25 of each fee~~ The remainder is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Recreation.

Sec. 5. 12 MRSA §7824, sub-§6, as enacted by PL 1979, c. 420, §1, is amended to read:

6. Duplicate registration certificate. The holder of any resident or nonresident seasonal registration certificate issued under this section may obtain a duplicate from the commissioner upon application and payment of a fee of \$1.

Sec. 6. 12 MRSA §7824, sub-§7, as amended by PL 1979, c. 543, §77, is further amended to read:

7. Numbers permanent. All numbers once awarded under this section to a resident-owned snowmobile ~~shall~~ remain with that snowmobile until the snowmobile is destroyed, abandoned or permanently removed from this State, except that numbers that have been inactive for at least 7 years may be reissued by the division.

Sec. 7. 12 MRSA §7824, sub-§8, ¶A, as amended by PL 1991, c. 477, §5, is further amended to read:

A. ~~Whoever~~ A person who transfers the ownership or permanently discontinues the use of a ~~registered~~ snowmobile having a resident registration or a nonresident seasonal registration and applies for registration of another snowmobile in

the same registration year is entitled to a certificate of registration upon payment of a transfer fee of \$2 and is not required to pay the regular registration fee of \$20.

Sec. 8. 12 MRSA §7824, sub-§9, as repealed and replaced by PL 1993, c. 574, §26, is amended to read:

9. Reciprocity. Except as specifically provided in this subsection, and notwithstanding any other provision of law, a snowmobile may be possessed or operated by any person in this State without being registered in this State as long as:

A. The snowmobile is properly registered in the name of a nonresident owner of the snowmobile; and

B. The nonresident owner of the snowmobile is a resident of a state, province, country or district with which this State has reciprocity.

For purposes of this subsection, "state, province, country or district with which this State has reciprocity" means a state, province, country or district that offers similar privileges to residents of this State. A state, province, country or district does not offer similar privileges if Maine residents holding a valid Maine snowmobile registration are charged a fee for access to the trail system in that state, province, country or district, or if, as determined by the commissioner, privileges and opportunities offered to snowmobile users in that state, province, country or district are not otherwise comparable to those offered in this State.

~~If a snowmobile is owned by a nonresident, but is primarily operated by a Maine resident, it must be registered in this State pursuant to this section. A snowmobile owned by a nonresident may not be issued a resident registration. Nothing in this subsection authorizes the operation of any snowmobile in any manner contrary to this subchapter.~~

Sec. 9. 12 MRSA §7824-B, as enacted by PL 1991, c. 586, §4, is amended to read:

§7824-B. Original registration defined

"Original registration" means any registration other than a renewal of registration by the same owner in sections 7824-A ~~to 7824-E~~, 7824-B, 7824-E and 7824-F.

Sec. 10. 12 MRSA §§7824-C and 7824-D, as enacted by PL 1991, c. 586, §4, are repealed.

Sec. 11. 12 MRSA §7824-E, as enacted by PL 1991, c. 586, §4, is amended to read:

§7824-E. Collection by State Tax Assessor

The provisions of this section and sections 7824-A ~~to 7824-D~~, 7824-B and 7824-F must be construed as cumulative of other methods prescribed in Title 36 for the collection of the sales or use tax. Nothing in these sections may be construed as precluding the State Tax Assessor from collecting the tax due in respect to any snowmobile in accordance with such other methods as are prescribed in Title 36 for the collection of the sales or use tax.

Sec. 12. 12 MRSA §7824-F is enacted to read:

§7824-F. Payment of sales or use tax prior to registration

Prior to registering a snowmobile, an agent of the commissioner shall collect sales or use taxes due. Sales or use taxes are due unless:

1. Nonresident. The person registering the snowmobile is not a resident of this State. Nonresidents are exempt from sales or use taxes on snowmobiles under Title 36, section 1760, subsection 25-B;

2. Renewal. The registration is a renewal registration by the same owner;

3. Collected by the dealer. The applicant possesses a dealer's certificate showing that the sales tax was collected by the dealer. The State Tax Assessor shall prescribe the form of a dealer's certificate; or

4. Exempt. The snowmobile is otherwise exempt from sales or use taxes under the provisions of Title 36, section 1760.

Sec. 13. 12 MRSA §7825, sub-§3, ¶A, as amended by PL 1991, c. 477, §7, is further amended to read:

A. Each registered dealer may receive dealer's number plates ~~for a \$16 annual fee for each plate.~~ The annual fee for a dealer's number plate is:

(1) For a resident dealer's plate, \$16; and

(2) For a nonresident dealer's plate, \$60.

Sec. 14. 12 MRSA §7827, sub-§§24 and 25 are enacted to read:

24. Unlawful issuance of snowmobile registration. An agent is guilty of unlawfully issuing a snowmobile registration if that agent issues a resident snowmobile registration to a nonresident or a nonresident snowmobile registration to a resident.

25. Fraudulent acquisition of a snowmobile registration. A person is guilty of fraudulently obtaining a snowmobile registration if that person obtains that registration through fraud, misstatement or misrepresentation.

Sec. 15. 36 MRSA §1760, sub-§25-A, as enacted by PL 1991, c. 846, §22, is amended to read:

25-A. All-terrain vehicles. All-terrain vehicles as defined in Title 12, section 7851 ~~and snowmobiles as defined in Title 12, section 7821~~ purchased by a nonresident and intended to be driven or transported outside the State immediately upon delivery by the seller. The purchaser is exempt from use tax, unless the ~~snowmobile~~ or all-terrain vehicle is present in the State for more than 30 days during the 12-month period following the date of purchase or is registered in the State without being registered in another state within 12 months of the date of purchase;

Sec. 16. 36 MRSA §1760, sub-§25-B is enacted to read:

25-B. Snowmobiles. A snowmobile, as that term is defined in Title 12, section 7821, subsection 5, purchased by a person who is not a resident of this State;

Sec. 17. 36 MRSA §1760, sub-§45, as amended by PL 1995, c. 65, Pt. A, §142 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

45. Certain property purchased outside the State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft, ~~snowmobile~~ or all-terrain vehicle that is registered outside the State by an owner who at the time of purchase was a resident of another state and the watercraft, ~~snowmobile~~ or all-terrain vehicle is present in the State not more than 30 days during the 12 months following its purchase; or

B. For more than 12 months in all other cases.

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles, watercraft, ~~snowmobiles~~ and all-terrain vehicles, that is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State

more than 12 months prior to its registration in this State.

Sec. 18. 36 MRSA §1952-A, as amended by PL 1995, c. 65, Pt. A, §143 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

§1952-A. Payment of tax on vehicles and watercraft

The tax imposed by chapters 211 to 225 on the sale or use of any vehicle or watercraft must, except where the dealer ~~thereof~~ of the vehicle or watercraft has collected ~~such~~ the tax in full, be paid by the purchaser or other person seeking registration of the vehicle or watercraft at the time and place of registration of ~~such~~ the vehicle or watercraft. In the case of vehicles except snowmobiles and all-terrain vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29-A, section 409. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections 7793-A to 7793-E, 7824-A to 7824-E or 7854-A ~~to 7854-E, 7824-B, 7824-E and 7824-F.~~

Sec. 19. 36 MRSA §1955-C, as amended by PL 1995, c. 65, Pt. A, §146 and affected by Pt. A, §153 and Pt. C, §15, is further amended to read:

§1955-C. Assessment for vehicles

Certificates forwarded to the State Tax Assessor under Title 29-A, section 409, subsection 4 or Title 12, section 7793-C, ~~7824-C~~ 7824-F or 7854-C, must be treated as returns filed under this Title for purposes of section 141.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1995.

Effective July 1, 1995.

CHAPTER 468

H.P. 577 - L.D. 782

An Act to Establish a Management Framework for the Lobster Fishery within State Waters

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

Sec. 1. 5 MRSA §12004-I, sub-§57-A is enacted to read:

<u>57-A.</u>	<u>Lobster</u>	<u>Expenses</u>	<u>12</u>
<u>Marine</u>	<u>Management</u>	<u>Only</u>	<u>MRSA</u>
<u>Resources</u>	<u>Policy</u>		<u>\$6447</u>
<u>Zones</u>	<u>Councils</u>		

Sec. 2. 12 MRSA §6404, as enacted by PL 1977, c. 661, §5, is amended to read:

§6404. Suspension based on conviction of scrubbing lobsters

The commissioner shall suspend the lobster and crab fishing license, wholesale seafood license and the commercial fishing license of any license holder convicted in court of violating section ~~6437~~ 6438-A. The suspension ~~shall~~ must be for one year from the date of conviction.

Sec. 3. 12 MRSA §6421, as amended by PL 1993, c. 499, §§2 and 3, is further amended to read:

§6421. Lobster and crab fishing licenses

1. License required. It is unlawful for any person to engage in the activities authorized by this license under this section without a current Class I, Class II ~~or~~ Class III, Class IV or student lobster and crab fishing license or other license issued under this Part authorizing the activities.

2. Licensed activity. The holder of a Class I, Class II ~~or~~ Class III, Class IV or student lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs and sell lobsters or crabs the license holder has taken. The license does not authorize the license holder to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat. The holder of a Class II or Class III license is liable for the licensed activities under this subsection of all unlicensed crew members assisting that licensee.

3-A. License limitation. A license authorizes activities by individuals as follows.

A. A Class I license authorizes the licensed activities by the individual who is named in the license. Any individual assisting or helping a Class I license holder in these activities must also be licensed.

B. A Class II license authorizes the license holder to engage in the licensed activities. A Class II license holder may engage one unlicensed crew member to assist in the licensed activities under the direct supervision of the Class II license holder.

C. A Class III license authorizes the license holder to engage in the licensed activities. A Class III license holder may engage 2 unlicensed crew members to assist in the licensed activities

under the direct supervision of the Class III license holder.

D. A Class IV license authorizes the apprentice so licensed to engage in the licensed activities on that apprentice's sponsor's vessel when the apprentice's sponsor is on board the vessel. A Class IV license holder may not tend any traps unless the traps are fished by the sponsor of the apprentice so licensed.

E. A student license authorizes the license holder to engage in the licensed activities using not more than 150 lobster traps at any one time.

4. Exception. A license is not required to take or catch crabs with bare hands or hook and line.

5. Eligibility. A Class I, Class II ~~or~~ Class III, Class IV or student lobster and crab fishing license may only be issued to an individual and is a resident license. A Class I, Class II or Class III license may be issued to a person only if the person:

A. Possessed a calendar year 1993 or calendar year 1994 Class I, Class II or Class III license issued under this section or possessed a Class I, Class II or Class III license under this section that was issued between January 1, 1995 and March 31, 1995 and owned and operated a boat used for harvesting lobsters in the coastal waters in calendar year 1993 or 1994 or between January 1, 1995 and March 31, 1995;

B. Held a Class I, Class II or Class III license issued under this section in calendar year 1992 and documents to the satisfaction of the commissioner that the person did not possess a license issued under this section in calendar year 1993 or 1994 and did not apply for a license issued under this section between January 1, 1995 and March 31, 1995 because of an injury or other medical condition;

C. Meets the requirements of the apprentice program under section 6422;

D. Documents to the commissioner that the commissioner had suspended the person's license privileges for a length of time that included the entire period between January 1, 1993 and March 31, 1995;

E. Documents to the commissioner that the person made a substantial investment between January 1, 1993 and April 30, 1995 in equipment directly related to the harvesting of lobsters. The commissioner shall define by rule the term "substantial investment"; or

F. Is 65 years of age or older and has held a lobster and crab fishing license.

5-A. Student license eligibility. A student license may only be issued to a person who, at the time of application, is a full-time student not more than 22 years of age.

6. Buoy colors. Each license applicant must describe, on the application, a single color design of the applicant's buoys.

7-A. Fee. Except as provided in subsection 8, the fee for the license is:

A. Forty-six dollars for a Class I license for applicants under 18 years of age;

B. Ninety-three dollars for a Class I license for applicants 18 years of age or older;

C. One hundred eighty-six dollars for a Class II license; ~~and~~

D. Two hundred seventy-nine dollars for a Class III license-;

E. Forty-six dollars for a Class IV license for applicants under 18 years of age;

F. Ninety-three dollars for a Class IV license for applicants 18 years of age or older; and

G. Forty-six dollars for a student license.

8. Exception. The fee for a Class I or a Class IV license for applicants 70 years of age or older is \$46.

Sec. 4. 12 MRSA §6422 is enacted to read:

§6422. Apprentice program

1. Program established; experience component. By July 1, 1996, the commissioner shall establish by rule an apprentice program for entry into the lobster fishery. The program must include practical lobster fishing experience. A person must hold a Class IV license under section 6421 to participate in the program.

2. Length of program. The commissioner shall determine the length of time an apprentice is enrolled in the program, which must be a minimum of 2 years.

3. Educational courses. The program may include any educational courses the commissioner determines appropriate. Educational courses may be taught by the department or by any public or private sector association or organization authorized by the commissioner. For any course taught by the department, the commissioner shall set an enrollment fee

sufficient to recover all costs incurred by the department in teaching the course.

4. Allowance for waivers. Notwithstanding subsections 1 and 2, the commissioner may waive all or part of the practical lobster fishing experience component or the program length for a person who holds a Class IV license if the person:

A. Documents to the commissioner that the person obtained practical lobster fishing experience as a sternman employed by the holder of a Class II or Class III license issued under section 6421;

B. Documents to the commissioner that the person obtained practical lobster fishing experience as a holder of a student license issued under section 6421; or

C. Documents to the commissioner that the person:

(1) Held a license issued under section 6421 during any calendar year between calendar year 1984 and calendar year 1994 or between January 1, 1995 and March 31, 1995; and

(2) Held a license issued under section 6501, 6701, 6702, 6731, 6745, 6746, 6748 or 6748-A in calendar year 1994 or between January 1, 1995 and March 31, 1995.

Sec. 5. 12 MRSA §§6431-A, 6431-B, 6431-C and 6431-D are enacted to read:

§6431-A. Trap limit

1. Limit. Except as provided in subsection 2, it is unlawful for the holder of a Class I, Class II or Class III license issued under section 6421 to have more than 1,200 traps submerged in the coastal waters of the State.

2. Trap limit exception. The holder of a Class I, Class II or Class III license issued under section 6421 who documents to the commissioner that the license holder had an average of more than 1,200 traps submerged in the coastal waters of the State in calendar year 1994 and calendar year 1995 has until March 1, 2003 to reduce that average number of traps to 1,200 or less. At a minimum, the license holder must divide the average number of submerged traps in excess of 1,200 by the number 7 and, starting in calendar year 1996, annually reduce the number of traps by the resulting number.

3. Effective date. This section takes effect March 1, 1996.

§6431-B. Tag system

By March 1, 1996, the commissioner shall establish by rule a lobster trap tag system under which lobster and crab fishing license holders must purchase tags for the purpose of identifying and tracking traps. The rules must contain provisions for replacing lost tags. The commissioner may impose a per-tag fee to cover the cost of trap tags, the costs of administering and enforcing a lobster trap tag system and the costs associated with lobster management policy councils and referenda pursuant to section 6447. Trap tag fees must be deposited in the Lobster Management Fund established under section 6431-C.

§6431-C. Lobster Management Fund

1. Lobster Management Fund. The Lobster Management Fund is established as a dedicated nonlapsing fund. The fund is administered by the department.

2. Purpose. All money credited to the Lobster Management Fund must be used to cover the costs of trap tags and the administration and enforcement of a lobster trap tag system under section 6431-B and the costs associated with lobster management policy councils and referenda pursuant to section 6447.

§6431-D. Boat trap limit

1. Boat limit. Except as provided in subsection 2, it is unlawful to tend more than 1,200 traps from a boat in the coastal waters of the State.

2. Exception. Two or more holders of Class I, Class II or Class III licenses issued under section 6421 who harvest lobsters from the same boat may collectively tend more than 1,200 traps from that boat if the license holders:

A. Document to the commissioner the average number of traps the license holders fished from the boat in the coastal waters of the State in calendar year 1995 and that average number exceeds 1,200.

(1) When license holders qualify under this paragraph, the trap limit for the boat in calendar year 1996 is the average number of traps the license holders fished from the boat in the coastal waters of the State in calendar year 1994 and calendar year 1995. The number of traps fished from the boat must be reduced to 1,200 or less by March 1, 2003. The commissioner may determine by rule a method for proportionally reducing the number of traps fished from a boat; or

B. Document to the commissioner that the license holders fished an average of more than 1,200 traps from a boat in the coastal waters of the State in calendar year 1994 and calendar year 1995 and are family members. For the purposes of this paragraph, being "family members" means that one license holder on the boat must be related to each of the license holders on the boat as either a spouse, sibling, parent by blood, parent by adoption, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent.

(1) When license holders qualify under this paragraph, the trap limit for the boat is the product of 1,200 multiplied by the number of license holders who are family members documented under this paragraph who continue to harvest lobsters from the boat in calendar year 1996 and consecutive calendar years thereafter. A license holder who is a family member documented under this paragraph and who does not harvest lobsters from the boat in calendar year 1996 or any subsequent calendar year may not harvest lobsters from the boat.

3. Effective date. This section takes effect March 1, 1996.

Sec. 6. 12 MRSA §§6437 and 6438, as enacted by PL 1977, c. 661, §5, are repealed.

Sec. 7. 12 MRSA §6438-A is enacted to read:

§6438-A. Artificial removal of eggs; prohibition

1. Prohibition. It is unlawful to remove extruded eggs from any female lobster or to take, buy, sell, possess, transport or ship any female lobster from which extruded eggs have been removed by any means other than natural hatching.

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a fine of \$100 for each lobster.

Sec. 8. 12 MRSA §§6446 and 6447 are enacted to read:

§6446. Lobster management zones

1. Establishment of zones. The commissioner may establish by rule zones to facilitate local or regional management of lobster fishery efforts.

2. Rules for zones. Notwithstanding any other provision of law, the commissioner may not adopt rules that limit fishing efforts in a zone established under subsection 1 unless those rules are proposed by a lobster management policy council established for a zone pursuant to section 6447 and the proposed rules

were approved in a referendum pursuant to section 6447, subsection 6. The rules adopted by the commissioner must accurately reflect the intent of the rules proposed by the lobster management policy council, but are not required to be a verbatim rendition of the proposed rules. The rules adopted under this section may regulate only the following:

- A. The number of lobster traps fished and the time periods allowed for complying with that number;
- B. The number of lobster traps allowed on a trawl; and
- C. The time of day when lobster fishing may occur.

3. Application of zone rules. The commissioner may adopt rules that define the application of zone rules to a person who holds a license under section 6421 and who fishes for lobsters in more than one zone.

4. Public hearing not required. In adopting rules under subsection 2, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052. The commissioner shall comply with all other provisions of Title 5, chapter 375 when adopting rules under subsection 2.

5. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

§6447. Lobster management policy councils

1. Councils. The commissioner shall establish a lobster management policy council for each zone created under section 6446. Council members must be reimbursed pursuant to Title 5, section 12004-1, subsection 57-A.

2. Rules for operation. By July 1, 1996, the commissioner shall establish by rule operating procedures for lobster management policy councils, including, but not limited to, the number of members on councils, the election and terms of council members and the process for referenda on council policies. A council must have an odd number of voting members.

3. Council members appointment; election. Upon establishing a lobster management policy council, the commissioner shall appoint members to the council to equitably represent lobster harvesters throughout a zone. Members appointed by the commissioner serve one-year terms. An election of subsequent council members must be held within one

year of the commissioner's appointments. Council members are elected by plurality vote.

4. Legislative representation. The President of the Senate and the Speaker of the House shall jointly appoint a Legislator to each lobster management policy council. The Legislator is a nonvoting member and serves a 2-year term.

5. Council authority. Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner regulations for a zone to place the following limitations on lobster and crab fishing license holders that fish in that zone, provided the proposed limitations are stricter than the limitations under section 6431-A, 6439, 6439-A or 6440:

- A. The number of lobster traps fished and the time periods allowed for complying with that number;
- B. The number of lobster traps allowed on a trawl; and
- C. The time of day when lobster fishing may occur.

6. Referendum on policy proposals. A lobster management policy council must submit proposed regulations to referendum in the zone in which the regulations would apply before submitting those proposed regulations to the commissioner. A lobster management council may submit proposed regulations to the commissioner if the proposed regulations are approved by 2/3 of those voting in the referendum.

7. Council member and voter qualifications. A person may not be a member of a zone's lobster management policy council or vote in a zone's council election or referendum unless that person:

- A. Possesses a Class I, Class II or Class III lobster and crab fishing license issued under section 6421; and
- B. Declared at the time of obtaining a Class I, Class II or Class III license the zone in which the person predominantly harvests lobsters. For the purposes of this subsection, a person may declare only one zone as the zone in which the person predominantly harvests lobsters.

The holder of a lobster and crab fishing license issued under section 6421 may fish for lobsters in any zone.

8. Role of advisory council. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this section without the advice and consent of the Marine Resources Advisory Council.

Sec. 9. 12 MRSA §6451, sub-§8 is enacted to read:

8. Apprentice program. The commissioner may authorize the expenditure of money in the Lobster Fund to cover the initial costs of developing and delivering the educational component of the apprentice program under section 6422, subsection 3. Any expenditures must be reimbursed to the Lobster Fund from the fees charged under section 6422, subsection 3.

Sec. 10. Allocation. The following funds are allocated from the Lobster Management Fund to carry out the purposes of this Act.

	1995-96	1996-97
MARINE RESOURCES, DEPARTMENT OF		
Administration - Marine Resources		
Positions - Other Count	(2.0)	(2.0)
Personal Services	\$36,624	\$48,832
All Other	62,500	80,000
Capital Expenditures	12,000	
TOTAL	\$111,124	\$128,832
Provides allocations for the costs of 2 additional Clerk Typist II positions and administrative costs necessary for administering new lobster management requirements and for the costs of establishing and operating 5 Lobster Management Policy Councils.		
Marine Patrol - Bureau of		
Positions - Other Count	(3.0)	(3.0)
Personal Services	\$79,388	\$105,850
All Other	30,300	40,400
Capital Expenditures	31,500	5,000
TOTAL	\$141,188	\$151,250
Allocates funds for one Boat Specialist position, 2 Marine Patrol Officer positions and additional operating and capital costs pertaining to the enforcement of the new lobster management framework.		

**DEPARTMENT OF
MARINE RESOURCES
TOTAL**

\$252,312

\$280,082

See title page for effective date.

CHAPTER 469

H.P. 568 - L.D. 769

**An Act to Conform Maine Law
Related to Domestic Relations with
Federal Law**

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

Sec. 1. 15 MRSA §321, sub-§1, as enacted by PL 1983, c. 619, is amended to read:

1. Definition. For purposes of this section, "family or household members" means spouses or former spouses, individuals presently or formerly living as spouses, natural parents of the same child ~~or~~, adult household members related by consanguinity or affinity or minor children of any household member when the offender is an adult household member. Holding oneself out to be a spouse ~~shall~~ is not ~~be~~ necessary to constitute "living as spouses."

Sec. 2. 15 MRSA §321, sub-§6, as enacted by PL 1983, c. 619, is amended to read:

6. Penalty. Violation of a protective order or of any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe, when the person has prior actual notice of the order, is a Class D crime. Notwithstanding any statutory provision to the contrary, an arrest for violation of a protective order may be without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

Sec. 3. 19 MRSA §762, sub-§4, as amended by PL 1989, c. 862, §8, is further amended to read:

4. Family or household members. "Family or household members" means spouses or former spouses, individuals presently or formerly living together as spouses, natural parents of the same child, ~~or~~ adult household members related by consanguinity or affinity or minor children of any household member when the defendant is an adult household member and for the purposes of this chapter only, includes individuals presently or formerly living together as sexual partners. Holding oneself out to be

a spouse is not necessary to constitute "living as spouses."

Sec. 4. 19 MRSA §769, sub-§1, as amended by PL 1993, c. 469, §4, is further amended to read:

1. Crime committed. Violation of a temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation, any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe or a court approved consent agreement, when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 766, subsection 1, paragraphs F to K. Violation of section 766, subsection 1, paragraphs F to K, must be treated as contempt and punished in accordance with law.

See title page for effective date.

CHAPTER 470

S.P. 306 - L.D. 845

An Act to Reduce Tobacco Use by Juveniles

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

Sec. 1. 5 MRSA §20002, sub-§3 is enacted to read:

3. Tobacco use by juveniles. To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The office shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety and the Department of Human Services, and municipalities shall cooperate with the office in these efforts.

The office may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The office shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles.

Sec. 2. 15 MRSA §3103, sub-§1, ¶C-1, as enacted by PL 1989, c. 445, §1 is repealed.

Sec. 3. 15 MRSA §3103, sub-§1, ¶D, as amended by PL 1989, c. 445, §2, is further amended to read:

D. If a juvenile is adjudicated to have committed an action described in paragraph B, or C ~~or C-1~~ willful refusal to pay a resulting fine or willful violation of the terms of a resulting probation;

Sec. 4. 15 MRSA §3103, sub-§2, as amended by PL 1989, c. 741, §2, is further amended to read:

2. Dispositional powers. All of the dispositional powers of the Juvenile Court provided in section 3314 ~~shall~~ apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to the Maine Youth Center or other detention may be imposed for conduct described in subsection 1, paragraphs B, and C ~~and C-1~~.

Sec. 5. 15 MRSA §3105-A, sub-§2, ¶C, as amended by PL 1989, c. 445, §3, is further amended to read:

C. A prosecution for conduct specified in section 3103, subsection 1, paragraph B, C, ~~C-1~~, D, E or F ~~shall~~ must be commenced within one year after it is committed.

Sec. 6. 15 MRSA §3201, sub-§3, as amended by PL 1989, c. 445, §4, is further amended to read:

3. Enforcement of other juvenile crimes. A law enforcement officer who has probable cause to believe that a juvenile crime, as defined by section 3103, subsection 1, paragraph B, or C ~~or C-1~~ has been committed may request that the juvenile provide the officer with reasonably credible evidence of the juvenile's name, address and age. The evidence may consist of oral representations by the juvenile. If the juvenile furnishes the officer with evidence of the juvenile's name, address and age and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the juvenile to remain present for a period not to exceed 2 hours.

After informing the juvenile of the provisions of this subsection, the officer may arrest the juvenile for a crime defined in section 3103, subsection 1, paragraph B, or C ~~or C-1~~ if the juvenile intentionally refuses to furnish any evidence of the juvenile's name, address and age, or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the juvenile has intentionally failed to provide reasonably credible evidence of the juvenile's name, address and age.

Sec. 7. 15 MRSA §3307, sub-§2, ¶B, as amended by PL 1989, c. 445, §5, is further amended to read:

B. The general public ~~shall be~~ is excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C, ~~E-1,~~ D or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, ~~where~~ when a juvenile does so elect, the general public ~~shall be~~ is not excluded from that hearing.

Sec. 8. 15 MRSA §3314, sub-§1, ¶G, as amended by PL 1989, c. 445, §6, is further amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph D, the court may impose a fine, subject to Title 17-A, sections 1301 to 1305. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B, and C, ~~and C-1,~~ shall be are deemed Class E crimes.

Sec. 9. 22 MRSA c. 262-A is enacted to read:

CHAPTER 262-A

RETAIL TOBACCO SALES

SUBCHAPTER I

RETAIL TOBACCO LICENSES

§1551. Definitions

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

1. Cigarette paper. "Cigarette paper" means those papers or paper-like products used to roll cigarettes, which by advertising, design or use facilitate the use of tobacco or other products for inhalation.

2. Juvenile. "Juvenile" means any individual who is younger than 18 years of age.

3. Tobacco products. "Tobacco products" includes any form of tobacco and any material or device used in the smoking, chewing or other form of tobacco consumption, including cigarette papers and pipes.

4. Vending machine. "Vending machine" means any automated, self-service device that upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

§1551-A. Retail tobacco sales license required

1. Retail tobacco license. It is unlawful for any person, partnership or corporation that engages in retail sales, including retail sales through vending machines or in free distribution of tobacco products, to sell, keep for sale or give away in the course of trade any tobacco products to anyone without first obtaining a retail tobacco license from the department, in accordance with this chapter.

2. Violation; penalty. Penalties for violation of subchapters I and II are in accordance with those subchapters.

3. Enforcement. The department shall enforce this chapter in cooperation with all law enforcement officers.

4. Publish laws and rules. Every 4 years the department shall publish a compilation of laws and rules concerning retail tobacco sales.

A. The department shall supply a copy of the compilation of laws and rules to every new tobacco retail sales licensee at no charge. The department may charge a reasonable fee for that compilation to cover the cost of producing the compilation to persons other than licensees.

B. The department shall notify all licensees of changes in the tobacco laws and rules within 90 days of adjournment of each regular session of the Legislature.

(1) The department shall supply a copy of the new laws and rules at no charge when requested by licensees.

(2) The department shall supply a copy of the new laws and rules to persons other than licensees for a reasonable fee.

5. Report. The department shall report annually to the Office of Substance Abuse the number of licenses granted, the number of violations processed and the penalties imposed, and any other information that the department and the office agree is necessary to fulfill the reporting requirements of this chapter.

§1552. Application procedure

1. Application process; license fees. An applicant for a one-time retail tobacco license shall file an application in the form required by the department. The department shall make provisions for applications

under this section. The fee for a one-time retail tobacco license is set by the department at the actual cost of processing the application and issuing the license, up to but not exceeding \$25. The applicant shall enclose the fee with the application for the license.

2. Term of license. All retail tobacco licenses are valid indefinitely unless suspended, revoked or not subject to the transfer under section 1553. Licenses that have been suspended or revoked may be reinstated, as permitted by the Administrative Court decision issued under subchapter II, upon the receipt of an application for reinstatement and payment of all penalties and an application fee of \$25.

3. Multiple licenses. A licensee applying for licenses to operate more than one premises or more than one vending machine shall obtain a separate license for each premises and each machine and shall pay the fee prescribed for each premises and each machine.

4. Application fees. All application fees must be deposited in a nonlapsing account to be used by the department to defray administrative costs.

5. False answer given intentionally. A person who intentionally gives a false answer in an application for a retail tobacco license violates Title 17-A, section 453.

§1552-A. Display of license; notices

1. Display of licenses. A licensee shall publicly display the license on the premises and on each machine to which the license applies.

2. Display of prohibition against sales to juveniles. All licensees shall post notice of the prohibition on tobacco sales to juveniles pursuant to section 1555. Notices must be publicly and conspicuously displayed in the licensee's place of business in letters at least 3/8 inches high. Signs required by this section must be provided at cost by the department. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

§1553. Transfer of licenses; death; bankruptcy; receivership; guardianship; corporations

Except as otherwise provided in this section, a license or any interest in a license may not be sold, transferred, assigned or otherwise subjected to control by any person other than the licensee. If the business or any interest in the business connected with a licensed activity is sold, transferred or assigned, the license holder shall send immediately to the depart-

ment the license and a sworn statement showing the name and address of the purchaser.

1. Transfer within same municipality. Upon receipt of a written application, the department may transfer any retail tobacco license from one place to another within the same municipality. A transfer may not be made to a premises for which a license could not have been originally legally issued.

2. Death, bankruptcy or receivership. In the case of death, bankruptcy or receivership of any licensee, the executor or administrator of the deceased licensee, the trustee or receiver of the bankrupt licensee or the licensee in receivership may retain the license.

A. For the benefit of the estate of the deceased licensee, the personal representative, receiver or trustee of the estate may operate the premises alone or through a manager for one year from the date of appointment.

(1) A new license application must be submitted at the end of the one-year grace period.

(2) Within one year from the date of appointment, the original license becomes void and must be returned to the department for cancellation.

(3) Any suspension or revocation of the license by the Administrative Court for any violation applies to the manager or the personal representative, receiver or trustee of the estate.

(4) A personal representative, receiver or trustee of an estate or a duly appointed manager may not operate under the license unless approved by the department.

B. If a licensee dies, the following persons, with the written approval of the department, may continue to operate under the license for not more than 60 days pending appointment of a personal representative of the estate:

(1) The surviving spouse;

(2) A person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee;

(3) The sole heir of the deceased licensee; or

(4) A person designated by all of the heirs of the deceased licensee.

C. When administration of the estate of a deceased licensee is not contemplated, the surviving spouse or person designated by all the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by an executor or an administrator.

3. Guardian; conservator. A duly appointed and qualified guardian or conservator of the estate of a licensee may take over and operate any license of the ward of the deceased licensee for a period not to exceed one year if the guardian or conservator or the guardian or conservator's managers are approved by the department.

A. A guardian or conservator must apply for a new license on the ward's behalf within one year of the guardian's or conservator's appointment, if the guardian or conservator intends to continue to sell tobacco products.

B. Penalties for violations apply to both guardians or conservators and guardians' or conservators' managers in the same manner as to executors or administrators and guardians' or conservators' managers in subsection 2, paragraph A, subparagraph (3).

4. Transfers. The following changes in a licensee's business are considered transfers under this section:

A. The sale or transfer of stock of a corporate licensee that results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee;

B. The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business;

C. The addition or deletion of a partner in a partnership; or

D. The merger or acquisition of a licensee that is incorporated.

§1553-A. Sales of tobacco products; vending machines

In addition to the tobacco license required in section 1551-A, the sale of cigarettes or any other tobacco product through a vending machine is subject to the following provisions.

1. Vending requirements. When the sale of cigarettes or any other tobacco product is made from a vending machine the following is required.

A. Only cigarettes or any other tobacco products may be dispensed by that machine.

B. A sign must be affixed conspicuously to the front of the machine. The sign must:

(1) Contain lettering that is at least 3/8 inches in height; and

(2) State the following: "WARNING. It is unlawful for any person under the age of 18 to purchase cigarettes in this State."

C. At all times during the hours the vending machine is accessible, it must be located within the unobstructed line of sight and under the direct supervision of an adult. That adult is responsible for preventing persons under 18 years of age from purchasing cigarettes or any other tobacco product from that vending machine.

This subsection does not apply to any vending machine located in an area where minors are not allowed by law or by policy of the owner of the premises.

2. Penalty. Any person, firm or corporation, in control of a facility in which a vending machine is located, who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged or for which the person, firm or corporation may be prohibited for a period of not more than 6 months from having a cigarette vending machine located on the premises or both.

SUBCHAPTER II

PROHIBITED SALES, POSSESSION AND USE

§1554. Sale without a valid license; crime; penalty

Notwithstanding Title 17-A, section 4-A, any person who engages in retail tobacco sales or in free distribution of tobacco products in the ordinary course of trade in this State without a valid license commits a Class E crime and is subject to the following penalties.

1. First offense. For the first offense, the penalty is a forfeiture of not less than \$300 plus court costs and not more than \$500 plus court costs. The forfeiture and costs may not be suspended. An additional penalty of not more than 30 days imprisonment may be imposed at the discretion of the court.

2. Second offense. For the 2nd offense, the penalty is a forfeiture of not less than \$500 plus court costs and not more than \$1,000 plus court costs. The forfeiture and costs may not be suspended. An additional penalty of not more than 60 days imprisonment may be imposed at the discretion of the court.

3. Subsequent offenses. For all subsequent offenses, the penalty is a forfeiture of not less than

\$1,000 plus court costs and 60 days imprisonment. The forfeiture, court costs and sentence may not be suspended. An additional penalty of 4 months imprisonment may be imposed at the discretion of the court.

§1554-A. Sale of unpackaged cigarettes

1. Prohibition. A person may not sell cigarettes except in the original, sealed package in which they were placed by the manufacturer nor may a person sell cigarettes in smaller quantities than placed in the package by the manufacturer.

2. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$10 nor more than \$100 may be adjudged. An employer of a person who violates this subsection commits a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 may be adjudged. In all cases of violations, the court shall impose a forfeiture that may not be suspended, except pursuant to Title 15, section 3314.

§1555. Sales of tobacco products to juveniles

1. Sale and distribution; penalty. A person may not knowingly sell, furnish, give away or offer to sell, furnish or give away cigarettes, cigarette paper or any other tobacco product to any person under 18 years of age. A person in the business of selling or otherwise distributing cigarettes, cigarette paper or other tobacco products for profit or an employee or agent of that person may not, in the course of that person's business, distribute free any cigarette, cigarette paper or other tobacco product to any person under 18 years of age in any place, including, but not limited to, a public way or sidewalk, public park or playground, public school or other public building or an entranceway, lobby, hall or other common area of a private building, shopping center or mall.

It is a civil violation for any person, firm or corporation to knowingly distribute or sell cigarettes or any other tobacco product from a vending machine to a person under 18 years of age. Violators are subject to the penalties established in this section.

A. Any person who violates this subsection commits a civil violation for which a fine of not less than \$50 nor more than \$1,500, plus court costs, may be adjudged for any one offense. Any employer of a person who violates this subsection commits a civil violation for which a fine of not less than \$50 nor more than \$1,500, plus court costs, may be adjudged. In all cases of violations, the court shall impose a fine that may not be suspended, except pursuant to Title 15, section 3314.

B. It is an affirmative defense to prosecution under this subsection that the defendant sold cigarettes, cigarette paper or any other tobacco product to a person under 18 years of age who furnished fraudulent proof of age.

2. Prohibition; false identification, purchase, possession and use by juveniles; forfeitures. It is unlawful for any person under 18 years of age to offer false identification in an attempt to purchase any tobacco products or to purchase, possess or use cigarettes, cigarette paper or any other tobacco product. Any person who violates this section commits a civil violation for which the following forfeitures may be adjudged.

A. For a first offense, a forfeiture of not less than \$100 and not more than \$300 may be imposed. The judge, as an alternative to or in addition to the forfeiture permitted by this subsection, may assign the violator to perform specified work for the benefit of the State, the municipality or other public entity or a charitable institution.

B. For a 2nd offense, a forfeiture of not less than \$200 and not more than \$500 may be imposed. The judge, as an alternative to or in addition to the forfeiture permitted by this subsection, may assign the violator to perform specified work for the benefit of the State, the municipality or other public entity or a charitable institution.

C. For all subsequent offenses, a forfeiture of \$500 must be imposed and that forfeiture may not be suspended. The judge, in addition to the forfeiture permitted by this subsection, may assign the violator to perform specified work for the benefit of the State, the municipality or other public entity or a charitable institution.

3. Display of prohibition; sales to juveniles. All dealers and distributors of tobacco products shall post notice of this section prohibiting tobacco and cigarette paper sales to persons under 18 years of age. Notices must be publicly and conspicuously displayed in the dealer's or distributor's places of business in letters at least 3/8 inches high. Signs required by this section may be provided at cost by the department. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

4. Enforcement. All law enforcement officers shall enforce this section. A citizen may register a complaint under this section with the law enforcement agency having jurisdiction. The law enforcement agency may notify any establishment or individual subject to this section of all citizen complaints regarding that establishment or individual's alleged

violation of this section and keep a record of that notification.

5. Distribution of fines. Fines and forfeitures collected pursuant to subchapter I and this subchapter must be credited as follows: 1/2 to the General Fund and 1/2 to be deposited in a nonlapsing account to be paid to law enforcement agencies.

§1555-A. Identification cards

A licensee may refuse to sell tobacco to any person who fails to display upon request an identification card issued under Title 5, section 88-A or a motor vehicle operator's license bearing the photograph of the operator and issued under Title 29-A.

§1556. Municipal regulation

Except as otherwise provided in this section, nothing in this chapter affects the authority of municipalities to enact ordinances or regulations that are more restrictive than this chapter. Municipalities are expressly prohibited from enacting ordinances and regulations regarding tobacco displays, product placement and the time of tobacco product sales after the effective date of this Act.

§1556-A. Enforcement

The provisions of this chapter may be enforced by law enforcement officers as defined by Title 17-A or by individuals hired by contract with the department to enforce this law.

1. Contract officers. The authority of contract officers hired under this chapter is limited to enforcement of this Act. Authorization to enforce this chapter is granted by the Commissioner of Public Safety, by terms mutually agreed upon between the department and the Department of Public Safety. Contract officers must have an appropriate background in law enforcement. Contract officers are exempt from ongoing training requirements except as otherwise determined by the Commissioner of Public Safety. These contract officers are not considered law enforcement officers for the purposes of enforcing the Maine Juvenile Code.

2. Enforcement of violations. Enforcement may be carried out by written summons pursuant to Title 17-A and also by complaint filed in either District Court or in Administrative Court. The District Court has jurisdiction over enforcement of civil violations and section 1555.

3. Injunction. If the person licensed to sell tobacco products has engaged in or is about to engage in any act or practice that violates this chapter, the Administrative Court may grant a permanent or

temporary injunction, restraining order or other order as appropriate.

SUBCHAPTER III

FINES, REVOCATION AND SUSPENSION

§1557. Jurisdiction; Administrative Court

1. Jurisdiction. The Administrative Court, pursuant to the Maine Administrative Procedure Act, shall conduct hearings on all matters concerning violations by tobacco licensees of any state law related to tobacco sales. Notwithstanding Title 5, chapter 375, subchapter VI, the Administrative Court Judge has exclusive jurisdiction over all violations of this chapter by licensees and their agents when no criminal penalty is provided.

2. Powers. The Administrative Court may impose fines or suspend or revoke licenses in accordance with this chapter.

§1557-A. Imposition of penalties; causes

The Administrative Court may impose fines or revoke or suspend licenses for the following causes:

1. Violation of law or infraction of rule. Violation of state law or rule related to the sale of tobacco products; or

2. False material statement. Knowingly making a false material statement of fact in an application for licensure of the sale of tobacco products.

§1558. Revocation or suspension procedure

1. Violation of law or rule. Upon discovering a violation of state law or rule related to retail tobacco sales, the commissioner or the commissioner's designee shall:

A. Report the violation to the Administrative Court in a signed complaint; or

B. Issue warnings to the licensees involved.

2. Notice and hearing. Except as provided under subsection 7, upon receipt of a signed complaint prepared under subsection 1, paragraph A, the Administrative Court shall notify the licensee and hold a hearing according to the following procedures.

A. The Administrative Court shall notify the licensee by serving the licensee with a copy of the complaint and a notice that states the time and place of the hearing and that the licensee may appear in person or be represented by counsel at the hearing. Service of the complaint and hearing notice is sufficient when sent by registered or

certified mail at least 7 days before the date of the hearing to the address given by the licensee at the time of application for a license.

B. The Administrative Court shall conduct a hearing limited to the facts, laws and rules specified in the complaint.

C. The Administrative Court shall conduct the hearing in the following manner.

(1) The Administrative Court may subpoena and examine witnesses, administer oaths and subpoena and compel the attendance of parents and legal guardians of unemancipated minors.

(a) The department shall pay to the witnesses the legal fees for travel and attendance, except that, notwithstanding Title 16, section 253, the department is not required to pay the fees before the travel and attendance occur.

(2) Hearsay testimony is not admissible during the hearing. The licensees named in the complaint have the right to have all witnesses testify in person at the hearing.

(3) The Administrative Court shall state in writing the findings and decision in each case based on the facts, laws and rules cited in the complaint. The findings must specify the facts found and the laws or rules violated.

3. Suspension or revocation decision. The Administrative Court shall issue the decision in writing within 12 days of the hearing.

4. Suspension of penalty; case on file. After the hearing, the Administrative Court may:

A. Suspend a penalty; or

B. Place a case on file instead of imposing a penalty.

5. Application of suspension or revocation. A suspension or revocation applies to premises and persons in the following manner.

A. If a licensee is interested directly or indirectly in more than one license, suspensions apply only to the premises where the violation occurs.

B. If a licensee is interested directly or indirectly in more than one license, the Administrative Court may order that a revocation apply to any of those premises or machines.

C. If the licensee is a corporation, the Administrative Court shall treat the officers, directors and substantial stockholders as individuals.

6. Term of suspension or revocation. Suspensions must be for a definite period of time. If the Administrative Court revokes a license, the court shall specify when the department may reinstate a license to the person whose license is revoked.

7. Warnings. Upon the written recommendation of the commissioner, or the commissioner's designee, the Administrative Court, instead of notifying a licensee against whom a complaint is pending to appear for hearing, may send the licensee a warning. Warnings must be sent by registered or certified mail and contain a copy of the complaint. A licensee to whom a warning is sent may demand a hearing by notifying the Administrative Court by registered or certified mail within 10 days from the date the warning was mailed.

8. Fines. Notwithstanding any other provisions of this Title, the Administrative Court may impose on a licensee a fine of a specific sum of not less than \$50 nor more than \$1,500 for any one offense. The fine is independent of any fine or forfeiture adjudged under subchapter I or II and may be imposed instead of or in addition to any suspension or revocation of a license.

A. The Administrative Court shall maintain a record of all fines received by the court. Any fines received must be credited as follows: 1/2 to the Department of Human Services in the account established in section 1552, subsection 4 and 1/2 to a nonlapsing account to be distributed twice a year to law enforcement agencies. Annually, the court shall report to the Office of Substance Abuse the total amount of fines collected and to whom and in what amounts the collected fines were dispersed.

§1558-A. Record of proceedings; transcript

1. Court record. The Administrative Court shall keep a full and complete record of all proceedings before the court of any enforcement actions or on the revocation and suspension of any license issued by the department. The Administrative Court is not required to have a transcript of the testimony prepared unless required for rehearing or appeal.

2. Notice to department. The Administrative Court shall forward to the department notice of final disposition of all proceedings conducted pursuant to this subchapter. The department shall maintain the records of the proceedings for at least 5 years. Annually, the department shall report a summary of the types and number of cases heard and the dispositions of the cases to the Office of Substance Abuse.

3. Notice to defendant. Notice of the decision of the Administrative Court must be sent to the defendant by certified mail to the address given by the licensee to the department.

§1559. Appeal decision of Administrative Court

1. Aggrieved person may appeal within 30 days. A person aggrieved by the decision of the Administrative Court in imposing any forfeiture or fine or in revoking or suspending a license issued by the department or by refusal of the department to issue a license applied for may appeal to the Superior Court by filing a complaint within 30 days of the decision or refusal.

A. The 30-day period for appeal begins on:

(1) The effective date of the suspension or revocation in the case of a license revocation or suspension; or

(2) The day when the department sends notice of refusal, by registered or certified mail, to the applicant for a license in the case of refusal by the department to issue a license.

B. Filing the complaint in Superior Court suspends the running of the 30-day period.

2. Suspension or revocation suspended pending appeal. If the licensee files an appeal in the Superior Court and notifies the Administrative Court that the appeal has been filed within 7 days of the mailing of the decision of the Administrative Court required in section 1558-A, subsection 3, the operation of a suspension or revocation of a license imposed by the Administrative Court must be suspended, pending judgment of the Superior Court.

3. Superior Court hearing. The Superior Court shall fix a time and place for an immediate hearing and notify the Administrative Court of the hearing.

4. Superior Court decision. After the hearing, the Superior Court may affirm, modify or reverse the decision of the Administrative Court.

5. Further appeal. An aggrieved person may appeal the Superior Court decision to the Supreme Judicial Court. Upon appeal, the Supreme Judicial Court, after consideration, may reverse or modify any decree made by the Superior Court based upon an erroneous ruling or finding of law.

§1559-A. Transfer of funds

The Department of Human Services shall transfer from the account established in section 1552, subsection 4, an amount mutually agreed upon by the

commissioner and the State Court Administrator to be the Judicial Department costs of implementing this chapter. The agreed upon amount must be transferred to a nonlapsing Judicial Department account to defray administrative costs. The first payment must be made by January 1, 1996 and additional payments must be made annually after that date.

Sec. 10. 22 MRSA c. 263 is amended by inserting before §1561 the following:

SUBCHAPTER I

NUISANCES

Sec. 11. 22 MRSA c. 263 is amended by inserting before §1578-B the following:

SUBCHAPTER II

SMOKING

Sec. 12. 22 MRSA §1579, as corrected by RR 1993, c. 1, §52, is repealed.

Sec. 13. 22 MRSA c. 265-B, as amended, is repealed.

Sec. 14. 22 MRSA c. 265-C, as enacted by PL 1989, c. 445, §10, is repealed.

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Health - Bureau of		
All Other	\$5,000	\$5,000
Allocates funds for the costs of administering retail tobacco sales licensure.		
DEPARTMENT OF HUMAN SERVICES TOTAL	<hr/> \$5,000	<hr/> \$5,000
JUDICIAL DEPARTMENT		
Tobacco Law Enforcement		
All Other	\$5,000	\$5,000
Allocates funds to authorize the distribution of 1/2 of fine revenue collected pursuant to the Maine Revised Statutes,		

Title 22, chapter 262-A to
law enforcement agencies.

**Tobacco Licensing
Violations**

Positions - Other Count	(1.0)	(1.0)
Personal Services	\$25,250	\$50,500
All Other	11,000	2,000
Capital Expenditures	12,500	
TOTAL	\$48,750	\$52,500

Provides funds for one
Clerk position for the
Administrative Court, per
diems for active retired
judges, programming
costs for dedicating fine
revenue and other
miscellaneous expenses
associated with tobacco
sales licensure and
enforcement.

JUDICIAL DEPARTMENT		
TOTAL	\$53,750	\$57,500
TOTAL		
ALLOCATIONS	\$58,750	\$62,500

Sec. 16. Report. The Office of Substance Abuse in cooperation with the Department of Human Services shall submit interim reports to the joint standing committee of the Legislature having jurisdiction over legal affairs by March 30, 1996 and by January 30, 1997 regarding the operation of the tobacco education programs and other pertinent statistics. The reports must contain reliable information comparing the percentage of juveniles smoking in this State within 3 months of the effective date of this Act with the percentage of juveniles smoking in this State within 3 months of the reporting date.

Sec. 17. Educational programs. To the extent that funds are available, the Department of Human Services and the Office of Substance Abuse shall collaboratively coordinate, develop and implement programs to educate retailers, schools, retail clerks, juveniles and the general public about the laws relating to cigarette sales to, and purchases by, juveniles, the consequences of violating those laws and the consequences of using tobacco products. The Department of Human Services and the Office of Substance Abuse shall work in cooperation with the Department of Education, tobacco industry retailers and nonprofit health agencies, including, but not limited to, the Maine Lung Association and the American Cancer Society.

Sec. 18. Office of Substance Abuse; approval to hire project personnel. The Office

of Substance Abuse is granted legislative approval to use federal block grant dollars to hire project personnel to conduct education in, and research on, tobacco use by juveniles. The Office of Substance Abuse is authorized to subcontract, with the Department of Human Services, to hire contract personnel for the department to enforce the tobacco laws.

Sec. 19. Application. During the first 6 months after the effective date of this Act, when a juvenile is summonsed for the purchase, possession or use of tobacco products, that summons is a warning and not subject to the fines established in the Maine Revised Statutes, Title 22. The Office of Substance Abuse shall make cigarette smoking and tobacco use cessation programs available throughout the State and send notices of those programs to local schools and public service agencies to make juveniles aware of the availability of those programs.

See title page for effective date.

CHAPTER 471

S.P. 214 - L.D. 556

An Act Concerning the Participation of Teachers of Adult Education in the Maine State Retirement System

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.

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

Whereas, current law requires part-time, seasonal and temporary state employees, including adult education teachers, to be members of the Maine State Retirement System; and

Whereas, that requirement creates financial and other hardships for certain part-time, uncertified adult education teachers that must be addressed through legislation; and

Whereas, legislation taking effect July 1, 1995 is necessary to address the hardships created by current law; 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. 5 MRSA §17001, sub-§42, ¶B, as repealed and replaced by PL 1989, c. 878, Pt. D, §4, is amended to read:

B. Any employee of a public school who fills any position not included in paragraph A, the principal function of which is to introduce new learning to students, except that an employee who is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1 and who is not otherwise covered by the definition of teacher defined in this subsection may not be considered a teacher for purposes of this Part;

Sec. 2. 5 MRSA §17154, sub-§6, ¶E, as enacted by PL 1993, c. 387, Pt. A, §7 and c. 482, §3, is repealed and the following enacted in its place:

E. Notwithstanding this section, the employer retirement costs related to the retirement system applicable to those teachers whose funding is provided directly or through reimbursement from private or public grants must be paid by local school systems from those funds. "Public grants" does not include state or local funds provided to school administrative units under Title 20-A, chapters 315 and 606.

Sec. 3. 5 MRSA §17154, sub-§6, ¶F is enacted to read:

F. Notwithstanding this section, effective September 1, 1993, the employer retirement cost related to the retirement system, less the unfunded liability, applicable to a teacher who is permitted to continue to accrue service credit while on released time and serving as president of a recognized or certified collective bargaining agent representing teachers must be paid from funds provided by the collective bargaining agent or school administrative unit. For purposes of this paragraph, in computing the employer cost, "earnable compensation" means the amount that the teacher would have earned if the teacher had remained in a teaching position.

Sec. 4. Application. The exclusion of certain adult education employees from the definition of teacher that is provided by section 1 of this Act applies to those employees who are employed on or after July 1, 1995 in circumstances to which the exclusion applies, regardless of whether an employee has been employed in those circumstances prior to that

date. An employee who was employed in those circumstances prior to that date and whose contributions related to that employment are in the Maine State Retirement System on that date may, but is not required to, withdraw those contributions.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1995.

Effective July 1, 1995.

CHAPTER 472

H.P. 801 - L.D. 1118

**An Act to Amend the Laws
Pertaining to the Duties of Skiers and
Tramway Passengers by Defining
Inherent Risks**

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

Sec. 1. 26 MRSA §488, as amended by PL 1979, c. 514, §3, is repealed and the following enacted in its place:

§488. Skiers' and tramway passengers' responsibilities

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

A. "Inherent risks of skiing" means those dangers or conditions that are an integral part of the sport of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hard-pack, powder, packed powder, slush and granular, corn, crust, cut-up and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, forest growth, rocks, stumps, trees and other natural objects and collisions with or falls resulting from such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snow-making and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with or falls resulting from such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design; snow-making or snow-grooming operations, including but not limited to ski jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.

B. "Skiing" means the use of a ski area for downhill, telemark or cross country skiing or snowboarding; for sliding downhill on snow or ice on skis, a toboggan, sled, tube, snowboard or any other device; or for similar uses of the ski slopes and trails.

C. "Skier" means any person who participates in any of the activities at a ski area described in paragraph B.

2. Acceptance of inherent risks. Because skiing as a recreational sport, and the use of passenger tramways associated with skiing, may be hazardous to skiers or passengers, regardless of all feasible safety measures that may be taken, each person who participates in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that extent, may not maintain an action against or recover from the ski area operator, or its agents, representatives or employees, for any losses, injuries, damages or death that result from the inherent risks of skiing.

3. Warning notice. A ski area operator shall post and maintain at the ski area where the lift tickets and ski school lessons are sold and at the loading point of each passenger tramway signs that contain the following warning notice:

WARNING:

Under Maine law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions such as ice, hardpack, powder, packed powder, corn, crust and slush and cut-up, granular and machine-made snow; surface or subsurface conditions such as dirt, grass, bare spots, rocks, stumps, trees, forest growth or other natural objects and collisions with such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including but not limited to ski jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.

4. Duty to ski within limits of ability. A skier has the sole responsibility for knowing the range of the skier's own ability to negotiate any slope or ski trail, and it is the duty of the skier to ski within the limits of the skier's own ability, to maintain control of the rate of speed and the course at all times while skiing, to heed all posted and oral warnings and instructions by the ski area operator and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others.

5. Responsibility for collisions. The responsibility for a collision between any skier while skiing and any person or object is solely that of the skier or skiers involved in the collision and not the responsibility of the ski area operator or its agents, representatives or employees.

6. Liability. A ski area operator or its agents, representatives or employees are not liable for any loss, injury, damage or death resulting from the design of the ski area.

7. Provision of name and current address required. A skier involved in, causing or contributing to a collision or other accident at a ski area that results in a fall or injury may not leave the vicinity of the collision or accident before giving that skier's name and current address to an employee or representative of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision, in which case the person leaving the scene of the collision shall give that skier's name and current address after securing such aid. A ski area operator, or its agents, representatives or employees, is not liable for a skier's failure to provide that skier's name and address or for leaving the vicinity of an accident or collision.

8. Actions not prohibited. This section does not prevent the maintenance of an action against a ski area operator for:

A. The negligent operation or maintenance of the ski area; or

B. The negligent design, construction, operation or maintenance of a passenger tramway.

See title page for effective date.

CHAPTER 473

S.P. 203 - L.D. 546

**An Act to Change the Law That
Determines When a Sentence in
Excess of 20 Years May Be Imposed
for a Class A Crime**

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

Sec. 1. 17-A MRSA §1252, sub-§2, ¶A, as amended by PL 1987, c. 808, §§1 and 3, is further amended to read:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 40 years. The court may consider a serious criminal history of the defendant and impose a maximum period of incarceration in excess of 20 years based on either the nature and seriousness of the crime alone or on the nature and seriousness of the crime coupled with the serious criminal history of the defendant;

See title page for effective date.

CHAPTER 474

H.P. 561 - L.D. 762

An Act to Amend the Trust Fund Provisions of Cemeteries and Crematories

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

Sec. 1. 13 MRSA §§1264 to 1267 are enacted to read:

§1264. Trust funds for services or property

1. Trust accounts. Pre-need funds received for cemetery or crematory services or property to be delivered at or after the date of death must be placed in a cemetery or crematory trust account in a bank, trust company, credit union or savings institution. For purposes of this subsection, "pre-need funds" means all money paid during a person's lifetime to a cemetery or crematory by that person or by another person on that person's behalf under an agreement that services will be performed or property will be delivered in connection with the disposition of that person's body after that person's death.

2. Trust agreement. A trust agreement setting forth the following information must be signed by the payor and the payee and the original agreement must be given to the payor and a copy of that agreement must be given to the payee:

A. The name and address of the individual for whose benefit services or property will be delivered;

B. The name of the entity acting as trustee;

C. The name and address of the payor;

D. The services or property that will be provided by the payee;

E. Statements that a full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative and that, in the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified in the trust agreement; and

F. A statement that interest on funds placed in trust will not be paid to the payor in the event of a refund of principal of trust funds and any interest that may accrue remains with the payee.

3. Services and property covered. This section applies to cemetery or crematory services such as cremation fees, grave opening and closing charges and inscription of death dates. This section does not apply to the sale of cemetery lots or plots, monuments and memorials, garden crypts, lawn crypts, mausoleum crypts, cremation urns and niches, vaults, liners and similar tangible personal property if title to and physical possession of the specific property has passed to the buyer. Any funds expended to purchase tangible personal property when that personal property is held by the payee until the time of need are not considered funds that must be placed in the trust account.

4. Refund provisions. A full refund of the principal of the funds placed in trust must be made by the payee upon written request of the payor, the payor's attorney-in-fact or the payor's personal representative. In the absence of such a request, the payee may withdraw the funds only upon the death of the person for whose benefit the funds were paid and shall use the funds in accordance with the purposes identified on the trust agreement.

5. Administrative fees. The payee may not charge the payor, the payor's attorney-in-fact or the payor's personal representative an administrative fee for funds or tangible personal property held in trust.

6. Application. The provisions of this section apply only to funds received by a payee of a trust account after the effective date of this section.

§1265. Tangible personal property

Upon written request and payment of any reasonable out-of-pocket expenses, a cemetery or crematory shall deliver to a person, the person's attorney-in-fact or the person's personal representative any item of tangible personal property purchased by

that person but remaining in the possession of the cemetery or crematory.

§1266. Solicitation of cemetery or crematory services or property

Uninvited telephone or door-to-door solicitations for crematory or cemetery services or property are prohibited. This section may not be construed to limit the raising of funds for capital improvements as long as those funds are not raised through the purchase of cemetery or crematory services or property. Uninvited solicitations may not be construed to include solicitations resulting from uninvited good-faith personal referrals from individuals purchasing services or property from a cemetery or crematory.

§1267. Penalties

Any person who violates section 1264 or 1265 commits theft according to the classifications set forth in Title 17-A, section 362. Any person who violates section 1266 commits a civil violation and is subject to a fine of not less than \$100 and not more than \$500.

See title page for effective date.

CHAPTER 475

S.P. 191 - L.D. 500

An Act to Authorize a General Fund Bond Issue to Connect Libraries and Communities Electronically

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14, to authorize the issuance of bonds on behalf of the State of Maine to provide funds for a statewide library information system.

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

PART A

Sec. A-1. 27 MRSA §39, as amended by PL 1989, c. 700, Pt. A, §109, is further amended to read:

§39. Statewide Library Information System

1. Statement of policy. The Legislature declares that it is the policy of the State that cooperation among Maine libraries of all types should be fostered and encouraged. The sharing of library holdings and of library-developed tools for obtaining electronic information from networked resources enriches the economic, educational and cultural life of each Maine community. Citizen access to materials

purchased with public dollars in an era of widespread access to electronic information networks requires that materials be identifiable by title and physical location. It is in the public interest that the Maine State Library promote and assist access by recording the holdings of Maine libraries in a form accessible by modern information technology information about resources available through Maine libraries and maintaining them in an always-current, immediately accessible electronic form readily available to every citizen through a variety of telephone and network connections. In this way, the educational and informational resources of the State will be available to every citizen.

2. Legislative intent. Recognizing the value of broad citizen access to library materials and recognizing that automated records are essential to the use of technology information, the State assigns to the Maine State Library the responsibility of collecting the holding records of libraries throughout Maine and making them accessible in machine readable form providing electronic access to information resources including: the creation of an online catalog of the holdings of libraries and other governmental units throughout the State; the provision of online indexing, full text and document delivery of newspaper, periodical and journal articles; the maintenance of a gateway to the Internet and its vast array of electronic resources; the coordination of an effective and efficient means of transporting physical materials among libraries; and the development of a program to teach citizens of the State to successfully locate, retrieve and use the information contained within various computer systems. It is the State's intent that these records be shared with any citizen or library on request. It is the intent of the Legislature to provide the Maine State Library with the resources necessary to carry out this section.

Sec. A-2. Application; contingent on bond issue. This Part takes effect only if the bond issue submitted pursuant to Part B of this Act is approved by the voters of this State.

PART B

Sec. B-1. Authorization of bonds to provide for a statewide library information system. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$4,905,316 to raise funds for a statewide library information system as authorized by section 6. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 5 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. B-2. Records of bonds issued to be kept by the Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. B-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in section 6 lapse to the debt service account established for the retirement of these bonds.

Sec. B-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. B-5. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in section 6 under the direction and supervision of the Maine State Library.

Sec. B-6. Allocations from General Fund bond issue; statewide library information system. The proceeds of the sale of bonds must be expended as designated in the following schedule.

1995-96

MAINE STATE LIBRARY

Statewide Library Information System \$4,905,316

Sec. B-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State have ratified the issuance of bonds as set forth in this Part.

Sec. B-8. Appropriation balances at year end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. B-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and may not be issued; except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining

unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. B-10. Referendum for ratification; submission at primary election; form of question; effective date. This Part must be submitted to the legal voters of the State of Maine at the June 1996 primary election following passage of this Part. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$4,905,316 bond issue for a statewide library information system?"

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

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

Effective pending referendum.

CHAPTER 476

H.P. 414 - L.D. 571

An Act to Eliminate the Personal Property Tax on Individuals in the State

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

Sec. 1. 36 MRSA §655, sub-§1, ¶P, as amended by PL 1983, c. 632, Pt. A, §4, is further amended to read:

P. All items of individually owned personal property ~~with a just value of less than \$1,000,~~ except:

- (1) Items used for industrial or commercial purposes; and

(2) Vehicles and camp trailers as defined in section 1481 not subject to an excise tax.

Sec. 2. Application. This Act applies to property tax years beginning on or after April 1, 1997.

See title page for effective date.

CHAPTER 477

H.P. 486 - L.D. 667

An Act to Permit the Equitable Taxation of Leased Equipment

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

Sec. 1. 36 MRSA §1752, sub-§18-A, as amended by PL 1985, c. 819, Pt. C, §§6 and 7, is further amended to read:

18-A. Telephone or telegraph service. "Telephone or telegraph service" means all telecommunications or telegraph service, including installation or use of telecommunication or telegraphic equipment, but not including telecommunications or telegraph service originating or terminating outside this State. "Telecommunications and telegraphic equipment" means any 2-way interactive communications device, system or process for transmitting or receiving electromagnetic signals and capable of exchanging audio, data base or textual information. Until January 1, 1988, telecommunications service includes access services provided by a local exchange carrier to an interstate or intrastate interexchange carrier. Notwithstanding subsection 11, a sale of access services ~~shall be~~ is considered a retail sale. Beginning January 1, 1988, unless extended by the Legislature, telecommunications service ~~shall~~ does not include those access services. "Telephone or telegraph service" does not include directory advertising service. This subsection applies to leases entered into prior to October 1, 1996.

Sec. 2. 36 MRSA §1752, sub-§18-B is enacted to read:

18-B. Telephone or telegraph service. "Telephone or telegraph service" means all telecommunications or telegraph service, including installation of telecommunication or telegraphic equipment, but not including telecommunications or telegraph service originating or terminating outside this State. "Telecommunications and telegraph equipment" means any 2-way interactive communications device, system or process for transmitting or receiving electromagnetic signals and capable of exchanging audio, data base or textual information. "Telecommunications and telegraph equipment" does not

include computers, except those components of a computer used primarily and directly as a 2-way interactive communications device capable of exchanging audio, data base or textual information. Notwithstanding subsection 11, a sale of access services is considered a retail sale. Beginning January 1, 1988, unless extended by the Legislature, "telecommunications service" does not include those access services. "Telephone or telegraph service" does not include directory advertising service. This subsection applies to leases entered into on or after October 1, 1996.

See title page for effective date.

CHAPTER 478

H.P. 390 - L.D. 525

An Act to Amend the Sales Tax Exemption for Emergency Shelter and Feeding Organizations

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

Sec. 1. 36 MRSA §1760, sub-§47, as enacted by PL 1983, c. 855, §7, is amended to read:

47. Emergency shelter and feeding organizations. ~~Sales of household and sanitary supplies to incorporated nonprofit organizations which that~~ provide free temporary emergency shelter or food for underprivileged individuals in this State-;

Sec. 2. Effective date. This Act takes effect October 1, 1996.

Effective October 1, 1996.

CHAPTER 479

H.P. 479 - L.D. 660

An Act to Amend the Law Governing Real Estate Transfer Taxes Applicable to the Maine Turnpike Authority

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

Sec. 1. 36 MRSA §4641-C, sub-§1, as amended by PL 1993, c. 647, §1, is further amended to read:

1. Deeds to government property. Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities,

agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes and gifts of land and interests in land to governmental entities and deeds to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;

Sec. 2. Application. This Act applies for transfers occurring on or after October 1, 1995.

See title page for effective date.

CHAPTER 480

H.P. 940 - L.D. 1329

An Act Concerning Plastic Holding Devices Used in Packaging

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

Sec. 1. 7 MRSA §18, as amended by PL 1993, c. 743, §§1 and 2, is repealed.

Sec. 2. 7 MRSA §18-A, as amended by PL 1993, c. 743, §3, is repealed.

Sec. 3. 7 MRSA §18-B is enacted to read:

§18-B. Ring holding devices

A person may not sell or offer for sale products in containers connected by a separate holding device constructed of plastic rings with at least one hole larger than 1 3/4 inches in diameter, unless the device decomposes by photodegradation, chemical degradation or biodegradation within a reasonable period of time upon exposure to the elements, in accordance with regulations adopted by the United States Environmental Protection Agency, effective September 1, 1994 and codified at 40 Code of Federal Regulations, Part 238.

Sec. 4. PL 1993, c. 743, §4 is repealed.

See title page for effective date.

CHAPTER 481

S.P. 508 - L.D. 1367

An Act Concerning the Termination of Parental Rights

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

Sec. 1. 22 MRSA §4002, sub-§1-A, ¶¶A and B, as enacted by PL 1983, c. 184, §1, are amended to read:

A. Failure, for a period of at least ~~one year~~ 6 months, to communicate meaningfully with the child;

B. Failure, for a period of at least ~~one year~~ 6 months, to maintain regular visitation with the child;

Sec. 2. 22 MRSA §4035, sub-§4, as enacted by PL 1991, c. 176, §2, is amended to read:

4. Final protection order. The court shall issue a final protection order within 18 months of the filing of the child protection petition unless good cause is shown why the order should not be issued within that time period.

Notwithstanding any other provision of this subsection, if the court makes a finding pursuant to section 4055, subsection 1-A, then the court shall issue a final protection order within 12 months of the filing of the child protection petition unless good cause is shown why the order should not be issued within that time period. Good cause does not include a scheduling problem.

Sec. 3. 22 MRSA §4055, sub-§1-A, ¶¶A and B, as enacted by PL 1985, c. 739, §16, are amended to read:

A. The parent has acted toward a child in a manner ~~which that~~ is heinous or abhorrent to society or has failed to protect a child in a manner ~~which that~~ is heinous or abhorrent to society, without regard to the intent of the parent; ~~or~~

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

- (1) Murder;
- (2) Felony murder;
- (3) Manslaughter;
- (4) Aiding or soliciting suicide;
- (5) Aggravated assault;
- (6) Rape;
- (7) Gross sexual misconduct or gross sexual assault;

- (8) Sexual abuse of minors;
- (9) Incest;
- (10) Kidnapping;
- (11) Promotion of prostitution; or
- (12) A comparable crime in another jurisdiction;

Sec. 4. 22 MRSA §4055, sub-§1-A, ¶¶C to E are enacted to read:

C. The child has been placed in the legal custody or care of the department, the parent has a chronic substance abuse problem, and the parent's prognosis indicates that the child will not be able to return to the custody of the parent within a reasonable period of time, considering the child's age and the need for a permanent home. The fact that a parent has been unable to provide safe care of a child for a period of 12 months due to substance abuse constitutes a chronic substance abuse problem;

D. The child has been placed in the legal custody or care of the department, the court has previously terminated parental rights to another child who is a member of the same family and the parent continues to lack the ability or willingness to show the court that the parent has sought services that would rehabilitate the parent or the parent can not show evidence that an additional period of services would result in reunification in a time reasonably calculated to meet the needs of the child and the child's need for a permanent home; or

E. The child has been placed in the legal custody or care of the department for at least 12 months, and the parents have been offered or received services to correct the situation but have refused or have made no significant effort to correct the situation.

Sec. 5. 22 MRSA §4055, sub-§2, as amended by PL 1983, c. 772, §9, is further amended to read:

2. Primary considerations. In deciding to terminate parental rights, the court shall consider the needs of the child, including the child's age, the child's attachments to relevant persons, periods of attachments and separation, the child's ability to integrate into a substitute placement or back into his the parent's home and the child's physical and emotional needs.

See title page for effective date.

CHAPTER 482

H.P. 771 - L.D. 1045

An Act to Amend Certain Motor Vehicle Laws

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

PART A

Sec. A-1. 29-A MRSA §101, sub-§15, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

15. Classic vehicle. "Classic vehicle" means a motor vehicle ~~more than 10 years old~~ made before the 1984 model year but less than 25 years old that the Secretary of State determines is of significance to vehicle collectors because of its make, model and condition and is valued at more than \$5,000.

Sec. A-2. 29-A MRSA §252, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Reports furnished to commercial users; fee. The Secretary of State shall furnish reports of records pertaining to convictions, adjudications, accidents, suspensions, revocations and other information ~~to individuals~~ for a fee of \$4 \$5 each. Certified copies are an additional \$1.

Sec. A-3. 29-A MRSA §410 is enacted to read:

§410. Voluntary surrender or cancellation

A registrant may voluntarily surrender vehicle registration. The Secretary of State shall record that the registration has been cancelled. The Secretary of State may require the return of any certificate of registration or registration plate issued to the registrant for the vehicle. The registrant may activate the registration at any time prior to the original expiration of the registration. The fee for reactivation is \$10.

Sec. A-4. 29-A MRSA §521, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

§521. Registration; disability registration plates

1. Definition. "Person with a disability" means a person whose disability limits or impairs the ability to walk, as determined and certified by a licensed physician, to the extent that the person:

- A. Can not walk 200 feet without stopping to rest;

B. Can not walk without assistance from another person or the use of a brace, cane, crutch, prosthetic device, wheelchair or other assistive device;

C. Is restricted by lung disease to such an extent that the person's forced expiratory volume for one second when measured by spirometry is less than 1 liter or when the arterial oxygen tension is less than 60mm/hg on room air at rest;

D. Uses portable oxygen;

E. Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class 3 or Class 4 according to standards set by the American Heart Association; or

F. Is severely limited in the ability to walk due to an arthritic, neurological or orthopedic condition.

2. Disability registration plates. Disability registration plates must bear the International Symbol of Access, which must be in a color that contrasts with the background and is the same size as the letters or numbers on the plate. The Secretary of State may issue a set of disability registration plates to the following:

A. A person with a disability;

B. A vehicle owner who is a spouse, parent or legal guardian of a person with a disability when the person with a disability is a resident of this State, a member of the relative's or guardian's household and dependent on the vehicle owner as the primary means of transportation; or

C. An organization or agency in this State that transports persons with disabilities.

3. Removable windshield placards. The Secretary of State may issue a removable windshield placard to a person with a disability or an organization or agency in this State that transports persons with disabilities. A removable windshield placard is a 2-sided permit designed to hang from the rearview mirror when the vehicle is not in motion. The following provisions apply to placards.

A. The placard must be displayed by hanging it from the rearview mirror so that it may be viewed from the front and rear of the vehicle when the vehicle is using a parking space for a person with a disability. If the vehicle is not equipped with a rearview mirror, the placard must be displayed on the dashboard. The windshield placard must be removed from the rearview mirror when the vehicle is in motion.

B. The placard must be blue with white print and contain the International Symbol of Access, at least 3 inches high, centered on the placard. The placard must contain the permit number, the expiration date, the name of the person with a disability and the seal of the Secretary of State. In the case of an organization or agency, the placard must be green with white print and contain the same information, except that the name of the organization must appear instead of the name of the person with a disability and the expiration date must be determined by the Secretary of State. A placard issued to a person with a disability under this section expires in the applicant's month of birth in the 4th year following the date of issuance.

C. A windshield placard may be displayed on any properly registered motor vehicle only when the person with a disability is a passenger or the operator or when the driver of the vehicle is waiting for a service to be rendered to the person with a disability.

4. Motorcycle. A person with a disability who has registered a motorcycle may be issued a disability plate as a registration plate. The registration plate must bear the International Symbol of Access, which must be in a color that contrasts with the background and must be the same size as the letters or numbers on the plate.

5. Application; issuance. An application for a disability plate or placard must be accompanied by the certificate of a physician attesting to that person's physical disability as defined in subsection 1. The Secretary of State shall issue to an eligible applicant one set of disability plates and one windshield placard or one windshield placard and a 2nd placard upon request. Proof of a disability must be submitted every 4 years on a form prescribed by the Secretary of State, except, when the Secretary of State determines the disability to be permanent, the time may be extended. When the applicant's need for the disability placard terminates or the applicant dies, the plate or placard must be immediately returned to the Secretary of State.

6. Temporary placards. The Secretary of State may issue a temporary placard to a person who is temporarily disabled. A temporary placard is a 2-sided permit designed to hang from the rearview mirror when the vehicle is not in motion. The following provisions apply to temporary placards.

A. An application for a temporary placard must be accompanied by the certificate of a physician attesting to the applicant's physical disability as defined in subsection 1 and the period of time that the physician determines the applicant will

have the disability. A temporary placard is not valid for a period of more than 6 months. The Secretary of State must give priority consideration to requests for temporary placards.

B. The placard must be red with white print and contain the International Symbol of Access, at least 3 inches high, centered on the placard. The placard must contain the permit number, the expiration date specified by the physician, the name of the person with a disability and the seal of the Secretary of State.

C. During the period for which it is valid, a temporary placard carries the same privileges as a disability windshield placard and has the same use restrictions specified in subsection 3.

7. Registration and placard fees. There is no additional registration fee for disability plates. The fee for each removable windshield placard and temporary windshield placard is \$1.

8. Violation. A person other than a person with a disability or an organization transporting a person with a disability using a set of disability registration plates or a windshield placard commits a traffic infraction and is subject to a \$100 penalty. The disability registration plates or removable windshield placard may be suspended for improper use.

9. Compliance. Any person or organization issued a placard or plates pursuant to former Title 29, section 252 or 252-C must reapply, according to the procedures set forth in this section, by January 1, 1999. In the case of individuals or organizations currently in possession of disability plates or a placard who successfully reapply, the placard or plates expire on the date specified by the placard or plates.

10. Effective date. This section takes effect on January 1, 1996.

Sec. A-5. 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. If a minimum fine is provided by any rule adopted pursuant to this subchapter, the court shall impose at least the minimum fine, which may not be suspended by the court.

Sec. A-6. 29-A MRSA §602, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Certificate of origin. "Certificate of origin" means the original written instrument or document

required to be executed and delivered by the manufacturer or an importer to the manufacturer's or importer's agent or dealer or a person purchasing directly from the manufacturer or importer certifying the origin of the vehicle. For a motor home, "certificate of origin" means both the manufacturer's and the chassis manufacturer's certificates of origin.

Sec. A-7. 29-A MRSA §602, sub-§2, ¶¶C and F, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

C. Chassis, front or rear clip, frame or equivalent part;

F. Tailgate, roof, deck lid or hatchback;

Sec. A-8. 29-A MRSA §602, sub-§13, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

13. Salvage vehicle. "Salvage vehicle" means a vehicle that, by reason of its condition or circumstance, is declared a total loss by an insurer or owner or is transferred to a recycler or salvage dealer, or a vehicle for which a certificate of salvage has been issued.

Sec. A-9. 29-A MRSA §602, sub-§1-A is enacted to read:

1-A. Clip. A clip is the portion of a vehicle removed by cutting the front or rear of the frame or unibody the width of the vehicle.

Sec. A-10. 29-A MRSA §653, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Certificate of origin required. A person may not bring into this State a new vehicle, unless that person possesses the certificate of origin. The certificate of origin must be a secure document.

Sec. A-11. 29-A MRSA §654, sub-§1, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A description of the vehicle, including, as far as data exists, its make, model, model year, vehicle identification number, type of body, current mileage ~~and~~ whether new or used and whether repaired or rebuilt;

Sec. A-12. 29-A MRSA §658, sub-§1, ¶E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

E. A description of the vehicle, including its make, model, model year designation, identification number, type of body, whether new or used, current mileage and, if a new vehicle, the

date of the first sale of the vehicle for use. If the vehicle is a motor home, the chassis identification number must be used and the manufacturer's identification number, make, name and model year must be designated by the Secretary of State on the certificate; or

Sec. A-13. 29-A MRSA §660, first ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

The Secretary of State shall refuse to issue a certificate of title or salvage or may withdraw a certificate of title or salvage if the required fee is not paid or if the Secretary of State has reason to believe that:

Sec. A-14. 29-A MRSA §667, sub-§5, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. The legend "salvage" must appear on a certificate of title if:

(1) A vehicle has no marketable value other than the value of the basic materials or parts used in the construction of the vehicle;

(2) A vehicle is sold with a stipulation that it is only to be used for the benefit of its parts; ~~or~~

(3) A certificate of title previously issued by the Secretary of State or by any other jurisdiction bearing the legend "salvage" accompanies an application to the State for a subsequent certificate of title; or

(4) A total vehicle loss has been repaired by the use of a front or rear clip.

Sec. A-15. 29-A MRSA §668, sub-§§1 and 3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Findings. The Secretary of State ~~shall~~ may suspend or revoke a certificate of title, certificate of salvage, certificate of lien or certificate of registration on notice and reasonable opportunity to be heard, if the Secretary of State finds:

A. A certificate of title or certificate of salvage was fraudulently procured or erroneously issued;

B. A vehicle has been scrapped or dismantled;

C. A person failed to deliver a certificate of title or certificate of salvage or an application for certificate of title or certificate of salvage or fails to furnish information the Secretary of State requests within 10 days after the time required; or

D. A person failed to mail or deliver a certificate of title or certificate of salvage to the Secretary of State following the creation of a security interest by court order or other governmental action or following an involuntary transfer.

3. Certificate delivered. When the Secretary of State suspends or revokes a certificate of title, certificate of salvage, certificate of lien or certificate of registration, the owner or person in possession of that document, immediately upon receiving notice of the suspension or revocation, shall deliver the document and registration plates to the Secretary of State.

Sec. A-16. 29-A MRSA §705, sub-§3 is enacted to read:

3. Assumed release of lien. Unless notified otherwise, the Secretary of State, at the Secretary of State's discretion, may assume that any lien with a lien date more than 66 months old has been satisfied.

Sec. A-17. 29-A MRSA §753, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Delivery to Secretary of State. Fails to deliver a certificate of title, certificate of lien or certificate of salvage or application for a certificate of title, certificate of lien or certificate of salvage to the Secretary of State within 10 days after the time required;

Sec. A-18. 29-A MRSA §956, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Record of vehicles. A dealer shall complete and maintain for a period of not less than ~~3~~ 5 years after the date of transaction a record of the purchase or sale of a vehicle and the following:

A. A description of the vehicle, including make, model, model year, body type, vehicle identification number, color and whether the vehicle is new or used;

B. The name and address of the person from whom purchased;

C. The name of the legal owner, if different from the name from whom purchased in paragraph B;

D. The name and address of the purchaser;

E. The mileage of the vehicle when received and sold;

F. Copies of the warranty and of the disclosure statement, pursuant to Title 10, section 1474, received and issued by the dealer with the sale;

G. An invoice disclosing from whom the vehicle was obtained. If the vehicle was obtained from another dealer, the dealer's name must be disclosed; and

H. On a used motor vehicle offered for sale, the written vehicle history statement required by Title 10, section 1475.

Sec. A-19. 29-A MRSA §1101, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Insurance salvage pool. A person may not engage in business as an insurance salvage pool without a license issued under ~~this subchapter or under~~ section 1051.

Sec. A-20. 29-A MRSA §1108, sub-§1, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. Failure to comply with a provision of this subchapter, any lawful rule adopted by the Secretary of State or any provision of Title 17 or Title 17-A or this Title as they relate to being a proper person to be in the business of the sales of vehicles or parts;

Sec. A-21. 29-A MRSA §1258, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Confidentiality. A report received or made by the board, ~~or~~ a member, or the Secretary of State for the purpose of assisting the Secretary of State in determining whether a person is qualified to be licensed is confidential and only for the use of the board, the Secretary of State and the person under review.

These reports may not be divulged to another person unless the person under review gives written permission.

Sec. A-22. 29-A MRSA §1303, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Test requirement. A person must pass the vision portion of a license examination:

A. At the time of the first license renewal after attaining 40 years of age;

B. At every ~~3rd~~ 2nd license renewal after the renewal in paragraph A until attaining ~~65~~ 62 years of age; and

C. At every license renewal after attaining ~~65~~ 62 years of age.

Sec. A-23. 29-A MRSA §1307, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Examination fee for endorsements. The examination fee for a double or triple trailer, semi-trailer, bus, tank truck ~~or~~ hazardous materials endorsement or the renewal of a hazardous materials endorsement is \$10. A reexamination is \$5.

Sec. A-24. 29-A MRSA §1401, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Required information. A license must state, at a minimum, the name, date of birth, place of residence or mailing address if different from the residence, of the licensee and the permanent number assigned to that licensee. A name displayed on a license must be as the name appears on a birth certificate or a court order or as the result of marriage.

Sec. A-25. 29-A MRSA §1405, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Fee. The fee for a duplicate license, registration certificate and instruction ~~permits~~ permit is \$2. An additional fee of ~~\$2~~ \$3 is required for a photograph.

Sec. A-26. 29-A MRSA §2401, sub-§8, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

8. OUI. "OUI" means operating under the influence of intoxicants or with an excessive blood-alcohol level under section 2411, 2453, 2454, 2456, 2457 or 2472.

Sec. A-27. 29-A MRSA §2458, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Penalty. A person commits a Class E crime if that person, after notice of suspension ~~or~~ revocation, or cancellation fails to obey an order of the Secretary of State under this section or fails to surrender to the Secretary of State on demand a license, certificate of title, certificate of registration or fuel use decal that has been suspended ~~or~~ revoked or cancelled by proper authority.

PART B

Sec. B-1. 29-A MRSA §201, sub-§3, ¶G is enacted to read:

G. A municipal agent may charge an applicant a fee not to exceed \$1 over the required fee when an applicant is requesting issuance of a set of plates designated as specialty plates by the Secretary of State to replace previously issued plates.

Sec. B-2. 29-A MRSA §352, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed and the following enacted in its place:

§352. Minors

1. Application for registration. The Secretary of State may not approve the application of a minor for registration of a vehicle unless the minor is at least 15 years old and the application is signed by:

A. A parent or guardian who has the custody of the minor;

B. If the minor has no parent or guardian, the minor's employer; or

C. If the minor is emancipated, the minor. In this case, the application must be accompanied by an attested copy of the court order of emancipation.

2. Suspension. If a person who has signed the application files with the Secretary of State a notarized written request that the registration be suspended, the Secretary of State shall, pursuant to chapter 23, suspend the registration without hearing.

Sec. B-3. 29-A MRSA §401, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Content of application. An application must contain information requested by the Secretary of State, including name, residence and address of the registrant, current mileage of the vehicle, a brief description of the vehicle, the maker, the vehicle identification number, ~~the amount of motive power stated in horsepower~~, the type of motor fuel and the actual gross weight of ~~the vehicle if intended for commercial use~~ trucks, truck-tractors and special mobile equipment. The application must be signed by the registered owner or legal representative.

Sec. B-4. 29-A MRSA §460, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. State official registration plates authorized. The Secretary of State, on payment of taxes required in section 409, ~~subsection 5~~ and fees required in section 501, subsections 1 and 2 and upon application, shall issue one pair of specially designed number plates for one designated motor vehicle owned or controlled by each member of the United States Senate or the United States House of Representatives

from this State, or members of the Legislature, Representatives of the Indian Tribes at the Legislature, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Senate and the Clerk of the House of Representatives. A specially designed plate and its registration certificate may be used in place of the regular plate and registration. The named official may attach to such a motor vehicle one of the valid registration plates issued under section 451 and one of the valid registration special registration plates issued under this section.

Sec. B-5. 29-A MRSA §461, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Nonplate issue year. In other than a plate issue year, when a person fails to reregister and the registration remains expired for ~~8~~ 6 consecutive months, the reservation of the same number ceases and the number becomes available for reissuance.

For a maximum of 2 registration years, a person may reserve the registration number assigned to that person by depositing with the Secretary of State the sum of \$10 for each year; except that the registered owner of an antique motor vehicle may reserve the antique registration assigned to that person for 4 years by depositing with the Secretary of State the sum of \$12 for each year. A person wishing to select a number out of rotation may do so by paying the registration fee and a reserved number fee of \$5.

Sec. B-6. 29-A MRSA §502, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by repealing and replacing the headnote to read:

§502. Transfer and return of registration; prorated registration fees

Sec. B-7. 29-A MRSA §502, sub-§4 is enacted to read:

4. Prorated fee. On any application for registration made during the last 4 months of a registration year, the registration fee is 1/2 the annual registration fee.

Sec. B-8. 29-A MRSA §525, sub-§1, ¶¶A and B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

A. Is registered for a gross vehicle weight in excess of 26,000 pounds; ~~or~~

B. Is designed to carry 20 or more passengers;

Sec. B-9. 29-A MRSA §525, sub-§1, ¶¶C and D are enacted to read:

C. Is used in combination with another vehicle or vehicles and the combined gross weight is in excess of 26,000 pounds; or

D. Has 3 or more axles on the power unit regardless of gross weight.

Sec. B-10. 29-A MRSA §525, sub-§2, ¶¶B to D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. A vehicle ~~bearing~~ legally operating with dealer registration plates;

C. A recreational vehicle; ~~or~~

D. An authorized emergency vehicle registered in another jurisdiction and operating in response to a declared emergency; ~~or~~

Sec. B-11. 29-A MRSA §525, sub-§2, ¶E is enacted to read:

E. A vehicle legally licensed for fuel use reporting under the International Fuel Tax Agreement.

Sec. B-12. 29-A MRSA §525, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. B-13. 29-A MRSA §525, sub-§6, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A cab card, ~~issued by the Secretary of State~~, must be carried in the vehicle at all times. For the purposes of this paragraph, "cab card" means identification issued or approved by the Secretary of State that contains the legal name and address of the person who has established a fuel use reporting account for the vehicle.

Sec. B-14. 29-A MRSA §525, sub-§13 is enacted to read:

13. Rules. The Secretary of State in consultation with the State Tax Assessor and the Commissioner of Public Safety may adopt rules to implement this section and to provide for participation in the International Fuel Tax Agreement.

Sec. B-15. 29-A MRSA §556, sub-§§1 and 5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Exclusive use. A vehicle engaged exclusively in:

A. The transportation of freight or merchandise of the owner in the course of a primary business;

B. The transportation of the United States mail;

C. The intrastate transportation during the harvesting season, within 100 highway miles, of fresh fruits and fresh vegetables or products of vining and cutting plants from farms to processing plants or freezing plants, places of storage or places of shipment;

D. The intrastate and foreign hauling of wood, pulpwood, logs, sawed lumber, wood chips, bark, hogged fuel or sawdust within 100 highway miles from the woodlot or forest area where cut, sawed or chipped;

E. The intrastate and foreign hauling of sawlogs and pulpwood harvested on lands owned by the State beyond the 100-mile limitation if, for lands administered by the Department of Conservation, the Commissioner of Conservation consents or, for lands administered by the Baxter State Park Authority, the authority consents to the transport. Consent must be given to avoid severe economic hardship or disruption of land management plans;

F. The intrastate and foreign hauling, within 100 highway miles, of lumber horses, crew, equipment and supplies to or from a woodlot or forest area;

G. The intrastate transportation of livestock, including race horses, for exhibition purposes, to and from agricultural fairs, race tracks and other exhibits;

H. The intrastate hauling, within 100 highway miles, of milk and cream to receiving stations;

I. The intrastate and foreign transportation of Christmas trees, wreaths and greens;

J. The intrastate transportation, within 100 highway miles of the carrier's regular place of business, of disabled, collision damaged, wrecked or repossessed motor vehicles;

K. The intrastate transportation of refuse, garbage and trash;

L. The intrastate transportation of sand, gravel, loam, rocks, crushed rock, hot top, cold top or bituminous mixes;

M. The intrastate transportation of buildings, houses and similar permanent structures being relocated, but not including mobile offices and mobile homes; and

N. The intrastate transportation of newspapers and newspaper inserts;

5. Farm. A vehicle of an independent contractor while engaged exclusively in the intrastate transportation of:

A. Seed, feed, fertilizer and livestock for an owner or operator of a farm directly from the place of purchase to the farm; or

B. Agricultural products for an owner or operator of a farm, directly from the farm on which the products were grown to a place of storage, processing or shipment within 100 highway miles;

Sec. B-16. 29-A MRSA §1002, sub-§6, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A vehicle dealer or equipment dealer may operate a wrecker with a dealer wrecker plate if the wrecker is used only in direct connection with the buying, selling, service or repair business of the dealer to which it is issued.

Sec. B-17. 29-A MRSA §1251, sub-§6, ¶¶B and C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. A person on active duty in the United States Armed Forces, if that person possesses:

(1) A valid license issued by that person's state of domicile; or

(2) For a period of 45 days after return from duty outside the United States, a valid license issued by the United States Armed Forces in foreign countries; ~~and~~

C. A spouse of a member of the United States Armed Forces while accompanying that member on active duty assignment to this State, and who is not a resident of this State and who has a valid license issued by another jurisdiction; and

Sec. B-18. 29-A MRSA §1251, sub-§6, ¶D is enacted to read:

D. A person operating a motor vehicle in a parking area under the supervision of an instructor during applied technology education as defined by Title 20-A, section 8301-A, subsection 11.

Sec. B-19. 29-A MRSA §1258, sub-§1, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. The board must include licensed physicians representing the specialties of cardiology, gerontology, internal medicine, neurology or neurological surgery, ophthalmology, psychiatry,

family practice and rehabilitative medicine and may include additional members who are professionals in relevant medical fields.

Sec. B-20. 29-A MRSA §1611, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Coverage of insurance or bond. The required insurance policy or bond must adequately provide liability insurance for the collection of damages for which the holder of a permit or the owner of a motor vehicle or vehicles may be liable by reason of the operation of a motor vehicle or vehicles subject to this chapter. For passenger carriers operating for hire, the Secretary of State may not approve the policy or bond unless it provides primary coverage for the operator as well as the owner.

Sec. B-21. 36 MRSA §3202, sub-§9, as amended by PL 1987, c. 549, §5, is repealed and the following enacted in its place:

9. User. "User" means any person who is the registered owner or who causes the operation in the State of any motor vehicle that uses special fuel in an internal combustion engine and that:

A. Has a gross vehicle weight or combined gross vehicle weight of more than 26,000 pounds;

B. Has 3 or more axles on the power unit regardless of gross weight; or

C. Is a bus designed to carry 20 or more passengers.

Sec. B-22. Effective date. Those sections of this Act that affect the Maine Revised Statutes, Title 29-A, section 556 and section 1611, subsection 5 are effective January 1, 1996. Those sections of this Act that affect Title 29-A, section 525 and Title 36, section 3202 take effect January 1, 1997. No later than March 1, 1996, the Secretary of State shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters on the status of the State's applications to join the Regional Fuel Tax Agreement and the International Fuel Tax Agreement. The joint standing committee of the Legislature having jurisdiction over transportation matters may report out legislation in the Second Regular Session of the 117th Legislature to repeal or amend the effective date of provisions relating to the State's participation in these agreements if necessary.

See title page for effective date, unless otherwise indicated.

CHAPTER 483

H.P. 1029 - L.D. 1444

**An Act to Strengthen the
Governmental Ethics and Campaign
Reports and Finances Laws**

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. 21-A MRSA §1001, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Election. "Election" means any primary, general or special election for state ~~or~~ county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

Sec. 2. 21-A MRSA §1011, as enacted by PL 1985, c. 161, §6, is amended to read:

§1011. Application

This subchapter applies to candidates for all state and county offices and to campaigns for their nomination and election. This subchapter also applies to candidates for federal offices for the purposes of section 1017, subsection 1.

Candidates for municipal office as defined in Title 30-A, section 2502, subsection 1 and referenda as defined in Title 30-A, section 2502, subsection 2 are governed by this subchapter, with the following provisions:

1. Role of the municipal clerk; commission. For candidates for municipal office, the municipal clerk is responsible for any duty assigned to the commission in this subchapter related to the registration of candidates, receipt of reports and distribution of information or forms, unless otherwise provided. The commission retains the sole authority to prescribe the content of all reporting forms.

2. Exemptions. Exemptions for municipal candidates from the reporting requirements of this subchapter are governed by this subsection.

A. At the time a municipal candidate registers under section 1013-A, the candidate may notify

the municipal clerk in writing that the candidate will not accept contributions, make expenditures or incur financial obligations associated with that person's candidacy. A candidate who provides this written notice is not required to appoint a treasurer or to meet the filing requirements of this section as long as the candidate complies with the commitment.

B. The notice provided to the municipal clerk in paragraph A may be revoked. A written revocation must be presented to the municipal clerk before the candidate may accept contributions, make expenditures or incur obligations associated with that person's candidacy. A candidate who has filed a notice with the municipal clerk under paragraph A and accepts contributions, makes expenditures or incurs obligations associated with that person's candidacy prior to filing a revocation may be assessed a penalty of \$10 for each business day that the revocation is late, up to a maximum of \$500. This penalty may be imposed in addition to the penalties assessed under other sections of this Title.

Sec. 3. 21-A MRSA §1012, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. Includes:

(1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state ~~or~~ county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, ~~expressed~~ express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee ~~which~~ that are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons ~~which~~ that are provided to the candidate or political committee without charge for any such purpose; and

Sec. 4. 21-A MRSA §1013-A, sub-§1, ¶¶A and B, as repealed and replaced by PL 1991, c. 839, §4 and affected by §34, are amended to read:

A. No later than 10 days after becoming a candidate; and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2-A shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee; and before accepting contributions, making expenditures or incurring obligations, a candidate for state ~~or~~ county or municipal office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;
- (3) The name of the candidate who authorized the committee; and

(4) The names and addresses of the committee's officers.

Sec. 5. 21-A MRSA §1013-A, sub-§3, as amended by PL 1989, c. 833, §1, is further amended to read:

3. Party committees. The state, district, and county ~~and municipal~~ committees of parties shall submit to the commission the names and addresses of all their officers and of their treasurers and the name and address of the principal paid employee, if any, within 30 days after the appointment, election or hiring of these persons. Municipal committees must file copies of the same information with the commission and the municipal clerk. District, county and municipal committees ~~which that~~ provide their state party committees with the information required by this subsection to be submitted to the commission ~~shall be deemed to have submitted that information to the commission have met that requirement.~~ No later than the 2nd Monday in April of each year in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection, for the district, county and municipal committees of that party.

Sec. 6. 21-A MRSA §1014, sub-§4, as amended by PL 1991, c. 839, §10, is further amended to read:

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil forfeiture of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil forfeiture of no more than \$100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. Enforcement and collection procedures must be in accordance with section ~~4020~~ 1020-A.

Sec. 7. 21-A MRSA §1017, sub-§3-A, as amended by PL 1991, c. 839, §15 and affected by §34, is further amended by amending the first paragraph to read:

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

Sec. 8. 21-A MRSA §1017, sub-§7-A is enacted to read:

7-A. Reporting exemption. A candidate is exempt from reporting as provided by this subsection.

A. A candidate may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true.

B. The notice provided to the commission under paragraph A may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice must be in the form of an amended registration, which must be filed with the commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 3, up to a maximum of \$5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest.

Sec. 9. 21-A MRSA §1017-A, sub-§5, as amended by PL 1995, c. 228, §1 is further amended to read:

5. Penalties. A party committee is subject to the penalties in section ~~1020~~ 1020-A, subsection ~~2~~ 3.

Sec. 10. 21-A MRSA §1017-A, sub-§8 is enacted to read:

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

Sec. 11. 21-A MRSA §1018, sub-§2, as amended by PL 1989, c. 833, §8 and affected by §21, is further amended to read:

2. Party committee. When a state, district, or county ~~or municipal~~ committee of a party makes contributions or expenditures, aggregating in excess of \$50 in an election, ~~that and~~ expressly advocate ~~advocating~~ the election or defeat of a candidate or candidates, other than by contribution to a candidate or a candidate's authorized political committee, the party committee making the contribution or expenditure shall file a report with the commission. Municipal committees must file copies of the same information with the commission and the municipal clerk.

A. Reports required by this subsection in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this subsection in relation to a candidate for state ~~or~~ county or municipal office, other than Governor, must be filed on the same dates on which reports for these candidates are filed under section 1017, subsection 3-A.

B. This report must contain an itemized account of each such contribution or expenditure aggregating in excess of \$50 in any election, the date and purpose of each and the name of each payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized.

C. Reports required by this subsection must be on forms prescribed, prepared and sent by the commission to the candidate at least 7 days before the filing date for the report. Persons filing these reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the commission mails the forms for required reports, failure to receive forms by mail does not excuse committees, candidates and other persons who must file reports from otherwise obtaining the forms.

Sec. 12. 21-A MRSA §1019, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

Each person, other than a candidate, a candidate's authorized political committee or a party committee, who makes contributions or expenditures, aggregating in excess of \$50 in an election, ~~that and~~ expressly advocate ~~advocating~~ the election or defeat of a clearly identified candidate, other than by contribution to a candidate or a candidate's authorized political committee, shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk in that candidate's municipality.

Sec. 13. 21-A MRSA §1019, sub-§1, as amended by PL 1989, c. 833, §9 and affected by §21, is further amended to read:

1. Filing dates. Reports required by this section in relation to a candidate for Governor must be filed on the same dates on which reports for gubernatorial candidates are filed under section 1017, subsection 2. Reports required by this section in relation to a candidate for state ~~or~~ county or municipal office, other than the office of Governor, must be filed on the same dates on which reports for those candidates are filed under section 1017, subsection 3-A.

Sec. 14. 21-A MRSA §1020, as amended by PL 1995, c. 228, §2, is repealed.

Sec. 15. 21-A MRSA §1020-A is enacted to read:

§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid personal emergency such as a personal illness or death in the immediate family;
- B. An error by the commission staff; or
- C. Failure to receive notice of the filing deadline.

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of letters required by paragraph D and shall notify the commission of any late reports subject to a penalty.

4. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

5. Maximum penalties. Penalties assessed under this subchapter may not exceed:

- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraphs B, C, D, E or H; section 1017, subsection 3-A, paragraphs B, C, D or F; section 1017, subsection 4; and section 1019;
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4, paragraphs A and C and section 1018, subsection 2;
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F; section 1017, subsection 3-A, paragraphs A and E; and state party committee reports required to be filed under section 1017-A, subsection 4, paragraph B; or
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4, paragraphs A, B and C and section 1018, subsection 2.

6. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 3 and

providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate, treasurer and the Secretary of State.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 3 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission and to the Secretary of State.

8. Failure to file report. A candidate or treasurer who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime.

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

10. Enforcement. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of the penalty from the commission. The Secretary of State has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after receiving notice of the penalty, the Secretary of State shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in

the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

Sec. 16. 21-A MRSA §1051, first ¶, as amended by PL 1991, c. 839, §26 and affected by §33, is further amended to read:

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of \$50 in any one calendar year for the election of state ~~or~~ county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

Sec. 17. 21-A MRSA §1052, sub-§1, ¶F, as enacted by PL 1989, c. 504, §§22 and 31, is amended to read:

F. Any county or municipal referendum.

Sec. 18. 21-A MRSA §1055, 3rd ¶, as amended by PL 1989, c. 504, §§26 and 31, is further amended to read:

An expenditure, communication or broadcast which results in a violation of this section may result in a civil penalty of no more than \$100. Enforcement and collection procedures shall be in accordance with section ~~4062~~ 1062-A.

Sec. 19. 21-A MRSA §1058, as amended by PL 1993, c. 715, §4, is further amended to read:

§1058. Reports; qualifications for filing

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum,

a copy of the report must be filed with the clerk in the subject municipality. Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this section and sections 1059 and 1060.

Sec. 20. 21-A MRSA §1062, as amended by PL 1995, c. 228, §3, is repealed.

Sec. 21. 21-A MRSA §1062-A is enacted to read:

§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; or

B. An error by the commission staff.

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%;

B. For the 2nd violation, 3%; and

C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

4. Maximum penalties. The maximum penalties under this subchapter are \$10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and \$5,000 for reports required under section 1059, subsection 2, paragraph A.

5. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to the principal officer and treasurer of the political action committee whose report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 3 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. A request for determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer, the treasurer of the political action committee and the Secretary of State.

If no determination is requested, the commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission and to the Secretary of State.

7. List of late-filing committees. The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1), section 1059, subsection 2,

paragraph C or D or section 1059, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime.

9. Enforcement. The Secretary of State has the initial responsibility for collecting the full amount of any penalty within 30 days after receiving notice of that penalty from the commission. The Secretary of State has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after receiving notice of penalty, the Secretary of State shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

Sec. 22. 30-A MRSA §2502, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2502. Campaign reports in municipal elections

1. Reports by candidates. Title 21-A, sections 1001 to 1020 do not apply to a candidate for municipal office in a town. A candidate for municipal office of a town or city with a population of 15,000 or more is governed by Title 21-A, sections 1001 to 1020-A, except that notices of appointment of a treasurer and campaign reports must be filed with the municipal clerk instead of the Secretary of State. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its legislative body at least 90 days before an election for office. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to those sections.

A. Notwithstanding Title 17-A, section 4-A, a candidate who fails to file a notice or report, as required by this section, is guilty of a Class E crime and ~~shall~~ may be punished by a fine of \$5 for every day the candidate is in default or by imprisonment for not more than 30 days, or both.

2. Municipal referenda campaigns. Title 21-A, chapter 13, subchapter IV, does not apply to municipal referenda campaigns. Municipal referenda campaigns in towns or cities with a population of

15,000 or more are governed by Title 21-A, chapter 13, subchapter IV. Copies of the registrations and reports of political action committees must be filed with the municipal clerk. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, chapter 13, subchapter IV by vote of its legislative body at least 90 days before a referendum election. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to that subchapter.

Sec. 23. PL 1993, c. 583, §3, is amended to read:

Sec. 3. Study by the Commission on Governmental Ethics and Election Practices; jurisdiction. The Commission on Governmental Ethics and Election Practices shall review its current duties prescribed by law and shall identify issues that the commission has been asked to investigate and has not clearly had the authority to investigate. The commission shall make recommendations, along with any proposed legislation, to clarify and, if necessary, to expand the commission's jurisdiction and duties to the joint standing committee of the Legislature having jurisdiction over legal affairs no later than ~~January 30, 1995~~ March 30, 1996.

Sec. 24. Retroactivity. That section of this Act that amends Public Law 1993, chapter 583, section 3 applies retroactively to January 30, 1995.

See title page for effective date.

CHAPTER 484

H.P. 1024 - L.D. 1439

An Act to Provide for Alternative Dispute Resolution in Domestic Relations Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19

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

Whereas, the Maine Revised Statutes, Title 19 contains archaic language and improper grammar and usage and is difficult to use because of its organization; 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. 19 MRSA §753 is enacted to read:

§753. Court authority to approve alternative dispute resolution processes

1. Appointment of referee. The court may appoint a referee in any proceeding for paternity, divorce, judicial separation or modification of existing judgments brought under this Title:

A. When the parties agree the case may be tried before a referee; or

B. Upon motion demonstrating exceptional circumstances that require a referee.

2. Payment for services. Payment for the services of the referee is the responsibility of the parties, as ordered by the court. If the court finds that either or both of the parties are indigent, the court may pay the reasonable costs and expenses of the referee.

3. Referee's report. If all parties waive their right to object to acceptance of the referee's report, the court shall immediately enter judgment on the referee's report without a further hearing.

Sec. 2. Preparation of recodification of the Maine Revised Statutes. The Office of the Revisor of Statutes and the Office of Policy and Legal Analysis shall jointly prepare a bill for submission by the Joint Standing Committee on Judiciary to the Second Regular Session of the 117th Legislature that recodifies the Maine Revised Statutes, Title 19. The Joint Standing Committee on Judiciary is authorized to report to the Second Regular Session of the 117th Legislature one or more bills providing substantive revisions of Title 19.

The Office of the Revisor of Statutes and the Office of Policy and Legal Analysis shall invite the participation of the following in preparing the recodification and suggested revisions:

1. The Family Law Section of the Maine State Bar Association;
2. The Department of Human Services, Bureau of Child and Family Services;
3. The Department of Human Services, Bureau of Income Maintenance, Division of Support Enforcement and Recovery;
4. The Judicial Department; and
5. Any other individuals, agencies or organizations that may contribute to the process of recodifying and proposing possible revisions of Title 19.

The chairs of the Joint Standing Committee on Judiciary shall oversee the preparation of the legislation. The Office of the Revisor of Statutes and the Office of Policy and Legal Analysis shall keep the chairs apprised of the work pursuant to this section.

The Office of the Revisor of Statutes and the Office of Policy and Legal Analysis shall provide a copy of legislation drafted pursuant to this section to the members of the Joint Standing Committee on Judiciary no later than November 1, 1995.

Sec. 3. Review and recommendations by the Family Law Section of the Maine State Bar Association. The Family Law Section of the Maine State Bar Association shall review the language and principles proposed in Legislative Document 1468, and shall report back to the Joint Standing Committee on Judiciary by December 1, 1995 with recommendations, including any legislative recommendations, to be incorporated into the committee's deliberations on the bill prepared pursuant to section 2 of this Act. The Family Law Section shall include, to the extent practicable, the sponsors and interested parties in the review and recommendation process.

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

Effective July 3, 1995.

CHAPTER 485

H.P. 1035 - L.D. 1454

An Act to Make Changes in the Law Establishing the Maine School of Science and Mathematics

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

Sec. 1. 20-A MRSA §8201, as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

§8201. School established

The Maine School of Science and Mathematics is established as a public, chartered school pursuant to this chapter for the purpose of providing certain high-achieving high school students with a challenging educational experience. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State.

Sec. 2. 20-A MRSA §8205, sub-§§1, 3, 15 and 16, as enacted by PL 1993, c. 706, Pt. A, §4, are amended to read:

1. Policies and bylaws. To develop and adopt policies and rules, including bylaws, necessary or useful for the operation of the school;

3. Financial management. To appoint a treasurer, who need not be a member of the board of trustees, and to accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private person or agency and to comply with rules and regulations governing grants from the Federal Government or from any other person or agency;

15. Benchmarks and assessments. To establish benchmarks and methods of assessing progress in the levels of academic achievement in mathematics and science for students who participate in school programs and to establish benchmarks and methods of assessing progress in the professional development of teachers who participate in school programs; ~~and~~

16. Report. To report biennially to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters on the results of the assessment in subsection 15 by the board of trustees and the general status of the school-;

Sec. 3. 20-A MRSA §8205, sub-§§17 and 18 are enacted to read:

17. Sue or be sued. To sue or be sued in the name of the school; and

18. Other. To do any other act necessary or useful for carrying out its powers, duties or purposes.

Sec. 4. 20-A MRSA §8207 is enacted to read:

§8207. Financing authority

The board of trustees may borrow funds, issue bonds and negotiate notes and other evidences of indebtedness or obligations of the school for renovation and construction purposes to pay for costs as defined in Title 22, section 2053, subsection 3 and may issue temporary notes and renewal notes to pay for those costs. Bonds, notes or other evidences of indebtedness or obligations of the school are legal obligations of the school payable solely from its revenues and other sources of funds, including funds obtained pursuant to Title 22, section 2053, subsection 4-B, paragraph B, and do not constitute a debt or liability and those bonds and notes are not includable in any debt limitation of the State or any municipality or political subdivision of the State. The board of

trustees has the discretion to fix the date, maturities, denomination, interest rate, place of payment, form and other details of the bonds or notes of the school. Unless otherwise provided in the vote authorizing their issuance, bonds or notes of the school are signed by the treasurer and countersigned by the chair of the board of trustees. The aggregate principal amount of outstanding bonds, notes or other evidences of indebtedness of the school may not exceed \$3,000,000 at any one time, excluding temporary notes and renewal notes. The board of trustees may pledge or assign its revenues, including any funds that have been or may be appropriated to the school by the Town of Limestone, and the proceeds of those revenues as security toward its bonds, notes, other evidences of indebtedness or other obligations of the school. The proceeds of bonds, notes or other evidences of indebtedness may be invested in accordance with Title 30-A, sections 5706 and 5712. Bonds, notes and other evidences of indebtedness issued under this section are not debts of the State, nor a pledge of the credit of the State, but are payable solely from the funds of the school.

See title page for effective date.

CHAPTER 486

H.P. 712 - L.D. 969

An Act to Ensure the Continuation of Current Hospice Services

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

Sec. 1. 22 MRSA §8622, sub-§5, as enacted by PL 1993, c. 692, §1, is amended to read:

5. Medicare certification and requirements. ~~An inpatient hospice facility~~ Beginning July 1, 1996 any hospice program except a volunteer hospice program must be Medicare-certified and meet Medicare requirements to be eligible for licensure as a hospice program.

Sec. 2. PL 1993, c. 692, §3 is amended to read:

Sec. 3. Exception. Notwithstanding the Maine Revised Statutes, Title 22, section 8622, subsection 5, the licensed nursing facility in the City of Auburn that offers inpatient hospice services under the name Clover Hospice is eligible for licensure as a hospice if:

1. The facility does not expand its inpatient hospice services;

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.

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.

CHAPTER 490

S.P. 497 - L.D. 1356

An Act to Clarify the Animal Welfare Laws**Be it enacted by the People of the State of Maine as follows:****Sec. 1. 7 MRSA §3907, sub-§§4 and 8,** as enacted by PL 1987, c. 383, §3, are amended to read:**4. Animal control officer.** "Animal control officer" means the person appointed periodically by ~~municipal officers~~ a municipality pursuant to chapter 725.**8. Boarding kennel.** "Boarding kennel" means any place, building, tract of land, ~~or abode or vehicle~~ in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.**Sec. 2. 7 MRSA §3907, sub-§8-A,** as enacted by PL 1991, c. 779, §13, is amended to read:**8-A. Breeding kennel.** "Breeding kennel" means a kennel operated for the purpose of breeding or buying, selling or in any way exchanging dogs for value that exchanges more than ~~42~~ 16 dogs in a 12-month period.**Sec. 3. 7 MRSA §3907, sub-§12-B** is enacted to read:**12-B. Foster home.** "Foster home" means a facility that includes a physical structure or part of a physical structure and that contracts with an animal shelter to provide temporary shelter to stray, abandoned, abused or owner-surrendered animals.**Sec. 4. 7 MRSA §3907, sub-§16,** as enacted by PL 1987, c. 383, §3, is amended to read:**16. Keeper.** "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.**Sec. 5. 7 MRSA §3907, sub-§26-A** is enacted to read:**26-A. Unorganized territory.** "Unorganized territory" means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. "Unorganized territory" does not include plantations.**Sec. 6. 7 MRSA §3909,** as amended by PL 1991, c. 779, §16, is further amended to read:**§3909. Enforcement**

Whenever, in the judgment of the commissioner, ~~any~~ a person has engaged in or is about to engage in ~~any~~ acts or practices that constitute or will constitute a violation of this Act or ~~any~~ a rule, order, license, permit, approval or decision of the commissioner or a decree of court, as the case may be, the Attorney General, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, ~~for~~ an order directing compliance or a civil or criminal action or any appropriate combination of actions. Upon a showing by the commissioner that the person has engaged or is about to engage in ~~any~~ such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

Whenever, in the judgment of the board, a person has engaged in or is about to engage in acts or practices that constitute or will constitute a violation of chapter 739 or Title 17, chapter 42 as the provisions of those chapters apply to pet animals, the Attorney General or a district attorney, at the request of the board, may institute proceedings before the District Court or the Superior Court for an order enjoining those acts or practices, ~~for~~ an order directing compliance or a civil or criminal action or any appropriate combination of actions. Upon a showing by the board that the person has engaged or is about to engage in ~~any~~ such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.

Sec. 7. 7 MRSA §3916, sub-§§2 and 3, as enacted by PL 1991, c. 779, §26, are amended to read:**2. Certificate.** A licensed veterinarian who vaccinates or supervises the vaccination of a cat shall issue to the owner or keeper a ~~vaccination~~ certificate of rabies vaccination from the State.**3. Enforcement.** A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a cat to present proof of a certificate of rabies vaccination from the State. ~~—A certificate of vaccination issued in accordance with subsection 2 is proof of vaccination. Notwithstanding section 16, there is no penalty for a violation of this section.~~**Sec. 8. 7 MRSA §3923-C, sub-§2,** as enacted by PL 1993, c. 657, §27, is repealed.**Sec. 9. 7 MRSA §3923-C, sub-§§2-A and 5** are enacted to read:**2-A. License fees.** A kennel owner shall pay a fee of \$21 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6

months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain \$1 as a recording fee and forward \$5 to the municipality's animal welfare account established pursuant to section 3945 and \$15 to the Animal Welfare Fund.

5. Kennel inspection and quarantine. An animal control officer must annually inspect a kennel prior to the municipality issuing a kennel license. The animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel in accordance with the sanitation and health rules established by the department for compliance with laws and rules. A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

Sec. 10. 7 MRSA §3931-A, sub-§1, as amended by PL 1993, c. 657, §30, is further amended to read:

1. License necessary. A person maintaining a breeding kennel, as defined in section 3907, shall must obtain a license from the department and is subject to rules adopted by the department. The license expires ~~December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later~~ 12 months after the date of issuance.

Sec. 11. 7 MRSA §3936, sub-§1, as amended by PL 1993, c. 89, §1, is further amended to read:

1. Inspection and quarantine. The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter ~~any~~ an animal shelter, kennel, boarding kennel, breeding kennel or pet shop, ~~except any but not a~~ building used for human habitation recognized as not subject to search warrant, and make examinations and conduct any recognized tests for the existence of ~~any~~ contagious or infectious diseases or conditions. The commissioner may inspect animal shelters, kennels, boarding kennels, breeding kennels and pet shops in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. A veterinarian employed by the State or any licensed veterinarian may quarantine the animal shelter, kennel, boarding kennel, breeding kennel or pet shop, in person or by registered mail, and the

quarantine must be maintained as long as the department determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of ~~any~~ violations.

Sec. 12. 7 MRSA §3943, sub-§1, as amended by PL 1991, c. 779, §35 and affected by §60, is further amended to read:

1. Procedure. Between ~~January 1st~~ February 1st and April 30th 1st annually, the municipal officers of each municipality shall issue a warrant with the names and addresses of all owners or keepers of unlicensed dogs to one or more police officers, constables, sheriffs or animal control officers, directing them to send a notice of violation by certified mail, return receipt requested, to the ~~last-known~~ last known address of the owners or keepers or call on the owners or keepers. The warrant must further direct that demand be made on the owners or keepers to obtain a license from the municipal clerk within 7 days from the date of demand and remit to the clerk the license and recording fees plus a late fee of ~~\$10~~ \$3 for each dog that is licensed. If the license and recording fees are remitted after the 7-day period, the owners or keepers must remit a late fee of \$10 for each dog that is licensed. Finally, the warrant must direct the police officer, constable, sheriff or animal control officer to enter summons and complaint as soon as possible for all owners or keepers so notified who fail to comply with the order.

Sec. 13. 7 MRSA §3943, sub-§3, ¶A, as amended by PL 1991, c. 779, §36 and affected by §60, is further amended to read:

A. The municipal clerk shall deposit the ~~\$10 late fee fees~~ collected from all dog owners and keepers in a separate account pursuant to section 3945.

Sec. 14. 7 MRSA §3945, as amended by PL 1993, c. 657, §39, is further amended to read:

§3945. Use of license fees and court fines retained by municipalities

All fees and court fines retained by municipalities must be kept in a separate account and must be used for the salaries and costs of animal control, enforcement of licensing laws, care of ~~injured and abandoned~~ stray animals that are injured or abandoned and the support of one or more approved animal shelters. Any money not expended for these purposes in a municipality's fiscal year does not lapse, but must be carried over to the next fiscal year.

Sec. 15. 7 MRSA §3946, as amended by PL 1991, c. 779, §38, is further amended to read:

§3946. Dog recorders in unorganized territories

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees and pay them to the department. The recorders shall keep ~~a list the clerk's copy~~ of all licenses issued by them ~~as of January 1st of each year, with the names of the owners or keepers of dogs licensed and setting forth the sex, registered numbers and description of all dogs, except those covered by a kennel license, opposite the names of their respective owners or keepers and make reports to the department on a form approved by the department of all licenses issued and fees received.~~ The recorders shall report following each month in which licenses are actually issued and fees are actually collected.

~~A return of the list must be made to the department on a department approved form on or before June 1st of each year.~~

Sec. 16. 7 MRSA §3947, as amended by PL 1993, c. 468, §15, is further amended by adding at the end a new paragraph to read:

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer.

Sec. 17. 7 MRSA §3948, sub-§2, as enacted by PL 1987, c. 383, §3, is amended to read:

2. Medical attention. Law enforcement officers, humane agents and animal control officers shall take ~~abandoned animals~~ a stray animal to its owner, if known, or, if the owner is unknown, to a shelter and ensure that any injured animal which that is at large or in a public way is given proper medical attention.

Sec. 18. 7 MRSA §3950-A, first ¶, as enacted by PL 1987, c. 383, §3, is amended to read:

Any mayor, ~~selectman~~ municipal officer, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable, police officer, sheriff or animal control officer who refuses or intentionally fails to perform the duties imposed by chapters 719, 720, 721, 723 and 729 and by this chapter commits a civil violation for which a forfeiture of not less than \$10 nor more than \$50 and costs may be adjudged.

Sec. 19. 7 MRSA §3966, sub-§2, as enacted by PL 1987, c. 643, §5, is amended to read:

2. Transfer of ownership. Any A licensed kennel, pet shop, shelter or veterinarian ~~which that~~ transfers ownership of a ferret shall provide notification in writing ~~as to the following that ferrets have been known to attack humans, particularly children, for no reason and without warning.~~

~~A. Ferrets have been known to attack humans, particularly children, for no reason and without warning.~~

~~B. There is no proven vaccine for rabies in ferrets nor is there an accepted procedure for judging a rabid ferret without sacrificing the ferret. A ferret which bites a person may be immediately seized and put to death by the State in order to obtain necessary test samples.~~

Sec. 20. 7 MRSA §4011, sub-§1, as enacted by PL 1987, c. 383, §3, is repealed and the following enacted in its place:

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. If that person is a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that causes undue suffering. The commissioner shall adopt rules that define "undue suffering";

D. Injures, overworks, tortures, torments, abandons or cruelly beats or mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter.

Sec. 21. 7 MRSA §4011, sub-§1-A is enacted to read:

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

Sec. 22. 17 MRSA §1011, sub-§16, as enacted by PL 1987, c. 383, §4, is amended to read:

16. Keeper. "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

Sec. 23. 17 MRSA §1021, sub-§5, as amended by PL 1991, c. 779, §48, is further amended to read:

5. Seizure for observation and examination. Seizure of animals for observation and examination ~~shall be~~ is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests, or, in a case involving a pet animal, the board, has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, the board, humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court

must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, ~~he shall~~ the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

Sec. 24. 17 MRSA §1021, sub-§5-A, as amended by PL 1993, c. 657, §46, is further amended to read:

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of ~~a~~ the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. The court shall set a hearing date and that hearing date must be within 10

days of the date the animal was seized. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery.

Sec. 25. 17 MRSA §1031, sub-§1, as enacted by PL 1987, c. 383, §4, is repealed and the following enacted in its place:

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that causes undue suffering. The commissioner shall adopt rules that define "undue suffering";

D. Injures, overworks, tortures, torments, abandons or cruelly beats or mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; or

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter.

Sec. 26. 17 MRSA §1031, sub-§1-A is enacted to read:

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering.

Sec. 27. 17 MRSA §§1041 and 1042, as enacted by PL 1987, c. 383, §4, are amended to read:

§1041. Euthanasia by prescribed methods

~~No~~ A cat or dog may not be destroyed by any method, agent or device except as described in this subchapter, subchapter III and Title 7, chapter 739.

§1042. Euthanasia performed by licensed veterinarian or certified person

The mandatory method of euthanasia of cats and dogs ~~shall~~ when conducted by a licensed veterinarian or a person certified under subsection 3 must be the administration of a barbiturate overdose. The mandatory method of euthanasia ~~shall~~ must be implemented according to the following methods and under the following conditions.

1. Intravenous, intraperitoneal, intrathoracic or intracardial injection. Intravenous, intraperito-

neal, intrathoracic or intracardial injection of a lethal solution may be used.

2. Use of undamaged hypodermic needle. ~~If euthanasia is by injection, an~~ An undamaged hypodermic needle of a size suitable for the size and species of animal ~~shall~~ must be used.

3. Administration by a licensed veterinarian. Administration ~~shall~~ may only be by a licensed veterinarian or by a person trained for this purpose who is certified by the commissioner and subject to regular observation concerning continued efficiency. A person certified under this subsection may only euthanize animals that are vested to an animal shelter. A person certified to perform euthanasia may not euthanize an animal if, by performing that euthanasia, the person is in violation of Title 32, chapter 71-A.

4. Euthanasia solution. A licensed animal shelter having both a consulting veterinarian and a certified euthanasia technician may purchase, store and administer euthanasia solution for the euthanasia of cats, dogs and ferrets that are vested to the shelter, provided the purchase, storage and administration is in accordance with federal requirements. The director of the licensed animal shelter, as a veterinarian, a certified euthanasia technician or an agent of the certified euthanasia technician, is the only person with the authority to purchase euthanasia solution.

Sec. 28. Transfer of funds. The Department of Agriculture, Food and Rural Resources shall transfer \$10,000 from the Animal Welfare Fund to the spaying and neutering fund established in the Maine Revised Statutes, Title 7, section 3906-A, subsection 3.

See title page for effective date.

CHAPTER 491

S.P. 429 - L.D. 1197

An Act Concerning the Sale of Double Gauge Lobster Measures

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

Sec. 1. 12 MRSA §6431, sub-§3, as amended by PL 1985, c. 677, §§3, 6 and 7, is repealed and the following enacted in its place:

3. Double gauge measure. The department shall use a double gauge lobster measure that is certified for accuracy by the Department of Agriculture, Food and Rural Resources, Office of Sealer of Weights and Measures. The measure must have one gauge that conforms to the minimum legal lobster size

in effect and another gauge 5 inches in length. Any measurement used to substantiate a violation of this section must be made with a certified double gauge lobster measure.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
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MARINE RESOURCES, DEPARTMENT OF

Bureau of Marine Patrol

All Other	(\$3,000)	(\$4,000)
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Deappropriates funds to reflect the repeal of the requirement that the Department of Marine Resources must offer double gauge lobster measures for sale at cost.

See title page for effective date.

CHAPTER 492

H.P. 1032 - L.D. 1451

An Act to Change the Licensing Year for Certain Marine Resource Licenses and to Establish an Eel Fishing License

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

Sec. 1. 12 MRSA §6301, sub-§2, ¶C, as amended by PL 1993, c. 497, §1, is further amended to read:

C. A marine worm digger's license issued under section 6751 expires on April 30th of each year; ~~and~~

Sec. 2. 12 MRSA §6301, sub-§2, ¶D, as enacted by PL 1993, c. 497, §2, is amended to read:

D. A shellfish sanitation certificate issued under section 6856 expires on April 30th of each year;

Sec. 3. 12 MRSA §6301, sub-§2, ¶¶E to Q are enacted to read:

E. A marine worm dealer's license issued under section 6853 expires on March 31st of each year;

F. A marine worm dealer's supplemental license issued under section 6853 expires on March 31st of each year;

G. A retail seafood license issued under section 6852 expires on March 31st of each year;

H. A wholesale seafood license with a lobster permit issued under section 6851 expires on March 31st of each year;

I. A wholesale seafood license issued under section 6851 expires on March 31st of each year;

J. A wholesale seafood license with a sea urchin buyer's permit issued under section 6851 expires on March 31st of each year;

K. A wholesale seafood license with a sea urchin processor's permit issued under section 6851 expires on March 31st of each year;

L. A wholesale seafood supplemental license issued under section 6851 expires on March 31st of each year;

M. A shellfish transportation license issued under section 6855 expires on March 31st of each year;

N. A shellfish transportation supplemental license issued under section 6855 expires on March 31st of each year;

O. A lobster meat permit issued under section 6857 expires on March 31st of each year;

P. A lobster transportation license issued under section 6854 expires on March 31st of each year; and

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year.

Sec. 4. 12 MRSA §6505 is enacted to read:

§6505. Eel fishing license

1. License required. It is unlawful for any person to engage in the activities authorized by this license under this section without a current eel fishing license or other license under this Part authorizing the activities.

2. Licensed activity. The holder of an eel fishing license may fish for or take eels or possess, ship, transport or sell eels that the license holder has taken.

3. Eligibility. An eel fishing license may only be issued to an individual.

4. Fees. Fees for eel fishing licenses are:

A. Thirty-three dollars for a person who is a resident; and

B. Three hundred and thirty-four dollars for a person who is a nonresident.

Sec. 5. Transition clause. All licenses listed in the Maine Revised Statutes, Title 12, section 6301, subsection 2, paragraphs E to Q issued for the licensing year beginning January 1, 1995 are valid until March 31, 1996.

See title page for effective date.

CHAPTER 493

H.P. 989 - L.D. 1397

An Act to Amend Certain Laws Affecting the Department of Environmental Protection

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

Whereas, the United States Environmental Protection Agency has promulgated new ambient air quality increments for particulate matter less than or equal to 10 micrometers in diameter under the Prevention of Significant Deterioration regulations; and

Whereas, the United States Environmental Protection Agency requires the State to revise its Prevention of Significant Deterioration regulations by March 1995 to reflect the changes in federal law; and

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

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

Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 1995, c. 173, §1, is further amended in that part designated "TABLE I" in that part relating to "TITLE 38, SECTION 485-A" by repealing and replacing paragraph D to read:

<u>D. Structures</u>	<u>4,000</u>	<u>2,000</u>
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Sec. 2. 38 MRSA §413, sub-§2-G, as enacted by PL 1993, c. 333, §1, is repealed and the following enacted in its place:

2-G. Exemptions; oil and hazardous substances spill response. A license is not required under this section for the following discharges:

A. A discharge to groundwaters of the State that occurs in the process of recovering, containing, cleaning up or removing an oil or hazardous substance spill or leak if discharge complies with the instructions of the commissioner or the commissioner's designee; or

B. A discharge to surface waters of the State that occurs in the process of recovering, containing, cleaning up or removing an oil or hazardous substance spill or leak if the discharge complies with the instructions of the commissioner or the commissioner's designee and, where applicable, an on-scene coordinator pursuant to 40 Code of Federal Regulations, Part 300.

Sec. 3. 38 MRSA §438-A, sub-§4, as amended by PL 1991, c. 346, §5, is further amended to read:

4. Failure to adopt ordinances. If the commissioner determines, after notice to a municipality, that the municipality has failed to adopt ordinances as required under this article or that an ordinance ~~which~~ that the municipality has adopted does not satisfy the requirements and purposes under this article, and that the commissioner is unable to make the ordinance consistent with the minimum guidelines by the imposition of conditions, as set forth in subsection 3, then the commissioner shall request and the board may adopt, acting in accordance with Title 5, chapter 375, subchapter II, suitable ordinances, or suitable provisions of ordinances, on behalf of the municipality. Notwithstanding subsections 2 and 3, if the board determines that special water quality considerations on a great pond warrant more restrictive standards than those contained in the minimum guidelines, the board may adopt the additional standards for all municipalities outside the jurisdiction of the Maine Land Use Regulation Commission, which abut those waters. Following adoption by the board, these ordinances or provisions are effective and binding within the municipality and must be administered and enforced by that municipality. The board may adopt modifications to ordinances adopted pursuant to this subsection. Preparation and notice of proposed modifications, prior to consideration by the board, may be initiated by the commissioner.

Sec. 4. 38 MRSA §480-Q, sub-§17 is enacted to read:

17. Displacement or bulldozing of sediment within a lobster pound. Displacement or bulldozing of sediment within a lobster pound, provided the sediment is not removed from the area inundated as a result of the impoundment.

Sec. 5. 38 MRSA §482, sub-§5, ¶E, as repealed and replaced by PL 1993, c. 680, Pt. A, §35, is amended to read:

E. Unless intended to circumvent this article, the following transactions may not be considered lots offered for sale or lease to the general public:

(1) Sale or lease of lots to an abutting owner or to a spouse, child, parent, grandparent or sibling of the developer if those lots are not further divided or transferred to a person not so related to the developer within a 5-year period, except as provided in this subsection;

(2) Personal, nonprofit transactions, such as the transfer of lots by gift ~~or devise~~, if those lots are not further divided or transferred within a 5-year period or the transfer of lots by devise or inheritance; or

(3) Grant of a bona fide security interest in the whole lot or subsequent transfer of the whole lot by the original holder of the bona fide security interest or that person's successor in interest;

Sec. 6. 38 MRSA §488, sub-§10, as enacted by PL 1993, c. 383, §26 and affected by §42, is amended to read:

10. Roads and railroad tracks. A structure consisting only of a road or a road together with the structure area within a residential lot, as described in subsection 17 is exempt from the requirements of this article. Railroad tracks other than tracks within yards or stations are exempt from review under this article.

Sec. 7. 38 MRSA §488, sub-§§16 to 18 are enacted to read:

16. Waste facilities. Waste facilities regulated by the department under section 1310-N, 1319-R or 1319-X are exempt from review under this article. This exemption applies to new facilities, modifications of facilities, transfers of facilities and relicensing of facilities.

17. Structure area within residential lots. Buildings, roads, paved areas or areas to be stripped or graded and not revegetated that are located within lots used solely for single-family residential housing are not counted toward the 3-acre threshold described in

section 382, subsection 6, paragraph B for purposes of determining jurisdiction. A road associated only with such lots is also not counted toward the 3-acre threshold. For purposes of this subsection, "single-family residential housing" does not include multi-unit housing such as condominiums and apartment buildings.

18. Roundwood and lumber storage yards. A roundwood or lumber storage yard and any road associated with the yard is exempt from review under this article, as provided in this subsection.

A. A roundwood or lumber storage yard and any road associated solely with the yard, constructed on or after the effective date of this subsection, is exempt from review under this article provided it is constructed and operated in accordance with the erosion and sedimentation control standards and storm water management standards contained in board rules. The person conducting these activities shall file a notice of intent to comply with the department prior to clearing and construction.

B. A roundwood or lumber storage yard and any road associated solely with the yard, constructed prior to the effective date of this subsection, is exempt from review under this article provided the following requirements are met.

(1) Within one year after the effective date of this subsection, a notice of intent to comply must be provided to the department.

(2) Within 2 years of the effective date of this subsection, construction and operation of the yards and roads must be in compliance with the erosion and sedimentation control standards and storm water standards contained in board rules.

(3) Any expansion or alteration of such facilities must meet the requirements of paragraph A.

C. Notice of intent filed under this subsection must be complete, submitted on forms approved by the department and mailed by certified mail, return receipt requested. The notice must include a fee of \$250.

D. For guidance in complying with board rules regarding erosion and sedimentation control standards and storm water management standards, a person may consult "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" (1991) and "Stormwater Management for Maine: Best Management Practices" as revised (1995).

E. For purposes of this subsection only, "roundwood" means logs, bolts and other round sections of wood as they are cut from the tree.

Sec. 8. 38 MRSA §489-A, first ¶, as amended by PL 1993, c. 383, §27 and affected by §42, is further amended to read:

The commissioner may register municipalities for authority to substitute permits issued pursuant to Title 30-A, chapter 141 or 187, subchapter IV, for permits required by section 485-A under the following conditions.

Sec. 9. 38 MRSA §489-C, as renumbered by RR 1993, c. 1, §122, is amended to read:

§489-C. Rescission

The commissioner shall rescind a permit upon request and application of the permittee if no outstanding permit violation exists, the development is not continued or completed and the following requirements are met:

1. Development other than a subdivision. The permittee has not constructed or caused to be constructed, or operated or caused to be operated, a development other than a subdivision as defined at the time of permit issuance; ~~or~~

2. Subdivision. If the development is a subdivision, the permittee has not sold or leased or caused to be sold or leased more than 4 lots; or

3. Reclamation following borrow, clay or topsoil mining. If the permittee has constructed or caused to be constructed, or operated or caused to be operated a development consisting of an excavation of more than 5 acres of land for borrow, topsoil, clay or silt, whether alone or in combination, and the department determines that:

A. The affected area has been successfully reclaimed;

B. There are not continuing requirements; and

C. There will be no additional mining for borrow, clay or topsoil by the permittee or any transferee at any time as provided by deed covenants enforceable by the department.

A rescission is considered a minor revision.

Sec. 10. 38 MRSA §564, sub-§2-A, as amended by PL 1993, c. 732, Pt. A, §§2 and 3, is further amended by amending the last blocked paragraph to read:

The requirements in paragraphs A and B do not apply to the following tanks provided the associated piping

has secondary containment or a suction pump product delivery system or another leak detection system approved by the commissioner and provided that the tank and associated piping have been installed and are operated in accordance with the requirements of this subchapter, including rules adopted under this subchapter: tanks providing product to a generator; double-walled tanks with continuous interstitial space monitoring; and existing tanks constructed of fiberglass, cathodically protected steel or another commissioner-approved noncorrosive material that are monitored ~~continuously~~ for a leak by a method able to detect a product loss or gain of 0.1 gallons or less per hour.

Sec. 11. 38 MRSA §582, sub-§9-D is enacted to read:

9-D. PM10. "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 Code of Federal Regulations, Part 50, Appendix J and designated in accordance with 40 Code of Federal Regulations, Part 53.

Sec. 12. 38 MRSA §584-B, sub-§1, as enacted by PL 1979, c. 381, §7, is amended to read:

1. PM10. In regards to ~~particulate matter~~ PM10:

A. An increase in the annual ~~geometric arithmetic~~ mean at any location not to exceed ~~5~~ 4 micrograms per cubic meter; and

B. An increase in concentration for any 24-hour period at any location not to exceed ~~10~~ 8 micrograms per cubic meter; and

Sec. 13. 38 MRSA §584-C, sub-§1, as corrected by RR 1993, c. 1, §127, is amended to read:

1. PM10. In regards to ~~particulate matter~~ PM10:

A. An increase in the annual ~~geometric arithmetic~~ mean at any location not to exceed ~~19~~ 17 micrograms per cubic meter; and

B. An increase in concentration for any 24-hour period at any location not to exceed ~~37~~ 30 micrograms per cubic meter;

Sec. 14. 38 MRSA §584-D, sub-§1, as corrected by RR 1993, c. 1, §129, is amended to read:

1. PM10. In regards to ~~particulate matter~~ PM10:

A. An increase in the annual ~~geometric arithmetic~~ mean at any location not to exceed ~~37~~ 34 micrograms per cubic meter; and

B. An increase in concentration for any 24-hour period at any location not to exceed ~~75~~ 60 micrograms per cubic meter;

Sec. 15. 38 MRSA §585-E is enacted to read:

§585-E. Gasoline station vapor recovery requirements

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

A. "Stage II vapor recovery system" means a system for gasoline vapor recovery of emissions from the fueling of motor vehicles as described in Section 182(b)(3) of the federal Clean Air Act, 42 United States Code, Section 7511a(b)(3) (1995).

B. "Volatile organic compound 15% reduction plan" or "15% reduction plan" means the plan for reasonable further progress required in Section 182(b)(1) of the federal Clean Air Act, 42 United States Code, Section 7511a(b)(1) (1995).

2. Stage II rule adoption. The board may adopt a rule requiring installation of Stage II vapor recovery systems in gasoline stations in Cumberland, York and Sagadahoc counties. The rule may impose the requirements only on stations that sold 1,000,000 gallons of gasoline or more in calendar year 1994 or a subsequent calendar year, unless department information gathering indicates that a threshold of 1,000,000 gallons is insufficient to provide emission reduction credits needed to meet the volatile organic compound 15% reduction plan requirement. The department shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters at least one week before the public hearing on any rule that proposes a threshold lower than 1,000,000 gallons per calendar year.

3. Status report. On or before February 1, 1996, the commissioner shall submit a status report to the Governor and to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the following matters:

A. The status of United States Environmental Protection Agency approval, disapproval, review or comment on the State's volatile organic compound 15% reduction plan, including inventory of sources and credits for proposed control programs;

B. The status of the State's request to be exempt from the auto emissions inspection program requirement;

C. The status of the State's requests for redesignation of air planning areas; and

D. A description of federal regulations for which the United States Environmental Protection Agency will allow the State to take credit in its volatile organic compound 15% reduction plan.

4. Conference with legislative committee. The Governor shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters no later than March 1, 1996 to discuss the commissioner's report submitted under subsection 3 and to review whether the Stage II vapor recovery system rule should be amended or repealed.

5. Controls needed for 15% reduction plan. If the State receives written notice from the United States Environmental Protection Agency disapproving the State's 15% reduction plan, or otherwise disallowing reduction credits necessary for approval, the board shall adopt rules to provide additional controls of emissions of volatile organic compounds as needed to meet the 15% reduction plan requirement, which may include revision or readoption of the Stage II vapor recovery system rule. The department shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters before it proposes revision or readoption of a Stage II vapor recovery system rule at a threshold lower than 1,000,000 gallons per year.

Sec. 16. 38 MRSA §2304, sub-§1, ¶B, as amended by PL 1993, c. 355, §63, is further amended to read:

B. The following facilities are exempt from the planning and reporting requirements for toxics use:

- (1) Drinking water supply treatment facilities;
- (2) Municipal wastewater treatment facilities; ~~and~~
- (3) Wholesale distributors of chemicals; and
- (4) Hazardous substance transporters.

Sec. 17. 38 MRSA §2304, sub-§2, ¶B, as amended by PL 1993, c. 355, §64, is further amended to read:

B. The following exemptions apply to toxics releasers.

- (1) The following facilities are exempt from the planning, reporting, fee and reduction requirements for toxics release:

(a) Drinking water supply treatment facilities;

(b) Municipal wastewater treatment facilities;

(c) Retail and wholesale motor fuel and heating oil distributors; and

(d) Agricultural activities.

(2) To qualify for an exemption from the toxic release reduction requirements under this paragraph, a toxics releaser must demonstrate to the commissioner that all practicable reductions have been implemented or scheduled for implementation. The commissioner may establish alternate toxics release reduction goals for the facility when appropriate.

(a) A toxics releaser must receive an exemption from the requirement of meeting state reduction goals from the commissioner if the toxics releaser proves that:

(ii) All practicable reductions or actions have been previously implemented or are being implemented and will be completed on a schedule acceptable to the commissioner;

(iii) Practicable steps necessary to reduce toxics release would have an unreasonable adverse impact on product quality or quantity;

(iv) Practicable means of measuring a toxics release do not exist; or

(v) Legal or contractual obligations prohibit steps necessary to reduce toxics release.

(b) The commissioner shall review exemptions under this paragraph at 3-year intervals. Renewals must be granted for toxics releasers that demonstrate that they still meet the requirements set forth in division (a), subdivisions (i) to (iv). If an exemption has been granted based on legal or contractual obligations, the exemption is only for the term of that obligation. An exemption or renewal for a new or renewed legal or contractual obligation may not be granted by the

commissioner. A toxics releaser that has received an exemption based on legal or contractual obligations may apply for a renewal based on division (a), subdivision (i), (ii), (iii) or (iv).

Sec. 18. 38 MRSA §2304, sub-§3, ¶B, as enacted by PL 1991, c. 520, §13, is amended to read:

B. The following exemptions apply to hazardous waste generators:

(1) The following are exempt from the planning, reporting, fee and reduction requirements for hazardous waste:

- (a) Commercial hazardous waste treatment or storage facilities;
- (b) Pilot plants or pilot production units;
- (c) Hazardous waste transporters;
- (d) Hazardous waste generated as a result of remedial or corrective actions or facility closures required by law or undertaken to protect employee health and safety, public health and safety or the environment;
- (e) Households; and
- (f) Agricultural activities;
- (g) Wholesale motor fuel and heating oil distributors.

(2) To qualify for an exemption from the hazardous waste reduction requirement under this paragraph, a generator must demonstrate to the commissioner that all practicable reductions have been implemented or scheduled for implementation. The commissioner may establish alternate hazardous waste reduction goals for the facility when appropriate.

(a) A generator must receive an exemption from the requirement of meeting state reduction goals from the commissioner if the generator proves that:

- (i) Practicable hazardous waste reduction methods do not exist;
- (ii) All practicable reductions or actions have been previously implemented or are being implemented and will be completed

on a schedule acceptable to the commissioner;

(iii) Practicable steps necessary to reduce hazardous waste would have an unreasonable adverse impact on product quality or quantity; or

(iv) Legal or contractual obligations prohibit steps necessary to reduce hazardous waste generation.

(b) The commissioner shall review exemptions under this paragraph at 3-year intervals. Renewals may be granted for hazardous waste generators that demonstrate that they still meet the requirements set forth in division (a), subdivisions (i) to (iii). If an exemption has been granted based on legal or contractual obligations, the exemption is only for the term of that obligation. An exemption or renewal for a new or renewed legal or contractual commitment may not be granted by the commissioner. A generator that has received an exemption based on legal or contractual obligations may apply for a renewal based on division (a), subdivision (i), (ii) or (iii).

Sec. 19. 38 MRSA §2311, sub-§1, as amended by PL 1993, c. 309, §1, is further amended to read:

1. Hazardous waste generators. ~~Except as provided in this subsection, all owners or operators of facilities that generate hazardous waste other than households and agricultural activities shall register annually with the commissioner. Registration forms, if required, and the fee required by this subsection are due to the commissioner by April 15, 1994 and annually thereafter after that date.~~ For facilities that generate 100 kilograms or more of hazardous waste in a calendar month for more than 3 months of the year, the fee is \$100 per facility. For all other generators, the fee is \$50 per facility.

~~Registration is not required for owners or operators that generate less than 100 kilograms of hazardous waste in a calendar month for more than 3 months of the year if, during the preceding calendar year, some or all of that generator's hazardous waste was transported and manifested pursuant to the provisions of this Title. This exception does not apply to the requirement to pay the fee.~~

Sec. 20. Legislation authorized. If the Department of Environmental Protection or the

Governor is required to confer with the Joint Standing Committee on Natural Resources pursuant to the Maine Revised Statutes, Title 38, section 585-E, the Joint Standing Committee on Natural Resources is authorized to report out a committee bill relating to the requirement for the installation of Stage II vapor recovery systems, if a majority of the committee votes to report out a bill.

Sec. 21. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 38, section 413, subsection 2-G applies retroactively to October 13, 1993. That section of this Act that enacts Title 38, section 488, subsection 16 applies retroactively to September 14, 1993. Those sections of this Act that amend Title 38, section 488, subsection 10 and enact Title 38, section 488, subsection 17 apply retroactively to any residential subdivision or amendment or revision to any residential subdivision approved by the Environmental Improvement Commission, the Commissioner of Environmental Protection, the Board of Environmental Protection, the Department of Environmental Protection, the Maine Land Use Regulation Commission or any municipal planning board on or after May 9, 1970.

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

Effective July 3, 1995.

CHAPTER 494

I.P. 3 - L.D. 717

An Act to Establish the Maine Outdoor Heritage Fund

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

Sec. 1. 2 MRSA §6, sub-§10 is enacted to read:

10. Range 80. The salaries of the following state officials and employees are within salary range 80:

Executive Director, Maine Outdoor Heritage Fund Board.

Sec. 2. 5 MRSA §942-A is enacted to read:

§942-A. Maine Outdoor Heritage Fund Board

The position of Executive Director is a major policy-influencing position within the Maine Outdoor Heritage Fund Board. Notwithstanding any other

provision of law, this position and its successor position are subject to this chapter.

Sec. 3. 5 MRSA §12004-G, sub-§29-B is enacted to read:

29-B.	<u>Maine</u>	<u>Legislative</u>	<u>12</u>
<u>Natural</u>	<u>Outdoor</u>	<u>Per Diem</u>	<u>MRSA</u>
<u>Resources</u>	<u>Heritage</u>	<u>and Travel</u>	<u>§7788</u>
	<u>Fund Board</u>	<u>Expenses for</u>	
		<u>Appointed</u>	
		<u>Members</u>	

Sec. 4. 8 MRSA §374, sub-§5 is enacted to read:

5. Wildlife lottery game. No later than January 30, 1996, the Maine State Lottery Commission, in consultation with the Maine Outdoor Heritage Fund Board, shall develop and initiate a wildlife lottery game designed to raise funds for the Maine Outdoor Heritage Fund established pursuant to Title 12, chapter 714. The Maine State Lottery Commission shall provide the net proceeds of this wildlife lottery game to the Maine Outdoor Heritage Fund annually. The Maine State Lottery Commission shall change the wildlife game ticket periodically throughout the year.

Sec. 5. 8 MRSA §387, sub-§1, as enacted by PL 1987, c. 505, §2, is amended to read:

1. Appropriation. The money in the State Lottery Fund ~~shall~~ may be appropriated only:

A. For the payment of prizes to the holders of winning lottery tickets or shares;

B. For the expense of the division in its operation of the lottery; ~~and~~

C. For payment to the General Fund; and

D. For payment to the Maine Outdoor Heritage Fund pursuant to Title 12, section 7782.

Sec. 6. 12 MRSA c. 714 is enacted to read:

CHAPTER 714

MAINE OUTDOOR HERITAGE FUND

§7781. Definitions

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

1. Acquisition. "Acquisition" means fee ownership, easement, lease, right-of-way and other less-than-fee interests in land.

2. Board. "Board" means the Maine Outdoor Heritage Fund Board.

3. Coordinator of the Natural Areas Program. "Coordinator of the Natural Areas Program" means the person appointed by the Commissioner of the Department of Economic and Community Development to be responsible for coordinating the Natural Areas Program.

4. Fund. "Fund" means the Maine Outdoor Heritage Fund.

5. Matching funds. "Matching funds" means any combination of public and private funds used in conjunction with the Maine Outdoor Heritage Fund for the purpose of this chapter, including, but not limited to, private contributions of cash or securities, money from municipal or other public agencies, money from a federal matching program, in-kind contributions or any combination thereof.

6. Natural resources agencies. "Natural resources agencies" means state agencies, bureaus, boards, commissions or other instrumentalities having jurisdiction over the protection of the State's natural resources.

7. Public-private partnership. "Public-private partnership" means any partnership between federal agencies, state agencies or individuals or any combination of federal agencies, state agencies or individuals, including corporations and private persons or organizations, where at least 1/3 of the funding is contributed by a nongovernmental organization or individual.

8. Wildlife. "Wildlife" means wild organisms, including vertebrate, invertebrate and plant species.

§7782. Fund established

There is established the Maine Outdoor Heritage Fund. The fund consists of revenues received pursuant to Title 8, section 387 and any funds received as contributions from private and public sources. The fund, to be accounted within the Department of Inland Fisheries and Wildlife, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

§7783. Purpose of fund

The fund is for the sole purpose of maintaining, improving and expanding state and local natural resource conservation programs and associated compatible public uses in accordance with the

strategic plan provided for by section 7788, subsection 5, paragraph A.

§7784. Relation to other funding

The fund supplements sources and levels of funding appropriated and allocated by the Legislature to natural resources agencies. It is the intent of this legislation that a grant received from the fund not be considered a substitute for funds previously appropriated or allocated to a natural resources agency.

§7785. Fund availability

The fund must be available to natural resources agencies in accordance with section 7787. Natural resources agencies may contract with nongovernmental organizations and individuals for the purpose of carrying out projects funded by the fund.

§7786. Fund administration

The Maine Outdoor Heritage Fund Board shall administer the fund.

§7787. Expenditures from the fund; distribution

The board shall make grants, applications for which must be reviewed in accordance with section 7789, to natural resources agencies for projects found consistent with the criteria and the strategic plan adopted by the board pursuant to section 7788, subsection 5, paragraph A. Except as provided in this chapter, the board shall distribute annually available grant money as follows:

1. Fisheries and wildlife; habitat conservation. Thirty-five percent of the money in the fund for fisheries and wildlife and habitat conservation projects;

2. Public lands and access; outdoor recreation sites and facilities. Thirty-five percent of the money in the fund for acquisition and management of public lands, parks, wildlife conservation areas and public access and outdoor recreation sites and facilities;

3. Endangered and threatened species. Fifteen percent of the money in the fund for endangered and threatened species conservation projects;

4. Natural resources law enforcement. Fifteen percent of the money in the fund for natural resources law enforcement; and

5. Money to be carried forward. The board is authorized to carry forward money in any of the percentage categories of this section into a successive year in the same category in the event that this carry-over better serves the strategic plan or that no grant applications in a particular year adhere to the strategic plan for a particular percentage category.

§7788. Maine Outdoor Heritage Fund Board

The board must be organized within the Department of Inland Fisheries and Wildlife and shall carry out its duties in accordance with this section.

1. Members. The board consists of 7 members. The Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife and the Coordinator of the Natural Areas Program are permanent members and their designees may represent them at board meetings. The Governor shall appoint the remaining 4 citizen members subject to the review of the joint standing committee of the Legislature having jurisdiction over natural resource matters and confirmation by the Senate. One of these members must be a representative of a state sportsman's organization, one must be a representative of a state wildlife conservation organization and one must work in a field related to natural resources.

2. Terms. The Governor shall appoint citizen members to staggered 4-year terms. The initial appointments must be made in December 1995. The initial appointments are as follows: two 4-year terms; one 3-year term; and one 2-year term. Appointed citizens may not serve more than 2 consecutive 4-year terms.

3. Chair. The Governor shall appoint a citizen member of the board to serve as chair. The chair may not serve more than 2 consecutive 4-year terms.

4. Board meetings, rules and administration. The board shall conduct its meetings as follows.

A. The board shall meet at least 3 times a year at the call of the chair.

B. The board, acting in accordance with the Maine Administrative Procedure Act, may adopt any rules necessary for the conduct of its business. The board shall adopt by rule, no later than May 30, 1996, a schedule for submission and action on grant proposals submitted pursuant to subsection 5, paragraph B.

C. Appointed citizen members receive compensation equal to legislative per diem and travel expenses under Title 5, section 12004-G, subsection 29-B, while engaged in board activities.

D. A quorum of the board for the transaction of business is 4 members.

E. Board members are governed by the conflict of interest provisions in Title 5, section 18.

5. Board duties. The board has the following duties.

A. No later than September 1996, the board, in accordance with the rulemaking provisions of the Maine Administrative Procedure Act and in consultation with natural resources agencies, shall adopt a strategic plan for each of the funding categories listed in section 7787. The board may cooperate with other state or federal agencies in developing the plan or carrying out other duties under this chapter. The strategic plan must identify the priority areas for funding for 6 years using the criteria listed in section 7789. The board may amend the strategic plan.

B. The board shall review and award annually funding requests for specific projects from natural resources agencies. The board may award grants only to proposals that conform to the strategic plan adopted pursuant to paragraph A. Grant proposals that establish a public-private partnership are encouraged. Grant proposals must include a stated purpose, timeline, potential outcomes, a budget and an explanation of need.

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over energy and natural resource matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan. The first report must be submitted in 1996.

D. Responsibility for administration of the board lies with the chair. The board shall hire an executive director no later than February 1996. The executive director may hire an additional staff person, if the board determines it necessary. The executive director shall direct the daily operations of the board. Staff positions may be part-time. The executive director position is unclassified and the executive director serves at the pleasure of the board. The board shall prepare and adopt an annual budget to be included with the report required under paragraph C. The board may obtain the services of consultants as necessary to carry out its duties under this chapter. The board may spend money to cover administrative costs. The board shall endeavor to keep the level of administrative expenses as low as practicable and include, in its annual report, discussion of efforts to minimize administrative expenses. State natural resources agencies shall provide staff support and assistance as determined necessary by the board.

§7789. Fund distribution criteria for strategic plan and grants

In developing the strategic plan provided for by section 7788, subsection 5, paragraph A and reviewing and awarding grant proposals submitted pursuant to section 7788, subsection 5, paragraph B, the board shall consider whether a project involves:

1. Fisheries and wildlife and habitat conservation. For the category of fisheries and wildlife and habitat conservation:

- A. A species or species group adversely affected due to lack of management or habitat loss;
- B. A species or species group that is adversely affected due to unusual vulnerability to man-made disturbances and requirements for a special or limited habitat type;
- C. Measurable benefits vital to the future welfare of a species or species group; and
- D. Available matching funds;

2. Acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities. For the category of acquisition and management of public lands, parks, wildlife conservation areas, and public access and outdoor recreation sites and facilities:

- A. Public recreation opportunities of statewide or regional significance;
- B. Fish or wildlife habitat of statewide or regional significance;
- C. Habitat of a threatened or endangered species listed under state or federal law;
- D. Rare or exemplary natural communities or ecosystems as determined by the State's Natural Areas Program database;
- E. Lands or areas providing for public recreation opportunities of statewide or regional significance;
- F. Rare or exemplary geological features;
- G. Areas with proximity to lands dedicated to conservation purposes or public recreation or with access to lands or waters with significant natural resource values; and
- H. Available matching funds;

3. Conservation of endangered and threatened species and their habitats. For the category of

conservation of endangered and threatened species and their habitats:

- A. A species or species group listed as endangered or threatened under state or federal law;
- B. The habitat of one or more species or groups under paragraph A;
- C. A species or species group not listed as threatened or endangered but, based on the best available scientific information, potentially warranting listing in the near future;
- D. A species, group of species, natural community or ecosystem that has been documented as being in decline or recognized as being at risk of extirpation from the State;
- E. Any species, group of species, natural community or ecosystem thought in the best professional judgment of biologists to be in decline or in danger of extirpation from the State but whose status is undetermined; and
- F. Available matching funds; and

4. Natural resources law enforcement. For the category of game wardens and other conservation law enforcement:

- A. A species or species group adversely affected due to lack of management or habitat loss;
- B. Public health or safety concerns of statewide or regional significance;
- C. Environmental education for the public or law enforcement personnel;
- D. Cross-training between natural resources state agencies; and
- E. Available matching funds.

The criteria in this section are not listed in order of priority. A grant applicant must indicate in the proposal the subsection under which the board should evaluate the proposals.

See title page for effective date.

CHAPTER 495**S.P. 304 - L.D. 843****An Act to Amend the Loring Development Authority Law**

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

Sec. 1. 5 MRSA §13080-A, sub-§6, as enacted by PL 1993, c. 474, §1, is amended to read:

6. Loring Air Force Base. "Loring Air Force Base" or "base" means those properties and facilities within the geographic boundaries of the United States Department of Defense air force base at Limestone existing on the effective date of this section. "Base" also includes the Madawaska dam site, the Loring Water System, the Loring #3 communications site in Limestone and other geographically separate property that the authority determines should be deemed part of the base, if the municipality in which the property is located has chosen not to accept the property and utilize it for other purposes.

Sec. 2. 5 MRSA §13080-B, sub-§6, as enacted by PL 1993, c. 474, §1, is amended to read:

6. Officers; employees. The trustees shall elect a chair and vice-chair from among their members. The authority may employ an executive director, technical experts and other agents and employees, permanent and temporary, that it requires and may determine their qualifications, duties and compensation. Permanent employees of the authority are eligible to elect to participate in the Maine State Retirement System, any state-deferred compensation plan or any other plan or program adopted by the trustees to the extent the trustees may determine. For required legal services, the authority may employ or retain its own counsel and legal staff.

Sec. 3. 5 MRSA §13080-F, sub-§3, as amended by PL 1993, c. 729, §6, is further amended to read:

3. Zoning. ~~The authority may not adopt zoning or land use ordinances but may coordinate zoning and land use regulation with interested primary impact communities.~~ The authority may adopt and enforce zoning and other land use ordinances for all Loring Air Force Base property. The authority shall comply with the mandatory shoreland zoning provisions of Title 38, sections 435 to 449. The ordinances preempt any municipal or local ordinances affecting the property. The authority shall secure rights-of-way, easements and zoning rules needed to adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, lighting or otherwise mitigating existing airport hazards. The authority shall endeavor, to the extent reasonable, to ensure compatible use of land adjacent to or in the immediate vicinity area of the airport as provided in the Maine Aeronautics Act, Title 6, section 122.

Sec. 4. 5 MRSA §13080-F, sub-§3-A is enacted to read:

3-A. Loring Development Authority Planning Board. The Loring Development Authority Planning Board is established as follows.

A. The Loring Development Authority Planning Board consists of 6 members. One member must be a nonvoting member appointed by the authority's board of trustees. The municipal officers of Caswell and Caribou shall each appoint one member and the municipal officers of Limestone shall appoint 3 members.

B. The Loring Development Authority Planning Board shall:

(1) Develop and recommend land use and zoning ordinances for Loring Air Force Base for approval by the authority;

(2) Hold public hearings as necessary and appropriate in the member communities during the development of and changes to the ordinances; and

(3) Upon adoption by the authority of any land use and zoning ordinances, review proposed projects at Loring Air Force Base under the ordinances and submit its decisions with respect to the projects to the authority for its approval.

Sec. 5. 5 MRSA §13080-G, sub-§1-A is enacted to read:

1-A. Credit of State pledged. The authority may ask the State to issue bonds to finance the undertaking of any authorized activity under this article, those bonds to have the full faith and credit of the State. Before any such bonds are issued they must be authorized by the Legislature and ratified by the electors in accordance with the Constitution of Maine, Article IX, Section 14. Subsections 1 and 2 and subsection 7, the 2nd 2 sentences, do not apply to bonds issued under this subsection.

Sec. 6. 5 MRSA §13080-G, sub-§2, as amended by PL 1993, c. 729, §§7 and 8, is further amended by amending the first paragraph to read:

2. Authority. ~~The~~ In addition to the authority provided in subsection 1-A, the authority may issue bonds from time to time in its discretion to finance the undertaking of an authorized activity under this article, including but not limited to the payment of principal and interest upon advances for surveys and plans, and may issue refunding bonds for the payment or retirement of bonds previously issued.

Sec. 7. 5 MRSA §13080-G, sub-§2, ¶B, as amended by PL 1993, c. 729, §7, is further amended to read:

B. Bonds issued under this section and paragraph do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to other laws or charters relating to the authorization, issuance or sale of bonds. Notwithstanding this paragraph, the authority may issue bonds in an original principal amount not to exceed ~~\$20,000,000~~ \$100,000,000 to which the authority may designate section 13080-N to apply. Bonds issued under this article are declared to be issued for an essential public and governmental purpose and, together with interest on and income from the bonds, are exempt from all taxes.

Sec. 8. 5 MRSA §13080-N, sub-§6, as enacted by PL 1993, c. 729, §10, is amended to read:

6. Securities outstanding. The authority may not have at any one time outstanding bonds, which, in the trust agreement or other document, subsection 5 is stated to apply to, in principal amount exceeding an amount equal to ~~\$20,000,000~~ \$100,000,000. The amount of bonds issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of bonds of the authority that may at any time be outstanding for any purpose, the amounts of outstanding bonds that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.

See title page for effective date.

CHAPTER 496

H.P. 1084 - L.D. 1526

An Act to Allow Involuntary Commitments at Hospitals under Contract with the Department of Mental Health and Mental Retardation

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

Sec. 1. 34-B MRSA §3801, sub-§1-A is enacted to read:

1-A. Designated nonstate mental health institution. "Designated nonstate mental health institution" means a nonstate mental health institution that is under contract with the department for receipt by the hospital of involuntary patients.

Sec. 2. 34-B MRSA §3863, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Continuation of hospitalization. If the chief administrative officer of the hospital recommends further hospitalization of the person, ~~he~~ the chief administrative officer shall determine the suitability of admission, care and treatment of the patient as an informally admitted patient, as described in section 3831.

A. If the chief administrative officer of the hospital determines that admission of the person as an informally admitted patient is suitable, ~~he~~ the chief administrative officer shall admit the person on this basis, if the person so desires.

B. If the chief administrative officer of the hospital determines that admission of the person as an informally admitted patient is not suitable, or if the person declines admission as an informally admitted patient, the chief administrative officer of the hospital may ~~file~~ seek involuntary commitment of the patient by filing an application for the issuance of an order for hospitalization under section 3864, except that if the hospital is a designated nonstate mental health institution and if the patient was admitted under the contract between the hospital and the department for receipt by the hospital of involuntary patients, then the chief administrative officer may seek involuntary commitment only by requesting the commissioner to file an application for the issuance of an order for hospitalization under section 3864.

(1) The application ~~shall~~ must be made to the District Court having territorial jurisdiction over the hospital to which the person was admitted on an emergency basis.

(2) The application ~~shall~~ must be filed within 5 days from the admission of the patient under this section, excluding the day of admission and any Saturday, Sunday or legal holiday.

C. If neither readmission nor application to the District Court is effected under this subsection, the chief administrative officer of the hospital to which the person was admitted on an emergency basis shall discharge the person ~~forthwith~~ immediately.

Sec. 3. 34-B MRSA §3864, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Detention pending judicial determination. Notwithstanding any other provisions of this subchapter, ~~no~~ a person, with respect to whom ~~proceedings for judicial hospitalization have been commenced an~~

application for the issuance of an order for hospitalization has been filed, may not be released or discharged during the pendency of the proceedings, unless:

A. The District Court orders release or discharge upon the ~~application request~~ of the patient, ~~his or the patient's~~ guardian, parent, spouse or next of kin;

B. The District Court orders release or discharge upon the report of the ~~chief administrative officer of the hospital~~ applicant that the person may be discharged with safety; ~~or~~

C. A court orders release or discharge upon a writ of habeas corpus under section 3804; or

D. Upon request of the commissioner, the District Court orders the transfer of a patient in need of more specialized treatment to another hospital. In the event of a transfer, the court shall transfer its file to the District Court having territorial jurisdiction over the receiving hospital.

Sec. 4. 34-B MRSA §3864, sub-§5, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

B. The hearing ~~shall~~ must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have harmful effect on the mental health of the person. If the setting is outside the hospital to which the patient is currently admitted, the hospital shall bear the responsibility and expense of transporting the patient to and from the hearing. If the patient is to be admitted to a hospital following the hearing, then the responsible hospital shall transport the patient to the admitting hospital. If the patient is to be released following the hearing, then the responsible hospital shall return the patient to the hospital or, at the patient's request, return the patient to the patient's place of residence.

Sec. 5. 34-B MRSA §3864, sub-§6, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

(1) Clear and convincing evidence that the person is mentally ill and that ~~his~~ the person's recent actions and behavior demonstrate that ~~his~~ the person's illness poses a likelihood of serious harm;

(2) That inpatient hospitalization is the best available means for treatment of the patient; and

(3) That it is satisfied with the individual treatment plan offered by the hospital to which the applicant seeks the patient's involuntary commitment.

Sec. 6. 34-B MRSA §3864, sub-§§7 and 8, as enacted by PL 1983, c. 459, §7, are amended to read:

7. Commitment. Upon making the findings described in subsection 6, the court may order commitment to a ~~mental~~ hospital for a period not to exceed 4 months in the first instance and not to exceed one year after the first and all subsequent hearings.

A. The court may issue an order of commitment immediately after the completion of the hearing, or it may take the matter under advisement and issue an order within 24 hours of the hearing.

B. If the court does not issue an order of commitment within 24 hours of the completion of the hearing, it shall dismiss the application and order the patient discharged ~~forthwith~~ immediately.

8. Continued involuntary hospitalization. If the chief administrative officer of the hospital ~~determines to which a person has been committed involuntarily by the District Court recommends~~ that continued involuntary hospitalization is necessary for ~~a that person who has been ordered by the District Court to be committed, he~~ the chief administrative officer shall notify the commissioner. The commissioner may then, not later than 30 days prior to the expiration of a period of commitment ordered by the court, make application in accordance with this section to the District Court which that has territorial jurisdiction over the hospital designated for treatment in the application by the commissioner for a hearing to be held under this section.

Sec. 7. 34-B MRSA §3871, sub-§4, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. 8. 34-B MRSA §3871, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Notice. Notice of discharge is governed as follows.

A. When a patient is discharged under this section, the chief administrative officer of the ~~state mental health institute~~ hospital shall immediately make a good faith attempt to notify the following people, by telephone, personal communication or letter, that the discharge has taken or will take place:

(1) The parent or guardian of a minor patient;

(2) The guardian of an adult incompetent patient, if any is known; or

(3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given or unless the patient was transferred from or will be returned to a state correctional facility.

B. The ~~state mental health institute~~ hospital is not liable when good faith attempts to notify parents, spouse or guardian have failed.

See title page for effective date.

CHAPTER 497

H.P. 1110 - L.D. 1558

An Act to Deregulate the Costs and Revenues Associated with Acute Care Provided to Involuntarily Committed Patients within the Hospital Care Finance System

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

Sec. 1. 22 MRSA §382, sub-§7-A is enacted to read:

7-A. Involuntarily committed patient. "Involuntarily committed patient" means a patient who is admitted for acute care to a hospital that is not a state mental health institute and whose care is authorized by the Department of Mental Health and Mental Retardation under a contract to provide acute care services to class members in Bates v. Glover, No. CV-89-88 (Maine Superior Court, Kennebec County). A patient remains classified as an involuntarily committed patient only during those periods of the hospital stay when the patient's care is authorized by the Department of Mental Health and Mental Retardation.

Sec. 2. 22 MRSA §395, sub-§4, as enacted by PL 1983, c. 579, §10, is amended to read:

4. Medical record abstract data. In addition to the information required to be filed under section 394 and pursuant to rules adopted by the commission for form, medium, content and time of filing, each hospital shall file with the commission such medical record abstract data as the commission may prescribe, including data relating to involuntarily committed patients whose care is authorized by the Department of Mental Health and Mental Retardation.

Sec. 3. 22 MRSA §396, sub-§2, as repealed and replaced by PL 1989, c. 588, Pt. A, §9, is amended to read:

2. Criteria. Subject to more specific provisions contained in this subchapter, the revenue limits and apportionment methods established by the commission ~~shall~~ must ensure that:

A. The financial requirements of a hospital are reasonably related to its total services;

B. A hospital's patient service revenues are reasonably related to its financial requirements; ~~and~~

C. Rates are set equitably among all payors, purchasers or classes of purchasers of health care services without undue discrimination or preference;

D. The costs of providing acute care to involuntarily committed patients are not included in the financial requirements of a hospital, nor are the revenues received from providing the care considered in calculating a hospital's patient service revenue limits. In addition, the services provided to involuntarily committed patients may not be considered in determining the volume of cases or discharges for purposes of adjusting financial requirements; and

E. Rates charged to patients who receive services similar to those provided to involuntarily committed patients but whose care is not authorized by the Department of Mental Health and Mental Retardation are comparable to rates charged for authorized care provided to involuntarily committed patients.

Sec. 4. 22 MRSA §396-D, sub-§4, ¶A, as enacted by PL 1983, c. 579, §10, is amended to read:

A. In determining payment year financial requirements, the commission shall consider the reasonable expected impact on the hospital's financial requirements of changes in the volume of services required to be provided by the hospital. During any time that payments to hospitals are made under the federal disproportionate share to hospitals formula, the commission shall exclude the cost of services provided to involuntarily committed patients.

Sec. 5. 34-B MRSA §1207, sub-§1, ¶B-2 is enacted to read:

B-2. Information consisting of data relating to involuntarily committed patients whose care is authorized by the department must be disclosed by admitting hospitals to the Maine Health Care Finance Commission for the purpose of comply-

ing with the hospitals' obligations under Title 22, section 395:

See title page for effective date.

CHAPTER 498

H.P. 1133 - L.D. 1577

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$58,900,000 to Match up to \$138,000,000 in Federal Funds for Improvements to Highways, State and Local Bridges, Airports and Ports

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14, to authorize the issuance of bonds on behalf of the State of Maine to provide funds to match available federal funds for highway, bridge, airport and port improvements.

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

PART A

Sec. A-1. Authorization of bonds to provide for highway, bridge, airport and port improvements. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$58,900,000 to raise funds to match, in whole or in part, available federal funds for surface, port and air transportation improvements as authorized by section 6. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 20 years from the date of the original issue of the bonds. At the discretion of the Treasurer of State, with the approval of the Governor, any issuance of bonds may contain a call feature.

Sec. A-2. Records of bonds issued to be kept by the Treasurer of State. The Treasurer of State shall keep an account of each bond showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. A-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State

and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in section 6 lapse to the debt service account established for the retirement of these bonds.

Sec. A-4. Interest and debt retirement.

The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. A-5. Disbursement of bond proceeds.

The proceeds of the bonds must be expended as set out in section 6 under the direction and supervision of the Commissioner of Transportation.

Sec. A-6. Allocations from General Fund and Highway Fund bond issues. The following proceeds of the sale of bonds must be expended as designated in the following schedule.

	1995-96	1996-97
TRANSPORTATION, DEPARTMENT OF General Fund		
Airport improvements	\$500,000	\$2,000,000
Cargo port improvements	7,000,000	8,000,000
Intermodal Transportation Improvements	1,250,000	1,250,000
Commercial Harbor Improvements		2,500,000
General Fund Total	\$8,750,000	\$13,750,000
Highway Fund		
Highway and bridge improvements	\$25,400,000	\$6,000,000
Collector Road Improvement Fund		5,000,000
Highway Fund Total	\$25,400,000	\$11,000,000

Sec. A-7. Contingent upon ratification of bond issue. Sections 1 to 6 do not become effective unless the people of the State have ratified the issuance of bonds as set forth in this Part.

Sec. A-8. Appropriation balances at year end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to General Fund debt service.

Sec. A-9. Bonds authorized but not issued. Any bonds authorized but not issued, or for which bond anticipation notes are not issued within 5 years of ratification of this Part, are deauthorized and

may not be issued; except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds or bond anticipation notes for an additional amount of time not to exceed 5 years.

Sec. A-10. Referendum for ratification; submission at statewide election; form of question; effective date. This Part must be submitted to the legal voters of the State of Maine at a statewide election held on the Tuesday following the first Monday of November following passage of this Part. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

"Do you favor a \$58,900,000 bond issue for economic development for improvements to highways, state and local bridges, airports and cargo ports that makes the State eligible for up to \$138,000,000 in matching federal funds?"

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

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

PART B

Sec. B-1. 23 MRSA c. 19, sub-c. V-A is enacted to read:

SUBCHAPTER V-A

COLLECTOR ROAD IMPROVEMENT FUND

§1710. Establishment and administration

The Collector Road Improvement Fund, referred to in this subchapter as the "fund," is established to provide for the reconstruction and maintenance of collector roads. The Department of Transportation shall administer the fund. Allocation of funds must be awarded competitively based on guidelines developed

by the department after public hearing. These guidelines must establish a process by which the department receives matching funds from public and private sources to support collector road improvements. The department may set aside any available federal funds into the fund. Local and federal contributions to the fund accrue for redistribution in subsequent program years and do not lapse.

For purposes of this subchapter, "collector roads" means those highways not included in the system of state highways that primarily serve as feeder routes connecting local service roads to the arterial state highway system.

Sec. B-2. Allocation from Highway Fund.

There is allocated from the Highway Fund the sum of \$5,000,000 for fiscal year 1996-97 to the Collector Road Improvement Fund to carry out the purpose of this Part. Any unexpended balance may not lapse but must remain a continuing carrying account until the purpose of this Part has been accomplished.

Sec. B-3. Contingent upon ratification of bond issue. This Part does not take effect unless the bond issue under Part A of this Act is approved by the legal voters of the State.

Effective pending referendum.

CHAPTER 499

S.P. 600 - L.D. 1585

An Act Regarding Narcotic Dependency

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

Sec. 1. 5 MRSA §§20052 and 20053 are enacted to read:

§20052. Long-term methadone and other narcotic drug detoxification and maintenance treatment

Beginning on the date of commencement of treatment under the Long-term Narcotic Dependency Treatment Project authorized under section 20053 long-term methadone and other narcotic drug detoxification and maintenance treatment of narcotic-dependent persons is prohibited except as authorized under section 20053.

§20053. Long-term Narcotic Dependency Treatment Project

1. Treatment project established. The Department of Human Services and the Office of

Substance Abuse shall apply for waivers from the federal Department of Health and Human Services to undertake a 3-year demonstration project on long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic-dependent persons, referred to in this section as the "treatment project." The treatment project must commence as close as possible to October 15, 1995.

2. Purpose. The Legislature finds that there is a need to study long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic-dependent persons. The purpose of the treatment project is to study the treatment needs of narcotic-dependent people in this State and the efficacy, cost and impact on this State of long-term methadone and other narcotic drug detoxification and maintenance treatment.

3. Project limitation. Participation in the project is limited to 300 clients at any one time receiving long-term methadone and other narcotic drug detoxification and maintenance treatment for narcotic dependency, of whom a maximum of 100 at any one time may receive the treatment under reimbursement from the Medicaid program. Clients of a treatment program that is licensed in the State who are receiving methadone or other narcotic drug detoxification or maintenance treatment on the date of the commencement of the treatment project have priority as clients under the treatment project. Treatment under the treatment project for persons receiving reimbursement under the Medicaid program must be cost-neutral or result in savings to the Medicaid program.

4. Treatment programs. Treatment under the treatment project may be provided by no more than 2 long-term methadone and other narcotic drug detoxification and maintenance programs, each of which must operate from one location. Each treatment program must be approved for participation in the treatment project by the Department of Human Services and the Office of Substance Abuse. Treatment programs licensed in this State on July 1, 1995 have priority as treatment programs under the treatment project.

5. Rulemaking. In order to protect the public health and safety and allow effective administration and evaluation of the treatment project, the Department of Human Services and the Office of Substance Abuse shall adopt rules for long-term methadone and other narcotic drug detoxification or maintenance treatment taking into consideration issues of best medical practice, individual client needs, the role of clinical judgment in determining services and the cost of providing services. The Office of Substance Abuse shall work cooperatively with interested persons in this State pursuant to the Maine Administrative

Procedure Act, including existing licensed methadone treatment programs, in developing the rules. Rule-making must address the following:

A. License conditions for treatment programs, including, but not limited to, certification of staff persons, safety standards and management policies;

B. Guidelines and treatment protocols for treatment programs that incorporate the standards contained in section 20043 and are compatible with but no more stringent than the applicable federal treatment regulations and guidelines, including, but not limited to, treatment program admission criteria. The guidelines and treatment protocols must reflect best medical practice and phases of treatment but may not impose uniform treatment standards for clients that interfere with the medical discretion of the medical director acting in accordance with recognized, prevailing medical standards, regarding individual client treatment. The guidelines and treatment protocols may not cause unreasonable increases in cost unless necessary to protect the public health and safety;

C. Standards for the distribution of scheduled or prescription drugs and controlled substances and for the security of these drugs and controlled substances consistent with the rules adopted by the Board of Commissioners of the Profession of Pharmacy, including, but not limited to, the use of identifiable containers in dispensing the drugs and controlled substances;

D. Procedures for the immediate disclosure to regulatory and law enforcement authorities by treatment programs of any lost, missing, stolen or diverted scheduled or prescription drugs or controlled substances;

E. Standards for evaluating the effectiveness of long-term methadone and other narcotic drug dependency detoxification and maintenance treatment and the treatment project; and

F. Periodic review of the treatment programs to ensure compliance with the requirements of the treatment project and assist in the evaluation performed pursuant to subsection 9, using the standards for evaluation adopted pursuant to paragraph E, by a clinical review team of professionals and a multidisciplinary advisory group appointed by the Office of Substance Abuse, both of which groups must include individuals with expertise in methadone detoxification and maintenance.

6. Investigation; inspection. In addition to entities authorized to investigate and inspect pursuant

to Title 32, section 13723, the Department of Human Services and the Office of Substance Abuse may investigate and inspect the premises of treatment programs and require the production of information to determine compliance with applicable law and rules. As a condition of receiving treatment under the treatment project, all clients must sign waivers of confidentiality, which enable access to and use of treatment program and patient records for the purposes of listing in a central registry, program oversight and monitoring, enforcement of license and certification requirements and other law enforcement activities to the extent consistent with federal law protecting confidentiality under 42 United States Code, Section 290dd-2 (1995) and implementing regulations, as amended.

7. Employees. Except as authorized by the Director of the Office of Substance Abuse, a person may not be employed by or contract with a treatment program in a capacity in which that person handles or has access to scheduled or prescription drugs or controlled substances if that person has been convicted of a felony or an offense related to the possession, use, sale or distribution of scheduled or prescription drugs or controlled substances under Title 17-A, chapter 45, or under any law of another jurisdiction.

8. Criminal record checks. The treatment programs must perform criminal record checks of all potential and current employees, contractors and volunteers to ensure adherence to the requirements of subsection 7. The treatment programs shall pay for these record checks.

9. Planning; evaluation. The Department of Human Services and the Office of Substance Abuse shall consult with the Center for Substance Abuse Treatment of the federal Department of Health and Human Services and representatives of the medical and substance abuse treatment field to design and implement the treatment project and to evaluate the effectiveness of the treatment programs and the treatment project. Indices for evaluation may include, but are not limited to, reduced drug dependency, work force participation, impact on law enforcement and cost effectiveness.

10. Reports. The Department of Human Services and the Office of Substance Abuse shall submit reports to the joint standing committee of the Legislature having jurisdiction over human resource matters annually beginning on or before January 31, 1996 and at the end of the treatment project. The reports must include the levels of participation and status of the treatment project, the indices of evaluation developed pursuant to subsection 9, the treatment needs of narcotic-dependent people in this State and the efficacy, cost and impact on this State of long-term

methadone and other narcotic drug detoxification and maintenance treatment.

Sec. 2. 17-A MRSA §1102, sub-§1, ¶I, as amended by PL 1989, c. 924, §1, is further amended to read:

I. Unless listed or described in another schedule, all narcotic drugs, including, but not limited to, heroin (diacetylmorphine), methadone, methadone hydrochloride, levo-alpha-acetyl-methadol, or LAAM, pethidine, morphine and opium. As used in this chapter, "heroin" means any compound, mixture or preparation containing heroin;

Sec. 3. 22 MRSA §2383-B, as enacted by PL 1989, c. 384, §8, is amended to read:

§2383-B. Authorized possession by individuals; exemptions

1. Lawfully prescribed drugs. ~~A~~ Subject to the additional restrictions contained in subsection 4, if applicable, a person to whom or for whose use any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate medical purpose by a physician, dentist, podiatrist, pharmacist or other person acting in the usual course of professional practice and authorized by law or rule to do so; and the owner or the person having the custody or control of any animal for which any scheduled drug, prescription drug or controlled substance has been prescribed, sold or dispensed for a legitimate veterinary medical purpose by a licensed veterinarian; acting in the usual course of professional veterinary practice may lawfully possess the drug or substance, except when in use, only in the container in which it was delivered by the person selling or dispensing the drug or substance.

2. Others lawfully in possession. ~~The~~ Except as otherwise authorized or restricted, the following persons are authorized to possess and have control of scheduled or prescription drugs or controlled substances:

A. Common carriers or ~~warehousemen~~ warehouse operators while engaged in lawfully transporting or storing prescription drugs, or any of their employees acting within the scope of their employment;

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency; and

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties: while acting within the scope of their employment or duties;

D. Law enforcement officers while acting within the scope of their employment and official duties; and

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs or controlled substances, while acting within the course of their professional practice.

3. Definitions. As used in this section, ~~the term "prescription drug" has the same meaning as specified in Title 32, section 13702, subsection 24, and includes so called "legend drugs."~~ unless the context otherwise indicates, the following terms have the following meanings.

A. "Controlled substances" has the same meaning as defined in 21 United States Code, Section 812 (1970) and 21 Code of Federal Regulations, Chapter II, Part 1308.

B. "Law enforcement officer" has the same meaning as defined in Title 17-A, section 2, subsection 17.

C. "Prescription drugs" has the same meaning as defined in Title 32, section 13702, subsection 24 and includes so-called legend drugs.

D. "Scheduled drug" has the same meaning as defined in Title 17-A, chapter 45.

4. Specially restricted drugs and substances. The possession, receipt and dispensing of scheduled or prescription drugs and controlled substances are subject to the provisions of this subsection.

A. A person may not intentionally or knowingly possess any of the following scheduled or prescription drugs or controlled substances unless the drug or substance has been prescribed, dispensed or sold by a medical practitioner expressly licensed or authorized in this State for that purpose pursuant to Title 5, section 20005, 20024 or 20075 or by rule or licensed or authorized under another state or foreign country:

(1) Methadone;

(2) Methadone hydrochloride;

(3) Levo-alpha-acetyl-methadol, also known as LAAM; and

(4) Any other scheduled or prescription drug or controlled substance as approved or specified in 21 Code of Federal Regulations, Chapter I, Part 291.

B. The possession, receipt and dispensing of drugs and substances identified in paragraph A under a prescription or authorization issued in another state or country must meet the requirements of this paragraph.

(1) A person may not possess, receive or be dispensed at any one time or in the aggregate a drug or substance in an amount greater than the amount required for maintenance of approved legitimate medical treatment for that person for 3 weeks unless authorized by a person expressly licensed or authorized in this State.

(2) The Office of Substance Abuse and the Board of Commissioners of the Profession of Pharmacy shall adopt rules governing the amount of any scheduled or prescription drug or controlled substance identified in paragraph A that may be dispensed in this State under a prescription or order issued in another jurisdiction.

Sec. 4. 32 MRSA §13723, sub-§7, ¶C is enacted to read:

C. In addition to the investigatory powers granted by this subsection to other entities, the Department of Human Services and the Office of Substance Abuse may investigate and inspect the premises of a treatment provider under the 3-year demonstration project on long-term methadone and other narcotic drug detoxification and maintenance treatment established under Title 5, section 20053 and require the production of information to determine compliance with applicable law and rules.

Sec. 5. Effective date. This Act takes effect October 15, 1995.

Effective October 15, 1995.

CHAPTER 500

H.P. 1146 - L.D. 1586

An Act to Revise the Salaries of Certain County Officers

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.

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

Whereas, it has become necessary to revise the salaries of certain county officials; and

Whereas, it is desired to have these revisions retroactive to January 1, 1995; 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. 30-A MRSA §2, sub-§1-B, as corrected by RR 1993, c. 2, §25, is repealed and the following enacted in its place:

1-B. County officers' salaries. Notwithstanding other sections of this chapter, counties that are not required to obtain legislative approval of their budgets under section 702 are not required to obtain legislative approval of the salaries of county officers under this section. The county commissioners, treasurers, sheriffs, judges of probate, registers of probate and registers of deeds in those counties whose budgets require legislative approval under section 702 are entitled to receive in weekly, biweekly or monthly payments annual salaries from the county treasury as follows:

	1994	1995
A. Androscoggin County:		
(1) Commissioners		
(a) Chair	\$6,536	\$6,536
(b) Members	5,595	5,595
(2) Treasurer	21,007	21,007
(3) Sheriff	30,955	30,955
(4) Judge of Probate	12,689	12,689
(5) Register of Probate		
bale	10,712	10,712
(6) Register of Deeds	27,495	27,495

B. Kennebec County:

(1) Commissioners

(a) Chair	\$7,152	\$7,438
(b) Members	6,744	7,014
(2) Treasurer	9,452	9,452
(3) Sheriff	34,196	35,906
(4) Judge of Probate	17,510	18,210
(5) Register of Probate		
bale	23,030	23,951
(6) Register of Deeds	24,102	25,066

C. Penobscot County:

(1) Commissioners		
(a) Chair	\$8,496	\$8,752
(b) Members	8,109	8,353
(2) Treasurer	3,848	3,963
(3) Sheriff	37,000	40,111
(4) Judge of Probate	22,729	23,412
(5) Register of Probate		
bale	23,299	23,999
(6) Register of Deeds	21,500	22,146

D. Piscataquis County:

(1) Commissioners		
(a) Chair	\$6,090	\$6,090
(b) Members	5,250	5,250
(2) Treasurer	6,930	6,930
(3) Sheriff	29,400	29,400
(4) Judge of Probate	14,516	14,516
(5) Register of Probate		
bale	17,102	17,102
(6) Register of Deeds	18,900	18,900

Sec. 2. Retroactivity. This Act applies retroactively to January 1, 1995.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved and applies retroactively to January 1, 1995.

Effective July 3, 1995.

